

CONSTITUENT ASSEMBLY OF INDIA

Tuesday, the 11th October 1949

The Constituent Assembly of India met in the Constitution Hall, New Delhi, at Ten of the Clock, Mr. President (The Honourable Dr. Rajendra Prasad) in the Chair.

CONDOLENCE ON THE DEATH OF MR. AZIZ AHMAD KHAN

Mr. President : It is with great regret that I have to mention to the House the death of one of our Members—Mr. Aziz Ahmad Khan, of Bareilly. He was a Member of the U.P. Legislative Assembly for a long time, and then he came to this House. He had been ailing for some time and he expired a few days ago. Honourable Members will show their respect to his memory by rising in their places and permit me to convey to his family our deep sympathy.

(The Members stood up in silence.)

DRAFT CONSTITUTION—(Contd.)

Article 311—(Contd.)

Mr. President : We shall now proceed with the consideration of the article which we were considering yesterday—article 311. Mr. Naziruddin Ahmad can move his amendment No. 146.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Mr. President, Sir, I wish to move my amendment No. 146:

“That in amendment No. 9 of List I (Second Week), in the Explanation to clause (1) of the proposed article 311,—

- (i) for the words ‘the Constituent Assembly’ the words ‘membership of the Constituent Assembly’ be substituted;
- (ii) for the word ‘includes’ the words ‘shall include’ be substituted.”

With regard to my first amendment, it seems to be necessary on a Consideration of the context. The expression occurs in the Explanation. The Explanation says that “For the purpose of this clause, the Constituent Assembly of the Dominion of India includes the members from the States” and other things. The objection to which the context is open to is this. It is said that the “Constituent Assembly” includes certain “Members”. I think that a Constituent Assembly is an abstract term. It is a mere legal conception. The Constituent Assembly cannot include Members, but rather the “membership to the Constituent Assembly” shall consist of members. I will leave the matter to the Drafting Committee for consideration.

With regard to the second part of the amendment, it is also of a drafting nature, and consequential upon the first.

Speaking generally on the article, I agree with Mr. Kamath that the simple term “Constituent Assembly” has been expressed in a very verbose and round about manner, namely, “the body functioning as the Constituent Assembly of the Dominion of India immediately preceding before the commencement of this Constitution”. For this long expression, the mere term “Constituent Assembly” would have been enough. That is a well-defined and well understood expression and was brought into being by the Independence of India

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Act, and did not require further amplifications. But I do not quite agree with Mr. Kamath when he says that this provision is totally unnecessary. There is a provision in the Independence of India Act which says that the powers laid down under the Government of India Act as modified, shall be exercised by the Constituent Assembly, apart from its duty of framing the Constitution. That power is confined to carrying on all the duties under the Government of India Act as adapted by the Governor-General. But this article 311 empowers the Constituent Assembly to carry on the powers “under this Constitution” as distinguished from being under the Government of India Act as so adapted. The Government of India Act and this Constitution are essentially different Acts, and an article like this is absolutely necessary in order to enable the present Constituent Assembly to function and do the work under “this Constitution” until the new Houses of Parliament are duly constituted after a general election.

There is the other amendment of mine, the one relating to clause (3). That is No. 158.

“That in amendment No. 9 of List I (Second Week), in clause (3) of the proposed article 311, the words ‘within the meaning of the Rules of Procedure and Standing Orders of the Constituent Assembly’ be added at the end.”

This also seems to be necessary under the altered circumstances in which we would be placed after the Constitution is passed. Clause (3) says that those who were members of the Provincial Assemblies as well as of the Constituent Assembly shall cease to be members of the Constituent Assembly. And what is important, every such vacancy shall be deemed to be a casual vacancy. This expression—casual vacancy—has not been defined anywhere in this Constitution. The only reference to casual vacancy appears in the Rules of Procedure and Standing Orders of the Constituent Assembly—Rule 5, sub-rule (1). So far as the Rules of Business and Procedure and Conduct of Business in the Legislative side of the Constituent Assembly is concerned, so far as I can see, there is nothing like casual vacancy mentioned in those rules. They are mentioned, I believe, exclusively in our rules of the Constitution, section. If we say that they should be regarded as casual vacancies, we should really explain the expression ‘Casual vacancy’ with reference to the rules. Otherwise it will be difficult to find out what the casual vacancy means. We have nothing like it in the Constitution which we have passed so far, and immediately after the Constitution is passed, on the 26th January at any rate, this House sitting as the Constituent Assembly in the “Constitution” section will cease to exist. I fear that the Rules of Procedure and Standing Orders of the “Constitution” section would then be inoperative and will not be applicable at all. So, the expression ‘casual vacancy’ will remain absolutely unrelated to any enactment or rule. With regard to casual vacancies which may occur after the general election it seems to me that they will be covered by rules framed under the Constitution; but at present there is nothing like this expression anywhere except in our present Rules. I should think that it should be made clear that it is a ‘casual vacancy within the meaning of our present rules’. That would save from natural death. Our Rule 5 which alone would seem to be applicable in the circumstances of the case.

With regard to the Rules under the Constituent section and the Legislation section, there will be a clash as to which rule will apply. It would be far better to clearly specify the enactment or the rule within the meaning of which the words ‘casual vacancies’ will come. This amendment is of a drafting nature and may be considered by the Drafting Committee.

Shri V. I. Muniswamy Pillay (Madras: General) : Mr. President, Sir, I move :

“That in amendment No. 9 of List I (Second Week), in sub-clause (a) of clause (2) of the proposed article 311, for the words ‘of any State or other territory’ the words ‘of a Governor’s Province or Indian State’ be substituted.”

“That in amendment No. 9 of List I (Second Week), in sub-clause (a) of clause (2) of the proposed article 311, for the words ‘not represented’ the words ‘not adequately represented’ be substituted.”

“That in amendment No. 9 of List I (Second Week), in sub-clause (a) of clause (2) of the proposed article 311, after the words ‘commencement of this Constitution’ the words ‘having due regard to the proper representation of the Scheduled Castes’ be inserted.”

“That in amendment No. 9 of List I (Second Week), in clause (2) of the proposed article 311, the following new sub-clause be inserted:—

‘(d) the election of a Speaker or Deputy Speaker for the Parliament’.”

Sir, when this article was introduced in this House by my honourable Friend, Dr. Ambedkar, he told the House that it dealt with double membership. Sir, on a perusal of the article I find that there are many other things therein which required the attention of this House and also of the President who will be the ultimate authority in deciding who ought to be the members that are to be chosen from the States or other territories to take part in the provisional Parliament. Also, in the explanation it is clearly stated in clause (2) that with regard to filling casual vacancies in the said Assembly, the President shall have power to make rules for the representation in the provincial Parliament functioning under clause (1).

Here I would bring to the notice of the House the grave injustice that has been done to a section of the community in India, *viz.*, the Scheduled Castes. Sir, according to the Statistics of Population that has been prepared and furnished to us, out of a population of 330 millions, the Scheduled Castes number about 50 millions in India. The total membership of the provisional Parliament has been accepted is 320. Out of this, the quota for the Scheduled Castes must be about 55 to 60. If this is so, the provisional Parliament must have at least 55 members of the Scheduled Castes. I do not find that it has been made clear in this explanation No. 2, whether the Scheduled Castes would have that much representation. It is with that object I have suggested in one of these amendments that the future authorities or President who will make rules for the representation of the various communities in the provisional Parliament should give due representation to the Scheduled Castes.

Sir, after the Constituent Assembly started functioning, several Indian States and other territories have been brought under the purview of the Constituent Assembly for the purpose of representation. But, from a casual observation whether Scheduled Caste members had been chosen from those States we find that not a single member of the Scheduled Castes has been returned to the Constituent Assembly, except one from the State of Mysore. This I think is a very vital point in this article that requires the attention of the President and also the Members of this Constituent Assembly.

As far as the future Central Assembly and the provincial assemblies are concerned, we have already passed certain articles providing for the representation of the Scheduled Castes on the population basis. But I do not find any such formula for the representation of the Scheduled Castes in the provisional Parliament that will be set up after 26th January 1950 when this body ceases to function.

The other amendment of mine, No. 152 seeks to provide that the matters concerning the selection of the Speaker or the Deputy Speaker may be left to

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be decided by rules to be made by the President who will be functioning after 26th January 1950. The reason why I have moved this amendment is that in an earlier article we have provided for the Speakers of the Assemblies and the Presidents of the Legislative Councils, wherever there will be double chambers, to come into office just after the commencement of the Constitution. We have not said anything there about the Deputy Speakers or Deputy Presidents where they continue in office after 26th January 1950. So I feel that even the matter of election of the Speaker or Deputy Speaker for the provisional Parliament must be left in the hands of the President so that those elections may be regularised.

The other amendment that I have moved, No. 156, I find will not fit in with the new amendment No. 195 introduced by the Honourable Dr. B. R Ambedkar yesterday. But I would like to move my amendment to amendment No. 195, paragraph (3) as follows:

“A member in two assemblies shall resign his membership in the legislature of a Governor’s Province or an Indian State thirty days prior to this Constitution coming into effect.”

Dr. Ambedkar argued yesterday that this article deals with double membership. Due to circumstances, though the Constituent Assembly came into existence for constitution-making, it has been decided that the Constituent Assembly can function as a legislative body also, but due to a convention, Sir, It was possible for members who are also members of provincial legislatures to stay back and take part in their own legislatures; thereby those members as a matter of fact were not functioning as members of the Central Legislature. It may be that at present both these functions are done by this body, but my view is that when this Constituent Assembly changes itself into the provisional Parliament, all members of the provincial legislatures who have been returned to this House also should be told that they cannot take part.

Further, Sir, if you accept this article, it does not give to members discretion either to choose functioning in the provisional Parliament or in their own Legislatures. We have already passed an article whereby this Constitution states in unequivocal terms that a member cannot be a member in the Central as well as the provincial legislature. So, I feel strongly that this matter must be left to the choice of the Members themselves, and I know that members having a sense of responsibility, will not choose to sit in both Houses. There are Members who have been chosen for this Constituent Assembly who are able jurists and who have special knowledge of matters connected with the administration of this country. There may be many Members who may find it necessary to be in the provisional Parliament. We do not know how long this provisional Parliament will function.

Secondly, Sir, as far as the matter of reservation for the Harijans was concerned, it was said that it would continue for ten years from the commencement of the Constitution. We do not know for how long this provisional Parliament will function. It has not been made clear in this article whether the reservation would start from the 26th January 1950 or from the commencement of this Constitution in right earnest after two or three years. Now, nobody knows whether the life of this provisional Parliament will be two years or ten years according to circumstances. So, I feel honestly that this matter of deciding whether a Member likes to function in the Central Assembly or in the Provincial Assembly should be left to the Member concerned. With

these few words, Sir, I am hopeful that the Drafting Committee will consider what I have said about these Amendments and do the necessary things so that Members may have discretion in deciding where they should work.

Mr. President : You are not moving amendment No. 150?

Shri V. 1. Muniswamy Pillay : I have already moved it, Sir.

Shri H. V. Pataskar (Bombay: General): Mr. President, Sir, I rise to move amendments Nos. 153 and 157 which stand in my name. I move:

“That in amendment No. 9 of List I (Second Week), in clause (3) of the proposed article 311, for the words and figure ‘sixth day of October 1949’ the words ‘date of commencement of this Constitution’ be substituted.”

“That in amendment No. 9 of List I (Second Week), in clause (3) of the proposed article 311, for the words beginning with ‘ as from the date of commencement’ and ending ‘casual vacancy’, the following be substituted:

‘at the expiration of one month from the date of the commencement of this Constitution, that member’s seat in the legislature of a former Governor’s Province or an Indian State shall become vacant unless he has previously resigned his seat in the Constituent Assembly’.”

Now, so far as my amendment No. 157 is concerned, I have carefully looked into the matter and it can fit in also with the improved clause (3) as it is now moved by the Honourable Dr. Ambedkar. Sir, there is a vague impression that some how or other this double membership which have been a feature of this Constituent Assembly is a thing which ought to be dispensed with at the earliest possible moment, and I have no doubt that in no constitution of the world will you find double membership of this type. There is a usual provision in all Constitutions that if a person happens to be elected to both the legislatures, the higher and the lower one, or the Central and the provincial one, then the option is left to the member whether he will sit in the Central or the provincial legislature; and if he does not exercise his option, then that individual loses his seat in the Lower House and not in the Upper House. On that principle was based the present clause (2) of Section 68 of the Government of India Act of 1935.

Sir, there is a history to this double membership and I shall only take a short time of this House in telling them as to how it occurred. When our Constituent Assembly was first elected, there was a Central Legislature functioning under the old Act in this country. Naturally at that time the only purpose that Members of the Constituent Assembly were expected to fulfill was that of framing the Constitution, but they were elected on a definite basis, viz., that there was to be one representative for every ten lakhs of people. Compared with that, the Central Assembly that existed then was a less representative body, as it was elected under the old Act and even consisted of nominated members. Therefore, Sir, naturally the two bodies were expected to work in the beginning separately, but things moved very fast in the political field in the country and the British decided to partition the country and quit. Power had to be transferred to some authority. Naturally the old Central Assembly was found as compared with this Constituent Assembly, to be not as representative as this body was. At that time, the most representative body in the country was this Constituent Assembly. Therefore it was decided that power should be transferred to this Constituent Assembly, and then the Independence Act was passed. The Indian Independence Act made provision that while continuing their work of framing a Constitution for the country, this body should also function as a legislative body, and provision for this was made in Section 8 of the Independence Act. Section 8, clause (1) says:

“In the case of each of the new Dominions, the powers of the Legislature of the Dominion shall, for the purpose of making provision as to the Constitution of the Dominion, be exercisable

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in the first instance by the Constituent Assembly of that Dominion, and references in this Act to the Legislature of the Dominion shall be construed accordingly.”

Then we have a further provision in sub-clause (e) of clause (2). Sub-clause (e) of clause 2 of Section 8 of the Indian Independence Act says:

“The powers of the Federal Legislature or Indian Legislature under that Act (that is the Government of India Act, 1935) as in force in relation to each Dominion, shall, in the first instance, be exercisable by the Constituent Assembly of the Dominion in addition to the powers exercisable by that Assembly under sub-section (1) of this section.”

It was under these circumstances that the Constituent Assembly came to be a body, not only for framing the Constitution but also to serve the purpose of the Federal or Central Legislature. Our own Government thought that it was necessary, and therefore they passed the Provisional Constitution Order by which sub-clause (2) of section 68 of the Government of India Act was deleted, because if it existed, then naturally double membership could not have continued we would have been required to exercise any option and if we had not exercised that option we would have continued to be members of the Central legislature and we would have lost our seats in the provincial legislature. It was thought then that in the interest of the administration both at the Centre and in the provinces it was not desirable that members of the provincial legislature should take part here in the work of the Central Assembly at the cost of their work which they had primarily to do as members of the provincial Assembly. Hence our leader issued a sort of letter of convention by which members of the provincial legislatures were asked not to take part ordinarily in the working of the Central legislature and I must say, so far as I know (I do not hold any office in the Constituent Assembly) that letter of convention has been to a very large extent adhered to by members of the provincial legislatures, because they were all expected to be responsible people and I think they have acted in that manner.

While framing the constitution we passed article 82 and clause I (a) of that article reads:

“(1a) No person shall be a member both of Parliament and of the Legislature of a State for the time being specified in Part I or Part III of the First Schedule and if a person is chosen a member both of Parliament and of the Legislature of such a State then at the expiration of such period as may be specified in rules made by the President that person's seat in Parliament shall become vacant, unless he has previously resigned his seat in the Legislature of the State.”

It is important to, note here that clause (1a) of article 82 closely follows clause (2) of the original section 68 in the Government of India Act, 1935 with this difference that while in the case of the provision contained in clause (2) of Section 68 if a person who happened to be elected to both Houses of Parliament did not exercise his option within the time decided by the Governor-General, as it was intended under, that Act, then he would automatically lose his seat in the lower House, whereas in article 82 (1a) somehow or other, for reasons best known to the Drafting Committee, they have chosen to follow a course different from the one which is usually followed, namely, that the member would automatically lose his seat in the Lower House and not in the Upper House. To me this is an abnormality: however we have already passed that article and I would not take up the time of the House over it and it is not proper to do it at this stage.

After having passed this article I fail to understand why there is any necessity for introducing an article of this nature, because under article 82 (1a) already passed as soon as the Constitution comes into force the Members who are members of the provincial legislature would automatically cease to be Members of this House. Of course he is given the option but if he does not exercise the option he loses his seat in the Constituent Assembly..... *(Interruption by the*

Honourable Shri K. Santhanam) Shri Santhanam interrupting says that article 82 would not come into force with the commencement of the Constitution. If the Constitution comes into force on the 26th January, I do not understand why this provision should not come into force then. If it is thought that it would not come into force I would submit that in any case it is not desirable that there should have been a provision like this made in the Constitution itself for the interim period. On account of circumstances which I have already described this House came to be a body which had some members who were members of the provincial legislatures also and if it was once thought that the best interests of the country and the provinces would be served by issuing a letter of convention I do not understand why it is necessary at this stage, for the sake of one year (which is what is left before the next elections), to make an abnormal provision of this nature in the Constitution. If it is thought that instead of having such a letter of convention it is desirable once for all to solve this question even for this short period the best course would have been to treat these gentlemen in a manner better than what is being done now and to give them the option, which would not have made much difference. Because I want to make it clear that most of the Member of this House were elected on the Congress ticket and if option is given to them it means not an individual decision of an individual Member but it means an exercise of option by the Congress Party itself. All the same the very same result could have been achieved. Such an option would have literally and virtually meant an option given to the Congress Party and tip to this time they have acted according to the party decision.

Under the circumstances I fail to see why when we have been carrying on well all this time, during the transitory period they should have thought it fit to bring forward a special provision for a short period of one year. The provision has a sting in it, for a Member shall have no option to resign from either body after the 6th October. It shows that there is a suspicion regarding many of the Members of this House. We have been carrying on our work for a long time on account of circumstances beyond our control and there is an impression in the press and outside the House that we have been carrying on so long because we want to earn Rs. 45 per day. There have been so many newspaper cartoons and other references. In the circumstances this provision would give the impression that those who are also members of the provincial legislature would prefer rather to be here and earn Rs. 45 per day than observe the rules of the party or serve the best interests of the country, which is very very uncharitable.

So, I fail to understand why this should have been mentioned here at all This provision should be deleted. There are many ways by which the same result could be achieved and they should be charitable to the members of the provincial legislatures, to say the least. I therefore oppose the provision, as there is no necessity for a provision of this nature. My amendment No. 157 means that the option should be given to the members to resign. I know the manner of exercising this option is inconsistent with article 82 (1a) which we have already passed. But it is consistent with the Government of India Act. 1935, and with the principles which are followed all over the world. You take any constitution in the world You Will find a provision that wherever a person happens to be an elected member of a higher and a Lower House if he does not exercise his option, then he automatically loses his seat in the Lower House and not the Upper House. It is on that principle that I have based this amendment of mine. There are ways and ways of achieving object we have in view.

My first submission is that the present arrangements should be carried on for one year more. In 1950-51 the elections are coming. It is therefore only a matter of one year. We have pulled on for so long and there is no reason why we cannot continue to do so for a year more. Even if it is not so, I think an option

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should be given to the Member. And an Option to a Member in this case means in a large measure option to the Congress Party, though there might be some who do not belong to this party. I do not think heavens are going to fall if this is not done. I regard this provision as a slur on the members of the provincial Assembly who happen to be returned here and to be double members, not because of their choice but because of circumstances beyond their control. That is why I resent this provision, particularly that we should be treated in this manner when we are reaching the end of our deliberations and that a provision should be made in the Constitution which suggests as if these people are likely for some ulterior reasons to persist in continuing here to the detriment of the administrations to which they primarily belong. It is for this reason I move my amendment. I hope honourable Members of the House will seriously take into consideration what I have said.

Shri Brajeshwar Prasad (Bihar: General) : Mr. President, Sir, I beg to move:

“That in amendment 9 of List I (Second Week), in clause (3) of the proposed article 311, for the words ‘a House’ the words ‘the lower House’ be substituted”.

I also move:

“That in amendment 9 of List I (Second Week), after clause (3) of the proposed article 311, the following new clause be inserted:—

‘(3a) If a member of the Constituent Assembly of the Dominion of India was on the twenty-sixth day of January, 1950, also a nominated member of the Legislative Council of a Governor’s Province, then, as from the date of commencement of this Constitution that person’s seat in the said Assembly shall, unless he has ceased to be a member there of earlier, become vacant and every such vacancy shall be deemed to be a casual vacancy.’ ”

Sir, the whole idea is to obviate the necessity of by elections for more than hundred seats in the Constituent Assembly. If the Members are given the option to continue in the Constituent Assembly the result will be that many seats will fall vacant and a general by-election for more than a hundred seats will have to be conducted. I have got my own opinion as to how far that course is desirable. But at present in amendment No. 160 I am only suggesting that members of the Legislative Council should have the option: they should choose whether they want to sit here or in the Provincial Legislative Council. If they choose to remain here there will be no by-elections because they are nominated members. In the Provincial Legislative Councils the Congress Party has a majority everywhere and it will not be difficult for the Government to nominate any member whom they like. I cannot see any reason why this House and especially members of the Drafting Committee will not find it possible to accept this amendment of mine.

I have got nothing more to say as far as this amendment is concerned. But with your permission I would like to say a few general words on the articles that have been moved. I hold the opinion that Members of the House should have the option to remain here or to remain in the Provincial Assemblies. If there is no difficulty in having a general election in West Bengal. I do not see any reason why there should not be general by-elections for hundred seats more. I hold the opinion that events as they are shaping themselves will compel us to postpone the general elections under this Constitution for an indefinite period. Our relations with the Government of Pakistan, especially with reference to Kashmir, are deteriorating fast, and I hold the opinion that this transitional Parliament will continue for more than five or six years. After that period, whether it will be possible to implement the provisions of this Constitution, whether this Constitution will ever come into operation or not I am not clear in my own

mind. Personally I am inclined to hold the view that the provisions of this Constitution, barring the transitional provisions, will never come into operation. With that background I feel that it will be beneficial if we hold general by-elections for these hundred seats, because to continue a House without going to the electorate for more than six or seven years is not desirable. There is already a growing discontent in this country that we want to continue. We want to take a snap-vote; we want to know whether we have the confidence of the electorate or not. Therefore it is desirable that a general by-election should be conducted in this country.

If my belief is correct that there is not going to be a general election under the Constitution it will be a violation of the letter and the spirit of the Constitution to provide reservation of seats for any community in this country except Harijans and the Adibasis. Therefore I oppose draft article 312 F. It provides reservation of seats for all kinds of communities. In the Constitution we have made provision for reservation of seats for the Harijans and the Adibasis. With that provision I heartily concur, but for other communities there should not be any reservation because other communities must assimilate with the rest of the people of this country. If I had the slightest doubt in my mind that there will be general elections in the year 1950 or 1951, I would not have suggested the course which I am suggesting. But I am quite convinced in my own mind that there cannot be any general election during 1950 or 1951. Therefore why should we continue the legacy of the past? Why should we give reservation of seats to other communities?

Prof. Shibban Lal Saksena (United Provinces: General) : Mr. President, Sir, I beg to move:

“That in amendment No. 9 of List I (Second Week), in clause (2) of the proposed article 311, for the words ‘President may by rules’ the words ‘Parliament may by law’ be substituted; and clause (4) of that article be deleted.”

In this article we are providing for the Provisional Parliament and it is contemplated that this very Assembly should become the Parliament minus the Members who are also members of the various Provincial and State Assemblies. In this article in clause (2) provision is made for representation in the Federal Parliament, of States which are not at present represented in it. The only State that is not represented now is Hyderabad, so what is intended by clause (2) is that the President is given power to provide by rules representation for Hyderabad. Personally, I think that we will have the representatives of Hyderabad present here before this, Assembly dissolves. I have no objection whatsoever to representation being granted under rules but this Parliament should have the opportunity to discuss the representation which is given to Hyderabad. What is attempted by this clause is that whosoever is chosen to represent that State according to the rules made by the President, this Parliament will not have the power to discuss those rules. This I think is not proper. As a sovereign Parliament it should have the power to discuss who is being allowed to become its Member, who represents a particular territory and whether the rules made are what Parliament could approve of. I therefore think that it is not very happy that the President should be permitted by rules to provide for this representation and that this House should have no say whatsoever in the manner the rules are framed.

Then, who is this President ? It is said in article 312 F which has not yet come up before the House but which is there before us that until 26th January, for you Sir, shall be the President and you are given the right to frame rules for securing the representation. After that the President of the Republic shall be empowered to do it, which means the Cabinet. I think that this House should have the power in both the cases of discussing the rules. When we framed rules for representation of Kashmir, this House had an opportunity of discussing those

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rules. The House has the right to have its say. But by this clause, by saying that the President shall do it by rules, you are depriving the Parliament of that right which is not proper and is wholly undemocratic. I do demand that whatever is decided about Hyderabad and in whatever way it is given representation, this Parliament should be the final authority as regards the rules under which they come to this House.

The second part of my amendment is that clause (4) be deleted. In article 311A we have said that this Constituent Assembly shall elect a President. Why, then, should it not elect a Speaker also? I see no reason for making a difference. I am sure the same President and the same Speaker will be re-elected by this House, but still it would have been far more democratic if we had said that this House shall re-elect them. If we have agreed to elect the President. Why should we not elect the Speaker? There should be no difference between the Speaker and the President; although the Personalities chosen may be the same as heretofore—as we ourselves will elect them there is no reason why they should be different—still I do feel that any differentiation as between the President and the Speaker in this matter is not proper. It is a sort of a discrimination that the House shall re-elect the President and not the Speaker. The House shall re-elect the President as well as the Speaker. The Constitution must have the same provision for both of them. That is logically necessary.

Some friends have spoken about the provisions of clause (3). That clause has been objected to, saying, that choice should be given to Members who are also members of provincial legislatures to choose whether they would prefer to be members of Parliament or the Provincial Assembly. I agree with that point of view. This Parliament should become the Parliament of the future as it is and the vacancies should not be created in this House but the seats of such Members should have been declared vacant in the Provincial Assemblies and the people should have been required to re-elect Members in their places. One hundred seats in the whole country is not a large number and those re-elections would also have shown whether the country was with the Congress or not. Also it would have been a more democratic way of doing things. It would have given some indication of how the public feels. Though I have not tabled an amendment, I am in sympathy with those friends who think that this House should have remained as it is and the vacancies caused by those Members who have membership in the Provinces should have been filled by direct election.

Sir, I also support some of the amendments made by My Friend Mr. Kamath to clause (1). The wording chosen by him is better. I think these amendments should be considered by the Drafting Committee and incorporated to make the draft more concise and better.

Shri Mahavir Tyagi (United Provinces: General): Sir, have I your permission to discuss generally the whole article ?

Mr. President : You may first move your amendments

Shri Mahavir Tyagi : I beg to move:

“That in amendment No. 9 of List I (Second Week), in clause (1) of the proposed article 311, the following be added at the end:—

‘and shall be known as the Parliament of the Union of India.’ ”

I have other amendments, but now since Dr. Ambedkar has come out with his fresh amendments which cover many of my amendments, I do not intend to move the rest of my amendments.

In moving this amendment I have just one remark to make. Article 311 as proposed starts with the heading, "Provisions as to Provisional Parliament of the Union and the Speaker and the Deputy Speaker thereof." The words "Provisional Parliament" have been used for the first time in the heading alone. There is nothing in the body of the article to say as to what would be the provisional Parliament. Somewhere in the body of the article we should say that there shall be a provisional Parliament but this has not been stated. Only in the latest amendment of Dr. Ambedkar it is mentioned that after these casual vacancies are filled there will be a provisional Parliament. He has named it "Provisional Parliament" only casually. Therefore, in order to clarify this I wish to add in the very first clause the words—

"and it shall be known as the Parliament of the Union of India."

In this first clause he says—

"Until both Houses of Parliament have been duly constituted, and summoned to meet for the first session under the provisions of this Constitution, the body functioning as the Constituent Assembly of the Dominion of India immediately before the commencement of this Constitution shall exercise all the powers and perform all the duties conferred by the provisions of this Constitution on Parliament."

From this I construe the meaning that the Constituent Assembly of the Dominion of India will continue and that that body will carry out all the functions of the provisional Parliament. What a provisional Parliament is, has not been defined anywhere. I therefore submit that we may add, "and shall be known as the Parliament of the Union of India." I do not agree with the use of the word 'Provisional' either in the case of the Parliament or in the case of its officers or President or others. It must be "Parliament". With these remarks, I hope this amendment will be accepted.

Sir, speaking generally on the article, I am really sorry that. Dr. Ambedkar and the Drafting Committee had to come out with this proposal. I should have preferred a general election. The proposal to continue this Constituent Assembly and also to suggest that this Assembly shall function as the first Parliament is, to my mind, not very democratic. It would have been much better if we could have a direct election immediately before the commencement of the Constitution. We should have commenced with a new Parliament freshly elected through the general election. That would have been the proper course.

Shri L. Krishnaswami Bharathi (Madras: General): Under what franchise?

Shri Mahavir Tyagi : That would have been the proper course, because then, the Parliament would be in a position to know the trend of public thought and the people in power would be vested with the fullest confidence of the people when they would represent. Now, Sir, as it happens, we have come here through an indirect electorate, the legislative Assemblies of the Provinces, which were elected long ago in 1946 or so. It is long since we approached the electorate. From that point of view, this article, in my opinion, is the most reactionary type of an article that we are passing.

It seems there are difficulties in getting the electoral rolls ready as the franchise has become adult franchise and it would take time to get ready the electoral registers and therefore just to fill up the gap this article is being proposed. I also agree with my honourable Friend Mr. Santhanam when he suggests that a final date should be fixed by which time elections should be held. After all, there must be some limit within which these electoral rolls and all these formalities should be complete and the people, may really take over. If elections on adult franchise of general electorates were held, then alone, the Parliament could claim to be the representatives of the people. Since it is just to fill up the gap that this article has been proposed, I hope much time will not be lost in getting things ready for fresh general elections.

[Shri Mahavir Tyagi]

Then, there is another amendment which Dr. Ambedkar has been pleased to move that such members of this Assembly who are also members of the provincial Assemblies or provincial legislatures would be deemed to have vacated their seats here on the date immediately before the commencement of the new Constitution. But, those seats, though they will not be vacated till the commencement of the new Constitution, will be re-filled by election before the Constitution comes into force. Although those seats would not be physically vacated until before the commencement of the Constitution, the filling up of these unvacated seats, according to this amendment, will be done by elections much earlier than the seats will be really vacated. This is something which I really do not understand. It would have been better if he had said that those seats of the local M.L.A.'s will be deemed to be vacated a fortnight before the commencement of the Constitution. Within that fortnight, through indirect election, we should get those seats filled up so that at the commencement of the Constitution, this Assembly could be fully complete. That would have been the proper course. I would still suggest that the Drafting Committee might just consider the possibility of adding a few words which will change the meaning so as to enable the Government to have an election, say fifteen days before the commencement of the Constitution and also get these seats vacated before they are re-filled. That would have been more consistent.

The draft of clause (3) as now proposed is complete to a greater extent. In the previous draft only such members were debarred from continuing as members as were members of the local legislatures on the 6th October 1949. All such persons who became members of the local legislatures after the 6th October 1949 were not disqualified. Now, this new proposal is complete from that point of view as it lays down that if a member of the Constituent Assembly of the Dominion of India was on the 6th October or thereafter becomes at any time before the commencement of the Constitution a member of a House of legislature of a Governor's province or an India State Corresponding to any State for the time being specified in Part III of the First Schedule or a Minister for any such State, then, as from the date of the commencement of this Constitution, the seats of such Members in the Constituent Assembly shall, unless he has ceased to be a member of that Assembly earlier, become vacant and every such vacancy shall be deemed to be a casual vacancy. Now, Sir, although there will not be many cases, or there may be no case at all, this draft, however, covers the cases of only such Members as become members of the provincial legislatures during this period. What about those who are members of the provincial Assemblies and become members of this Assembly, in this period? Strictly interpreted, under this latest draft of Dr. Ambedkar, those members who are Members of this House and who become members, either on the 6th of October or thereafter, of the House, of legislature of a province, meaning thereby, members of the local legislatures, then, those member's seats will be deemed to be vacated—such Members only who are members of this House already and are also members, on the 6th of October or thereafter, of the provincial Assemblies. What about those who are not members of this House, but are members of the provincial Assemblies and become members of this house during this period? They will also get a double membership and their seats will not be deemed to be vacated.

Therefore, this article is still slightly incomplete. I would suggest that the cases of such Members should be also covered : persons who are not members of the Constituent Assembly today or who were not members of the Constituent Assembly on the 6th or thereafter, but were on the 6th October members of, say, the U.P. provincial legislature, one or many of them—the number does not matter—being elected during this period as members of the Constituent Assembly: their cases will not be controlled even by the latest proposed draft.

Shri L. Krishnaswami Bharathi : The word is intended to cover only such cases as the honourable Member has in view.

Shri Mahavir Tyagi : He was already a member of the Provincial Assembly and he becomes a member here thereafter. The case of a gentleman who becomes a member here during this period is not, strictly speaking, legally covered but perhaps such cases may not arise.

Another point I would like to bring to your notice is that the Drafting Committee has also provided for the continuance of the Speaker and the Deputy Speaker of the Assembly. This again is bad in spirit. After all when about one hundred or so of Members in the Assembly who enjoy the membership of the Provincial Assembly when their seats are declared vacant, their substitutes will be elected. Now, when one-third or so of the House is being changed, then why force the old Speaker and the Deputy Speaker on the House? We should have said only this much that till the first day of the meeting of the Parliament the Speaker or Deputy Speaker will continue. Thereafter, the Parliament must have the liberty to elect its Speaker or Deputy Speaker afresh. This has always been the custom whenever one Session of Parliament is over and the next comes after re-election. It is their first business to elect the Speaker and Deputy Speaker. Generally the old ones are re-elected, but then the formality is undergone afresh. I suggest this is bad, on principle that the present Speaker and the Deputy Speaker—without casting any aspersion on any persons; I hope they will be re-elected should be forced on the Parliament. The fact that we put it in the Constitution that they will continue does not speak well of that high office. There is an office endowed with a complete command of confidence of the House. It is not fair that this House should come between the Parliament and its free choice of officers. We should not interfere with the working of the House of Parliament. It will in itself be competent to elect its own Speaker, and the Deputy Speaker when it meets for the first time after the general elections.

Mr. President : You have taken more time.

Shri Mahavir Tyagi : I have nothing more to say except putting a question. What will happen in the case of such Members of the Constituent Assembly from a province where the Provincial Assembly is dissolved and re-election takes place? Suppose in Bengal or U.P. general election takes place and their representatives are there in this Assembly. We have already provided for their continuance here, but will they continue even after the general elections are over, or will they be required to seek the confidence of the newly elected Legislative Assembly in their respective provinces? This may also be clarified.

Shri Sita Ram S. Jajoo (Madhya Bharat): Sir, I beg to move:

“That in amendment No. 9 of List I (Second Week), in clause (3) of the proposed article 311, after the words ‘an Indian State’ the words ‘or Union of States; or a member who holds any office of profit under any Government other than the ministerial office in the Union Government be inserted.”

My amendment is a very simple and short one. As a matter of fact the principles underlying this amendment have been already accepted by the Constituent Assembly in the Constitution in article 83 and I feel that this provision should be inserted in these transitional provisions to avoid any misunderstanding and ambiguity which may arise, after these transitional provisions are accepted and passed. Although we have already adopted that double membership is to be abolished by the provisions of article 82 in the Constitution but to avoid ambiguity we are doing it here as well. So I hope, to avoid ambiguity regarding the other part as well. the Honourable Dr. Ambedkar will accept this amendment.

Mr. President : Mr. Karimuddin-absent.

Mr. Guruv Reddy—absent.

Mr. Sidhwa—you had given notice of an amendment which I had promised might be taken along with this. I think it does not arise now.

Shri R. K. Sidhwa (C.P. & Berar: General): Yes.

Mr. President : There is no other amendment. The amendments and the article are now open for discussion.

The Honourable Shri Satyanarayan Sinha (Bihar: General): I request that question may be now put.

Mr. President : Some of the Members may like to speak. I will only allow one or two speakers who have not spoken. Does any Member wish to say any thing who has not moved any amendment ?

Mr. Mohd. Tahir (Bihar : Muslim): Mr. President, I find some difficulty in this article which I wish to place before the House. Clause (1) in this article is admittedly a substantive portion of this article. It says that—

“Until both Houses of Parliament have been duly constituted and summoned to meet for the first session under the provisions of this Constitution, the body functioning as the Constituent Assembly of the Dominion of India immediately before the commencement of this Constitution shall exercise all the powers and perform all the duties conferred by the provisions of this Constitution on Parliament.”

This substantive portion of this article means that the body which is now functioning, which means that the body consisting of the Members now present in the Assembly, will be the body which will form the Parliament after the commencement of this Constitution.

Now, the substantive portion of the law means that it governs the following provisions of the article. That means that clause (1) which is the substantive portion of this article should govern the other provisions of this article, i.e. clauses (2) and (3). But here we find that the position is quite otherwise. It is topsy-turvy. Actually clause (3) governs the substantive portion of this article which in my opinion, is not legal, because clause (1) says that this body will function as the Dominion Parliament, whereas clause (3) dissolves this Constituent Assembly, not wholly but partly. In fact, clause (3) means the dissolution of this body in parts. Therefore I think clause (3) is redundant and should not be included or inserted in this article.

Now, the question will arise that after this House is converted into the Dominion Parliament ‘Members will find themselves in this position that some of them may be Members of this Dominion Parliament as well as of the Provincial Assemblies. For that, Sir, we have already adopted an article, and I refer the House to article 82 which, as has already been explained by one of my friends there, is the remedy for that, when Members are Members of this House as well as of the Provincial Legislatures. But to insert such a clause as has been done in the form of clause (3), I would say, really pollutes the whole Constitution. ‘the insertion of such a clause as clause (3) is polluting the constitution and I hope this will be considered by my Friend Dr. Ambedkar, that the substantive portion of the law should not be governed by the sub-clauses which are being entered in the article.

With these words, Sir, I close my remarks.

Mr. President : Dr. Ambedkar, have you anything to say ?

The Honourable Dr. B. R. Ambedkar (Bombay : General): Sir, before I begin, I would like your permission to omit the word “becomes” in clause (3)

of amendment No. 195, occurring between “thereafter” and “at any time before.... The word is unnecessary.

Now, with regard to the various amendments, it seems to me that there are only three that call for some consideration. The first is the amendment of my Friend Mr. Kamath who said that in clause (4) of this article, there is a certain account of discrepancy between the provisions relating to the carry-over of the Deputy Speaker of the Centre and the absence of any such provision with regard to the carry-over of the Speaker in the Provinces. I myself, and the Drafting Committee were conscious of this difference between the two provisions, and we had intended to introduce subsequently an amendment to make good the lacuna. Mr. Kamath may, therefore, rest assured that the Drafting Committee will not allow this difference to continue, but will make good by an amendment.

The other point of some substance was the one raised by my Friend Mr. Muniswamy Pillay with regard to the representation of the Scheduled Castes in the Provisional Parliament. The position is this. There are at present 310 Members of this Assembly, and the Provisional Parliament will also continue to consist of 310 Members. On the basis of population which is the principle adopted for the representation of the Scheduled Castes in the future Parliament, on a purely population basis, they should get 45 seats out of this 310. They have, as a matter of fact, today only 28 seats. The article makes a definite provision that there shall be no diminution in the 28 seats they have now. But with regard to making good the difference between the 45 to which they are entitled on the basis of population and the 28 which they have got, I think we have left enough power in the hands of the President to adapt and modify the rules so as to make good the deficiency, as far as it would be practicable to do so under the provisions of new article 312 F.

Now I come to the amendment of Mr. Pataskar. So far as I have been able to understand him, there is really no difference between the draft article and the amendment suggested by him, in principle. Both article 311 as I have moved and the amendment as moved by Mr. Pataskar agree that we ought to make a provision for the abolition of dual membership. The only question that remains is how it is to be done. According to the provisions contained in this article, what is stated is that the vacancy shall occur only from the commencement of the Constitution. He will continue sitting and functioning as a Member until that date, that is to say, 25th January 1950, assuming that the Constitution comes into existence on the 26th January. But elections to fill the seats which have so become vacant may be held at any time before the commencement of this Constitution so that when the Constituent Assembly meets as the provisional Parliament there may not be any sudden depletion in its membership. What my Friend Mr. Pataskar wants is, that the vacancy should come into effect from the commencement of the Constitution, and that the unseating should take place from one month thereafter. That is the only difference. It seems to me that it is really a matter of detail as to which date we should adopt for vacancy and which date we should adopt for unseating. The reason why we have adopted the 6th October 1949 as the date with reference to which the right of a Member to continue as such Member is to be determined is because it is the date on which we commenced this session of the Constituent Assembly. I do not wish to dogmatise that there is any particular virtue in the 6th October 1949, nor will Mr. Pataskar say that there is any virtue in the provision that he has moved by his amendment. As I said, there is no difference in principle, and we are all agreed that double membership should be avoided, and I, therefore, think that the amendment that I have moved.....

Shri H. V. Pataskar : My amendment gives the option to the Member.

The Honourable Dr. B. R. Ambedkar : That, I think, will create a lot of complication. If the Member is given the option, that will create complication, because it may be that the same evil which we want to do away with may be repeated. We must take precaution to see that the evil is not repeated. I, therefore, submit that the provisions contained in 311 should commend themselves to the House.

Shri Ram Sahai (Madhya Bharat): What about the amendment moved by Mr. Sita Ram Jajoo ?

The Honourable Dr. B. R. Ambedkar : We had anticipated the point raised by him, and we have modified my amendment 195 in which I have made provision for Indian States. The only thing I have not made provision for is for persons holding offices of profit.

Mr. President : I shall now put the amendments to vote one by one. The first set of amendments to clause (1) are Nos. 142 to 145 of Mr. Kamath.

The question is:

“That in amendment No. 9 of List I (Second Week), in clause (1) of the proposed article 311, after the word ‘Until’ the words ‘such time as’ be inserted.”

The amendment was negatived.

Mr. President : The question is:

“That in amendment No. 9 of List I (Second Week), in the proposed article 311, the words ‘the body functioning as’ be deleted.”

The amendment was negatived.

Mr. President : The question is:

“That in amendment No. 9 of List I (second Week), in the proposed article 311, for the words ‘Constituent Assembly of the Dominion of India’ wherever they occur, the words Constituent Assembly of India be substituted.”

The amendment was negatived.

Mr. President : The question is:

“That in amendment No. 9 of List I (Second Week), in clause (1) of the proposed article 311, for the words ‘immediately before the commencement of this Constitution shall, the words ‘shall itself’ be substituted.”

The amendment was negatived.

Mr. Naziruddin Ahmad : I would leave my amendment No. 146 to the Drafting Committee, Sir.

Mr. President : Now I will put amendment No. 194 of Mr. Tyagi to vote. The question is—

“That is amendment No. 9 of List I (Second Week), in clause (1) of the proposed article 311, the following be added at the end:—

‘and shall be known as the Parliament of the Union of India’.”

The amendment was negatived.

Mr. President : These are all the amendments to clause (1) Now I will put the amendments to clause (2) one by one to vote. The question is:

“That in amendment No. 9 of List I (Second Week), in clause (2) of the proposed article 311, after the word ‘rules’ the words ‘which shall as far as practicable, conform to those adopted by the Constituent Assembly’ be inserted.”

The amendment was negatived.

Mr. President : Then we have a series of amendments moved by Mr. Muniswamy Pillay.

Shri V. I. Muniswamy Pillay : In view of the assurance given by the Honourable Dr. Ambedkar I do not press any of my amendments.

Shri H. J. Khandekar (C.P. & Berar: General) : I do not want that these amendments of which I have also given notice should be withdrawn.

Mr. President : They were moved by Mr. Muniswamy Pillay. I shall put them to vote.

The question is:

“That in amendment No. 9 of List I (Second Week), in sub-clause (a) of clause (2) of the proposed article 311, for the words ‘of any State or other territory’ the words ‘of a Governor’s Province or Indian State’ be substituted.”

The amendment was negatived.

Mr. President : The question is:

“That in amendment No. 9 of List I (Second Week), in sub clause (a) of clause (2) of the proposed article 311, for the words ‘not represented’ the words ‘not adequately represented’ be substituted.”

The amendment was negatived.

Mr. President : The question is:

“That in amendment No. 9 of List I (Second Week), in sub-clause (a) of clause (2) of the proposed article 311, after the words ‘commencement of this Constitution’ the words ‘having due regard to the proper representation of the Scheduled Castes’ be inserted.”

The amendment was negatived.

Mr. President : The question is:

“That in amendment No. 9 of List I (Second Week), in clause (2) of the proposed article 311, the following new sub-clause be inserted:—

‘(d) the election of a Speaker or a Deputy Speaker for the Parliament.’ ”

The amendment was negatived.

Mr. President : Now I will put to vote the first part of the amendment (No. 178) of Prof. Shibban Lal Saksena to clause (2). The question is:

“That in amendment No. 9 of List I (Second Week), in clause (2) of the proposed article 311, for the words ‘President may by rules’ the words ‘Parliament may by law’ be substituted.”

The amendment was negatived.

Mr. President : Now we come to the amendments to clause 3. Amendment No 155 of Mr. Kamath.

The question is:

“That in amendment No. 9 of List I (Second Week), in clause (3) of the proposed article 311, after the words ‘An Indian State’ the words ‘or Union of States’ be inserted.”

The amendment was negatived.

Mr. President : The question is:

“That in amendment No. 9 of List I (Second Week), in clause (3) of the proposed article 311, the words ‘within the meaning of the Rules of Procedure and Standing Orders of the Constituent Assembly’ be added at the end.”

The amendment was negatived.

Mr. President : The next amendment to be put to vote is that of Mr. Muniswamy Pillay (No. 156) to amendment No. 195 moved by him in a slightly modified form.

The question is:

“That in amendment No. 195 delete all the words beginning with ‘and’ in the last line and add the following:

‘A member in two assemblies shall resign his membership in the legislature of a Governor’s province or an Indian State thirty days prior to this Constitution coming into effect.’”

The amendment was negatived.

Shri H. V. Pataskar : Sir, I beg leave to withdraw my amendments.

The amendments were, by leave of the Assembly, withdrawn.

Mr. President : I shall now put the amendments of Shri Brajeshwar Prasad and Shri Sita Ram Jajoo to clause (3) to vote.

The question is:

“That in amendment No. 9 of List I (Second Week), in clause (3) of the proposed article 311, for the words ‘a House’, the words ‘the lower House’ be substituted.”

The amendment was negatived.

Mr. President : The question is :

“That in amendment No. 9 of List I (Second Week), after clause (3) of the proposed article 311, the following new clause be inserted:—

‘3 (a) If a member of the Constituent Assembly of the Dominion of India was on the twenty-sixth day of January, 1950, also a nominated member of the Legislative Council of a Governor’s province, then, as from the date of commencement of this Constitution that person’s seat in the said Assembly shall, unless he has ceased to be a member thereof earlier, become vacant, and every such vacancy shall be deemed to be a casual vacancy.’ ”

The amendment was negatived.

Mr. President : The question is:

“That in amendment No. 9 of List I (Second Week), in clause (3) of the proposed article 311, after the words ‘an Indian State’ the words ‘or Union of States; or a member who holds any office of profit under any Government other than the ministerial office in the Union Government’ be inserted.”

The amendment was negatived.

Mr. President : Now I shall put the amendments to clause (4) to vote.

Shri H. V. Kamath (C. P. & Berar: General): Sir, in view of the assurance given by the Honourable Dr. Ambedkar that this discrepancy will be rectified I do not press my amendments Nos. 161 and 162.

The amendments were, by leave of the Assembly, withdrawn.

Mr. President : Now I will put to vote the second part of the amendment moved by Prof. Shibbanlal Saksena No. 178.

The question is:

“That in amendment No. 9 of List I (Second Week), clause (4) of the proposed article 311 be deleted.”

The amendment was negatived.

Mr. President : All the amendments to article 311 have been disposed of. I will now put the clauses of the article to vote first.

Shri Mahavir Tyagi : My amendment has not been put to vote.

Mr. President : I put it; nobody voted for it.

The question is:

“That clause (1) of article 311 stand part of the Constitution.”

The motion was adopted.

Mr. President : The question is:

“That clause (2) of article 311 stand part of the Constitution.”

The motion was adopted.

Mr. President : Amendment No. 195 has taken the place of clause (3) of amendment No. 9. In the second line of amendment No. 195 the word ‘becomes’ is deleted and the rest remains as it is.

The question is:

“That in amendment No. 9 of List I (Second Week), for clause (3) of the proposed article 311, the following be substituted :—

‘3 (a) If a member of the Constituent Assembly of the Dominion of India was on the sixth day of October, 1949, or thereafter at any time before the commencement of this Constitution a member of a House of the Legislature of a Governor’s Province or an Indian State corresponding to any State for the time being specified in Part III of the First Schedule or a Minister for any such State, then as from the date of commencement of this Constitution the seat, of such member in the Constituent Assembly shall, unless he has ceased to be a member of that Assembly earlier, become vacant and every such vacancy shall be deemed to be a casual vacancy.’”

The amendment was adopted.

Mr. President : The question is:

“That in amendment No. 9 of List I (Second Week), after clause (3) of the proposed article 311, the following new clause be inserted:—

‘3 (a) Notwithstanding that any such vacancy in the Constituent Assembly of the Dominion of India as is mentioned in clause (3) of this article has not occurred under that clause, steps may be taken before the commencement of this Constitution for the filling of such vacancy, but any person chosen before such commencement to fill the vacancy shall not be entitled to take his seat in the said Assembly until after the vacancy has so occurred’.”

The amendment was adopted.

Mr. President : The question is:

“That clause (4) of article 311 stand part of the Constitution.”

The motion was adopted.

Mr. President : The question is:

“That article 311, as amended, stand part of the Constitution.”

The motion was adopted.

Article 311, as amended, was added to the Constitution.

Article 312 F

Honourable Dr. B. R. Ambedkar : Sir, I move:

“That after article 312 E, the following new article be inserted:—

‘312 F. (1) Casual vacancies in the seats of members of the provisional Parliament functioning under clause (1) of article 311 of this Constitution [including vacancies referred to in clauses (3) and (3a) of that article shall be filled, and all matters in connection with the filling of such vacancies (including the decision of doubts and disputes arising out of, or in connection with elections such vacancies shall) be regulated—

Provisions as to this filling of casual vacancies in the provisional parliament and provisional legislatures of the State.