

**Article 132**

**Mr. President :** We have a number of amendments to this article. Now that we have decided in favour of one alternative, all the amendments favouring the other alternative naturally fall to the ground. So we shall take up only those amendments which are concerned with the article as now amended. The first amendment is No. 2033 in the name of Shri Brajeshwar Prasad.

**Shri Brajeshwar Prasad :** I am not moving it.

**Mr. President :** There is an amendment by Dr. Ambedkar.

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

“That with reference to amendment Nos. 2033 and 2041 of the List of amendments for article 132, the following article be substituted:—

*‘Term of office of Governor.—132 (1) The Governor shall hold office during the pleasure of the President.*

*(2) The Governor may, by writing under his hand addressed to the President; resign his office.*

*(3) Subject to the foregoing provisions of this article, a Governor shall hold office for a term of five years from the date on which he enters upon his office:*

*Provided that a Governor shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.’ ”*

Now, Sir, this article.....

**Prof. Shibban Lal Saksena :** On a point of order. Amendment No. 2033 has not been moved. There is another amendment 2041, to which this is an amendment. But even that has not been moved.

**Mr. President :** But that has not been moved.

**Shri T. T. Krishnamachari :** Amendment No. 2041, stands in the name of Dr. Ambedkar.

**Mr. President :** Well, he may formally move it.

**The Honourable Dr. B. R. Ambedkar :** I have said that I am moving this in place of that amendment.

**Mr. President :** Dr. Ambedkar is moving No. 2041.

**Pandit Thakur Das Bhargava** (East Punjab: General): The practice has been that all these amendments are taken as moved and a person is entitled to move any amendment.

**Mr. President :** We have not been following that practice.

Then you move your own amendment.

**Shri Brajeshwar Prasad :** Sir, I move:

“That for article 132, the following be substituted:—

*‘132 The Governor shall hold office during the pleasure of the President.’ ”*

I commend this amendment for acceptance by the House and I have no further comments to make.

**Mr. President** : If this amendment is carried, all other amendments fall to the ground. Therefore we shall take up this amendment as covering all the other amendments.

The amendment and the article are for discussion.

**Prof. K. T. Shah** (Bihar : General): Is my amendment No. 2034 not to be moved? It suggests that the Governor shall be irremovable and therefore cannot be included under the amendment moved.

**Mr. President** : If the five-year term is carried, that falls to the ground.

**Shri T.T. Krishnamachari** : The main point is whether as he is going to hold office during the pleasure of the President he cannot be removed by the President.

**Mr. President** : If the amendment of Dr. Ambedkar is carried, then 2034 falls to the ground. But Prof. Shah can speak upon it.

**Prof. Shibban Lal Saksena** : Sir, both may be moved and the House may then choose one of the two.

**Mr. President** : If Professor Shah wants it he may move it now.

**Prof. K. T. Shah** : I beg to move:

“That in article 132, after the word ‘office’ where it occurs for the second time, the words ‘and shall during the term be irremovable from his office’ be inserted.”

The amended article would read:

“The Governor shall hold office for a term of five years from the date on which he enters upon his office and shall during that term be irremovable from his office.”

This is, as I conceive it, different fundamentally from the appointment during the pleasure of the President. The House, I am aware, has just passed a proposition by which the Governor is to be appointed by the President and it would be now impossible for any one to question that proposition. I would like, however, to point out, that having regard to the appointment as against the elective principle, we must not leave the Governor to be entirely at the mercy or the pleasure of the President. We should see to it, at any rate that if he is to be a constitutional head of the province, if he is to be acting in accordance with the advice of his ministers, if we desire to remove any objection that might possibly be there to the principle of nomination, we should see to it that at least while he is acting correctly, in accordance with the Constitution following the advice of his ministers, he should not be at the mercy of the President who is away from the Province and who is a national and not a local authority. This is all the more important pending the evolution of a convention, such as was suggested by one of the previous speakers, that the appointment, even if agreed to, should be on the advice of the local Ministry. I do not know if such a convention can grow up in India, but even if it grows up, and particularly if it grows up, it would be of the utmost importance that no non-provincial authority from the Centre should have the power to say that the Governor should be removable by that authority; So long as he acts in accordance with the advice of the constitutional advisers of the province, he should I think be irremovable during his term of office, that is, five years according to this article.

There is of course a certain provision with regard to resignation voluntarily or other contingencies occurring whereby the Governor may be removed. But, subject to that, and therefore to the entire Constitution, the period should be the whole period and not at the pleasure of the President.

**Shri Brajeshwar Prasad :** We have passed the provision that he should hold office during the pleasure of the President.

**Prof. K. T. Shah :** That has not yet been passed. Because you moved it, if it is to be treated as passed, I have no objection.

**Mr. President :** There is an amendment by Mr. Gupta which has to be moved. I see that he is not moving it. Then there are the amendments of Saiyid Jafar Imam and Mr. Naziruddin Ahmad. They are not moving them.

Professor Shah may now move his amendments Nos. 2048, 2049 and 2051.

**Prof. K. T. Shah :** Sir, I move:

“That in clause (b) of the proviso to article 132, after the word ‘Constitution’, in line 21, the words ‘or if found guilty of treason, or any offence against the safety, security or integrity of the Union’, be inserted.”

That would make, Sir, if accepted, the removal of the Governor possible by his own resignation or his being proved guilty of certain offences. This is by way of providing for possible contingencies, not that any one expects or even thinks that it is in the normal course likely that persons of that importance ‘would be guilty of such offences. I therefore commend this amendment.

I now move my amendment No. 2049 :

“That in article 132 after the existing proviso (b) the following new proviso be added:—

‘(b-1) A Governor may be removed from office by reason of physical or mental incapacity duly certified, or if found guilty of bribery or corruption, or as provided for in article 137.’ ”

These, again, are contingencies which may occur and therefore there must be constitutional authority for the removal of the Governor. I think it is nothing but rounding off of the occasions where this extraordinary power may have possibly to be exercised, namely the proving of the Governor as guilty of bribery or corruption or mental or physical incapacity duly certified, not merely suspected of such incapacity, but properly certified, and in that case automatically the Governor should be removable.

Sir, I now move my next amendment.

“That after article 132, the following new article 132-A be added:—

‘132 A. The office of the Governor shall fall vacant by his death before completion of the term of office, or by resignation duly offered and accepted, or as provided for other wise by this Constitution. In the event of the office of the Governor falling vacant at any time, the arrangements made for the discharge of the functions of the Governor during such vacancy shall hold good only pending the election of another Governor as provided for in this Constitution.’ ”

For this purpose, he will have to be not appointed but elected. This again is providing for a contingency, for an interregnum if I may say so, that is to say, the office of the Governor falling vacant by death, resignation or for any other reason specified in the Constitution, and his successor not being available for the time being. Provision must be made for the discharge of the functions belonging to the Governor during this interim period during which there is no Governor whether appointed or otherwise provided for. I trust that these simple provisions would prove acceptable to the House.

**Prof. Shibban Lal Saksena :** Sir, the amendment moved by Dr. Ambedkar makes a very great change in the provision originally made in article 132. I am sorry he has not given any reasons why he has suggested his fundamental change. Just now we have accepted a provision whereby the Governor

shall be nominated by the President. Already we feel that there democracy has been abandoned. Now, Sir, comes this provision whereby the Governor shall hold office only at the pleasure of the President. Even in the case of the Supreme Court, we have provided that once the Judges of the Supreme Court has been appointed, they will be removable only after an address presented by both the Houses of Parliament, and by two-thirds majority of the members present and voting. In the case of the Governor, you want to make a different provision. It seems to me, Sir, to be an extraordinary procedure and it completely takes away the independence of the Governor. He will be purely a creature of the President, that is to say, the Prime Minister and the party in power at the Centre. When once a Governor has been appointed, I do not see why he should not continue in office for his full term of five years and why you should make him removable by the President at his whim. It only means that he must look to the President for continuing in office and so continue to be subservient to him. He cannot be independent. He will then have no respect. Sir, Dr. Ambedkar has not given any reasons why he has made this change. Of course, the election of the Governors has been done away with, but why make him removable by the President at his pleasure? The original article says:—

“A Governor may, for violation of the Constitution, be removed from office by impeachment in the manner provided in article 137 of this Constitution.”

It means that a Governor can only be removed by impeachment by both the Houses. Now, he will be there only at the pleasure of the President. Such a Governor will have no independence and my point is that the Centre might try to do some mischief through that man. Even if he is nominated, he can at least be independent if after he is appointed he is irremovable. Now, by making him continue in office at the pleasure of the President, you are taking away his independence altogether. This is a serious deviation and I hope the House will consider it very carefully. Unless he is able to give strong reasons for making this change, I hope Dr. Ambedkar will withdraw his amendment.

**Shri Lokanath Misra** (Orissa : General): Mr. President, Sir, after having made the decision that Governors shall be appointed by the President, it naturally follows that the connected provisions in the Draft Constitution should accordingly be amended, and in that view, I accept the amendment that has now been moved by Dr. Ambedkar. That amendment suggests that the Governor shall be removable as the President pleases, that is, a Governor shall hold office during the pleasure of the President and that whenever he incurs the displeasure of the President, he will be out. When the President has appointed a man, in the fitness of things the President must have the right to remove him when he is displeased, but to remove the evil that has now crept in by doing away with election for the office of the Governor, it would have been much better if the State legislature too had been given the power to impeach him not only for violation of the Constitution but also for misbehaviour. I use the word ‘misbehaviour’ deliberately because, when a Governor who is not necessarily a man of that province is appointed to his office, it is but natural that the people of the province should have at least the power to watch him, to criticise him, through their chosen representatives. If that right had been given, in other words, if the provision for the impeachment of the Governors by the State legislatures had been there, it would have been a safeguard against improper appointment of Governors by the President. One of the main objections to the appointment of the Governor by the President has been that he will be a man who has no roots in the province and no stake, that he will be a man who will have no connection with the people, that he will be a man beyond

[Shri Lokanath Misra]

their reach and therefore can go on merrily so long as he pleases the President, the Prime Minister of the Union and the Premier of the Province. But they are not all. It would have been much better if the Governor's removal had been made dependent not only on the displeasure of the President but on the displeasure of the State legislature also which represents the people and that would have been a safeguard against the evil that has been caused by the provision for the appointment of Governors by the President.

**The Honourable Dr. B.R. Ambedkar :** Sir, the position is this: this power of removal is given to the President in general terms. What Professor Shah wants is that certain grounds should be stated in the Constitution itself for the removal of the Governor. It seems to me that when you have given the general power, you also give the power to the President to remove a Governor for corruption, for bribery, for violation of the Constitution or for any other reason which the President no doubt feels is legitimate ground for the removal of the Governor. It seems, therefore, quite unnecessary to burden the Constitution with all these limitations stated in express terms when it is perfectly possible for the President to act upon the very same ground under the formula that the Governor shall hold office during his pleasure. I, therefore, think that it is unnecessary to categorize the conditions under which the President may undertake the removal of the Governor.

**Mr. President :** The question is:

"That with reference to amendments Nos. 2033 and 2041 of the List of Amendments, for article 132, the following article be substituted:—

*Term of office of Governor.*—(1) The Governor shall hold office during the pleasure of the President.

(2) The Governor may, by writing under his hand addressed to the President, resign his office.

(3) Subject to the foregoing provisions of this article, a Governor shall hold office for a term of five years from the date on which he enters upon his office.

Provided that a Governor shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office."

The amendment was adopted.

**Mr. President :** The question is:

"That article 132, as amended, stand part of the Constitution." The motion was adopted.

Article 132, as amended, was added to the Constitution.

### Article 133

**Mr. President :** There are several amendments that this article should be deleted. Those are not amendments to be taken up. They are practically negative ones, and therefore, I take it that they need not be moved.

**Shri T.T. Krishnamachari :** I would like to say that they are unnecessary in the context of the previous article.

**Mr. President :** The question is:

"That article 133 stand part of the Constitution."

The motion was negatived.

Article 133 was deleted from the Constitution.