

Article 135

Mr. President : The motion is:

“That article 135 form part of the Constitution.”

The Honourable Dr. B.R. Ambedkar : Sir, I moved :

“That in clause (1) of article 135, for the words ‘either of Parliament or’, ‘the words of either House of Parliament or of a House’ be substituted.”

This is a formal amendment.

Sir, I move:

“That in clause (1) of article 135—

(a) for the words ‘member of Parliament or’ the words ‘member of either House of Parliament or of a House’ be substituted,

(b) for the words ‘in Parliament or such legislature as the case may be’ the words in that House’ be substituted.”

Sir, I move :

“That in clause (2) of article 135, for the words ‘or position of emolument’ the words ‘of profit’ be substituted.”

(Amendments Nos. 2092 and 2095 were not moved.)

Shri H.V. Kamath (C.P. & Berar: General): Mr. President, I move:

“That in clause (3) of article 135 the words ‘The Governor shall have an official residence, and’ be deleted.”

Mr. President : “There” also must be deleted.

Shri H. V. Kamath : “There” will remain. “There shall be paid to the Governor such emoluments, etc.,”. I wonder why our Constitution should be cumbered with minutiae such as this. This matter about the official residence of the Governor, is, in my estimation, not even a tremendous trifle. Our Constitution would not be less sound if we omitted therein any reference to or mention of the Governor’s official residence. Certainly, it stand to reason that the Governor shall have a residence. We do not contemplate that the Governor will be without an official residence. Don’t you visualise the Premier in the province having a residence? But have we made mention of such a thing in the Constitution? I do not know whether this was bodily lifted from some of the unimportant constitutions of the world. Because, I am sure, the American Constitution makes no mention of the official residence of the President or the State Governors. I do not know which Constitution has given the inspiration to Dr. Ambedkar and his colleagues of the Drafting Committee.

An Honourable Member : Irish Constitution.

The Honourable Dr. B.R. Ambedkar : We have passed article 48 exactly in the same terms with reference to the President. Here, we are merely following article 48.

Shri H.V. Kamath : I was coming to that point. I do not know why, simply because the President’s residence has been mentioned, the Governor’s residence should also be mentioned. Is it logical, is it rational, or does Dr. Ambedkar think that because we have committed one little mistake—I should not say that—we should repeat it?

This point was raised by me in the course of the discussion on article 48, Dr. Ambedkar, in his reply to the debate could not give the convincing reply. May I, Sir, for his benefit and to refresh his memory, read from what he said

on that occasion? Even with regard to the President's residence, his reply was far from convincing. We have now a nominated Governor. The President, of course, is a much higher dignitary than the Governor of a State. It certainly beats me why the Governor's official residence should be mentioned at all. In his reply to this debate about the official residence of the President, this is what Dr. Ambedkar said:

"But, the question I would like to ask Mr. Kamath is this. Does he not intend that the President should have an official residence and that Parliament should make provision for it? And is there very much of a wrong if the proposition was stated in the Constitution itself?"

I do not say that it is wrong at all. We are not perpetrating any wrong by mentioning it in the Constitution. But, where is the necessity for this thing to be brought into the Constitution? He went on to say: "This is merely a matter of logic". (I wonder what strange logic it was that he had in mind) "I want to know if he does or does not support the proposition that the President should have an official residence." I then interrupted him: "May I know whether the Prime Minister will or will not have an official residence?" He did not give any reply to that, but proceeded: If he accepts that proposition, then it seems to me a matter of small import whether a provision is made in the Constitution itself or whether the matter is left for the future Parliament to decide. The reason why we have introduced this matter in the Constitution is that in the Government of India Act, in the several Orders in Council which have been issued by the Secretary of State under the authority conferred upon him by the Second Schedule of the Government of India Act, official residences, both for the Governor-General and the Governors have been laid down." Simply because the Government of India Act has mentioned that, should we copy it blindly without deliberating at all any further about it? I think that the Constitution is, as I have said already, an elephantine one and it has been encumbered with much unnecessary detail. We are mentioning this here because we are following the Government of India Act, whether logically or illogically. It might have been usefully and reasonably omitted.

One last point. The Governor may have more than one official residence. He may have two residences. Suppose he is to be given two residences; but since the Constitution mentions only one residence, what will happen? I hope Dr. Ambedkar and his wise men will give some thought to this matter. I move, sir

(Amendment Nos. 2097 to 2102 were not moved.)

Mr. President : The amendments and the original article are open for discussion.

Shri B. Das : Mr. President, article 135 deals with Governors' perquisites, honorarium, and housing problem. It is presumed that the Governors should be Congressmen or should have Congress ideals. Although my honourable Friend Dr. Ambedkar did not move his amendment where he wanted to fix the salaries of Governor at Rs. 4,500 p.m. the problem of salaries of Governors, Governor-General or President had been agitating most of us for the last few months. If Governors are to be Congress-minded people, are to follow Congress ideals, the ideals that our worthy leader Rajagopalachari started that every Congressman should live up to Rs. 150 and nothing more—that problem Congressmen in this House at least must face once for all. Why should the Governor-General have at present Rs. 7,500 free of Income-tax? Why should the Drafting Committee or Dr. Ambedkar fix a Salary of Rs. 4,500 for the Governors? Of course it is presumed income-tax will be deducted from that money.

Prof. Shibban Lal Saksena : On a point of order. Are we passing the schedule also along with this article.

Mr. President : We are not.

Shri B. Das : I am discussing the principle.

Prof. Shibban Lal Saksena : We shall have an opportunity of discussing that later on.

Mr. President : Let him develop the argument and I shall see.

Shri B. Das : The moment we pass this article, we give the privilege to the Legislature to fix the salary and we know what is happening. The Parliament on the other side fixed the salary of the Governor-General of Rs. 7,500 free of Income-Tax.

Mr. President : Are you quite correct Mr. Das, about the figure? I understood it was 5,500.

Shri B. Das : No, Sir.

Some Honourable Members : It is Rs. 5,500.

Shri B. Das : I am sorry, Sir, I accept that correction. But to me, a Congressman who was fed with the idea of Rs. 150 for every Congress Minister it sounds a big sum and we know the Governor-General is drawing a sumptuary allowance of Rs. 63,000.

Mr. President : I think you had better not refer to the Governor-General.

Shri B. Das : The Governor in every province draw sumptuary allowances also. There is something like Rs. 6,000 in poorer provinces and more in rich provinces like Bombay and Madras and it is spent in paraphernalia and in imitation of British pomp and splendour. Is it necessary that this sovereign House would permit or approve the idea that Governors should spend huge sums of money in pomp and splendour and should draw big salaries? Why should a Congressman draw beyond Rs. 3,000 which is maximum limit that my Central Ministers are drawing? I hope Governors are patriots. I know there are certain benighted Knights who have been made Governors. Rs. 3,000 is pretty big sum for them but when everything is new and there is the honour of being called H. E. and being nominated by President, that should I think be sufficient. I am sorry I could not participate in the debate on the previous clauses: but the only thing emerges that these nominated Governors who are actually drones would now apply to the President or the Governor-General that they are candidates for Governors of Provinces: The Drafting Committee and the House has accepted article 133 whereby such nominated creatures will go on all their lives as Governors. The Draft article 133 was that he will hold office only once more.

In another article we discussed about the Supreme Court. We did not want the Judges to accept jobs and hang round in the corridors of Dr. Ambedkar or Sardar Patel. Now we find we create a class of drones in India who will hang round in the corridors of the Governor-General or the Prime Minister of India, and who would like to be perpetual Governors in spite of their being eighty-eight years old or until they fall down. These are things which agitate me most and I hope the House should be very careful in fixing emoluments of the Governors. The very fact that one is a nominated Governor is enough and if he is a Congressman he will be happy and serve the country and if he is a non-Congressman it is a high honour for him. The emoluments should be fixed either by this House or by the Provincial Legislatures on the Congress standard and I do expect the Governors to behave as Congressmen and not as some of the Governors behaved in the past.

Shri Rohini Kumar Chaudhari : Sir, I am glad that this section has been allowed partially to stand as it is. I only do not understand the position taken up by my honourable Friend Mr. Kamath. He was one who has been advocating nomination of the Governor; but it seems that after having nominated him, he wants to throw him away. He wants to leave him to his own resources. He perhaps forgets that this nominated Governor has to go to another Province where he has very few friends. It is different with the Ministers. Ministers in most provinces in India have their residences provided officially. Not only do they have their official quarters, they have also got their furniture, screens, motor-cars, and everything supplied to them.

Shri H. V. Kamath : May I know whether these are mentioned in the Constitution?

Shri Rohini Kumar Chaudhari : They are not in the Constitution, but I am coming to that. That is not in the Constitution because the Ministries are always in the hands of the majority party, and therefore they can have whatever they want. Look at the position of the poor Governor. He is sent out from one province to another province where probably he knows very few persons, where he has probably been foisted upon that province against the will and consent of the Ministry itself. In that case, the least that you can help him is with shelter. If he has a Government Official residence, he can straightaway drive into that place, at least he will have a shelter, and he can look for his food afterwards. But if this is not provided for, then he has to go to this friend and that friend, and ultimately he may fall into the hands of a commercial magnate who will give him shelter, and we know commercial magnates are known to give shelter to this kind of persons holding high positions. But the Governor will fall under the obligation of some merchant Prince of the place.

Dr. P. S. Deshmukh (C. P. & Berar: General): He may have even to go back to his own province for want of a House. (Laughter)

Shri Rohini Kumar Chaudhari : So I say that official residence will have to be provided for the Governor, otherwise it will be impossible for him to carry on in that Province.

The provision which enables the Provincial Legislature to fix the salary of the Governor is also a very sound proposition, because if the Ministry does not approve of a particular Governor, it may reduce his salary to Re. 1 and thus compel him to leave the Province. That is a very strong and good safeguard which has yet been left in this article, because if the majority of the members of the legislature who are bound to reflect the opinion of the province consider that the Governor is not a suitable person for their province, then they can reduce his salary to Rs. 2 or Re. 1 as was done during the days of dyarchy when the Ministers' salaries were reduced to Re. 1 or Rs. 2. This is a mighty weapon in the hands of the Provinces, and I am glad this weapon has been left in the hands of the people of the province.

Secondly, I am interested in the allowances of the Governor. Next to his salary. I like that the Governor should have his allowances. He should have sumptuary allowance. This sumptuary allowance is intended for giving parties, dinner parties, lunch parties and so on to different people. And I should think particularly they should be given and it should be laid down that preference in this matter should be given to the members of the legislature. There is no attempt to interfere with this sumptuary allowance and therefore, the Governor enjoys this allowance. And if he gets this sumptuary allowance, he must have some official residence. It does not look well that the Governor should give his dinner parties and lunch parties and tea parties in different hotels. He must have a residence for these parties at least. Mr. Kamath is not against this sumptuary allowance, but he does not want the Governor to have a house where

[Shri Rohini Kumar Chaudhari]

he can utilise this sumptuary allowance. What is the Governor to do with the allowance then? The first and foremost duty of a Governor today is to give parties,—dinner-parties, tea-parties and parties of various other kinds. He has got to do it in order to maintain his own popularity, and also to maintain the popularity of the Ministry. If he finds anything wrong anywhere, he has to go out there and deliver some lectures in support of the Ministry. Besides these, there are functions like Prize-distributions, important marriages in high life,—all these things the Governor has got to attend to keep up his popularity. Therefore, I submit that his having an official residence should not be interfered with and this clause should be passed as it stands.

Shri Brajeshwar Prasad : Mr. President, Sir, I think this is the proper place where I can suggest to the House, and to the members of the Drafting Committee in particular, that they should incorporate some provision to the effect, that the same person may be appointed Governor of two or three or more provinces at a time.

Mr. President : You did not move any such amendment.

Shri Brajeshwar Prasad : I am not moving any amendment, but I am only suggesting to the House, to change this article so as to accommodate the suggestion that I am making. I feel that my suggestion will effect a great deal of economy, if one Governor is made responsible as the Constitutional Head for the administration of more than one province. Formerly the provinces of Bihar, Bengal, Orissa and Assam were under one Governor. Ultimately these Provinces will become one once again. With this end in view I am suggesting that the same person may be appointed Governor of two or more Provinces at a time.

Dr. P. S. Deshmukh : Sir, on a point of order. This is contrary to the clause we have already passed that each province shall have a Governor. (Hear, Hear).

Mr. President : I am in entire agreement with Dr. Deshmukh. We have already passed an article that every province shall have a Governor.

Shri Brajeshwar Prasad : Then I have nothing more to add.

Prof. Shibban Lal Saksena : Sir, My Friend Mr. B. Das raised the question of emoluments of the Governors given in the Schedule mentioned in this article. The question of emoluments attached to our high offices is a very important question. I do not think that under this article we can properly discuss the emoluments given in the Schedule, but as you have ruled that these might be discussed. I would like to say a few words. We as Congressmen are pledged to certain scales and to certain standards of life. But I am sorry to have to say that we have forgotten all that we said before. In Karachi Congress we passed a resolution that the maximum salary of the highest official shall be only Rs. 500 and in view of the present increase in the cost of living it may now be fixed at Rs. 2,000. But here we are providing for a salary of Rs. 4,500 for the Governors. The Governor is merely a cipher, without any function and holding office only during the President's pleasure. I do not think this large amount is necessary for him. In addition to this salary he has his allowances also. When the proper Schedule comes up, I will say more. But here I will only say that by accepting this article, we are not accepting the amounts fixed in the Schedule.

Shri M. Thirumala Rao : Mr. President, Sir, I was under the impression that the Drafting Committee's amendment No. 2100—

“That the following proviso be added to clause (3) of article 135 :—

‘Provided that the emoluments of the Governor shall not be less than four thousand and five hundred rupees per month’.”

will be moved.

I think, Sir, that there should be a uniform policy adopted in regard to the emoluments and salaries of these Governors which I think now obtains. There is no use leaving the matter to the sweet will of the respective Legislatures, which may be swayed by so many considerations in fixing the salaries of the Governors. If necessary, Governorships may be divided into different categories, *e.g.*, first-rank, second-rank, etc., according to the income of the provinces. But the Governors' emoluments should not be so variable as to depend upon the respective influences of the legislatures. Governors are expected to enjoy a status, though not power, above the Legislatures and the Ministries and they have to uphold certain tradition and prestige in the eyes of the public. Therefore, their salaries should not be made the play-thing of legislative forms where different parties may have their own motives for reducing the emoluments of the Governors. I suggest, Sir, that both for the President as well as for the Governors the Constitution should fix a certain amount of salary as well as sumptuary and other allowances which should not be subject to the influence of the Legislatures. I wish the Drafting Committee will take up this matter and bring in suitable amendments in this behalf.

Shri Brajeshwar Prasad : Sir, I want your ruling as to how my amendment is not pertinent. Article 149 says that there shall be a Governor for each State. It only means that there cannot be a Province without a Governor. The article does not debar the same person from being appointed as Governor of two or more provinces at a time.

Mr. President : No occasion for a ruling arises, because the honourable Member did not move his amendment.

I shall now put the amendment to vote. The first amendment is that moved by Dr. Ambedkar.

The question is:

"That in clause (1) of article 135, for the words 'either of Parliament or' the words 'of either House of Parliament or of a House' be substituted."

The amendment was adopted.

Mr. President : The question is:

"That in clause (1) of article 135—

(a) for the words 'member of Parliament or' the words 'member of either House of Parliament or of a House' be substituted.

(b) For the words 'in Parliament or such Legislature as the case may be' the words 'in that House' be substituted."

The amendment was adopted.

Mr. President : The question is:

"That in clause (2) of article 135, for the words 'or position of emolument' the words 'of profit' be substituted."

The amendment was adopted.

Mr. President : The question is:

"That in clause (3) of article 135 the words "The Governor shall have an official residence, and' be deleted."

The amendment was negatived.

Mr. President : The question is:

“That article 135, as amended, stand part of the Constitution.”

The motion was adopted.

Article 135, as amended, was added to the Constitution.

Mr. President : There is notice of an amendment by Professor Shah suggesting the addition of a new article 135.

The Honourable Dr. B. R. Ambedkar : Before we go to the next amendment I would like to suggest that in article 135, the word “elected” be dropped.

Mr. President: That is understood.

New Article 135-A

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

“That after article 135 the following new article 135-A, be added:—

‘135-A. Every Governor shall, on completion of his term of office and retirement, be given such pension or allowance during the rest of his life as the State Legislature may by law provide;’

‘Provided that during the life-time of any such Governor who has retired, the pension or allowance granted to him shall not be varied to his prejudice;’

‘Provided further that such pension shall be allowed only on condition that any such Governor in retirement does not hold any other office of profit in the State or under the Government of India.’ ”

Sir, I want by this amendment to secure to eminent public servants and distinguished sons of India who rise to such offices as the Governor of State a decent retirement allowance, so that they should not be exposed to any want or penury, or to any temptation which might lead them to use their influence acquired in the past by holding such offices in any undesirable manner.

The Constitution, Sir, does not provide any such consideration for people who rise to high offices in the State, except in regard to the Judiciary. In the Judiciary this has been provided by the Constitution. Speaking for myself, I do not see any reason why exalted public servants and officers, who have served the State and the country in such high capacities like that of the President, or the Governor, should not be provided for the rest of their lives, so that they should be free from any want or temptation to utilise their influence in any undesirable manner.

I have not deliberately indicated the scale of such pension. I have also suggested the condition that the pension is payable only if the person concerned retires. That is to say, he really devotes himself for the rest of his life to the honorary service of the country in whatever way may be open to him free from any want, and that he does not hold any other office of profit in the State in which he has been Governor or under the Government of India. If, of course, he holds any other office which carries its own emoluments, he will have to choose between either the pension or those emoluments. But subject to this, that he holds no other office, the pension should be available to him for the rest of his life in retirement.

The object of providing such security for the persons who have risen to this high level is the same as that which now secures to every workman in civilized nations an old-age pension, a pension or superannuation allowance, which would be calculated to suffice to maintain him in the standard of life to which he was accustomed while at work. A pension is deferred pay, not paid to the worker while at work; and the analogy will hold here also. This also is a type of work—perhaps the highest of its kind—which should not go unprovided for altogether by the State for the rest of the period on earth of the Parties who have served so eminently the State.