

Mr. President : There is no amendment to this amendment to the Schedule III.

The question is:

“That in item IV of the Form of Oath, in the Third Schedule, after the words ‘judges of the Supreme Court’, the words ‘and the Comptroller and Auditor-General of India’ be inserted.”

“That in item IV of the Form of Oath, in the Third Schedule, after the words ‘Supreme Court of India’, the brackets and words ‘(or Comptroller and Auditor-General of India)’ be inserted.”

The amendments were adopted.

Article 13

Mr. President : Let us take up article 13.

Shri T. T. Krishnamachari : May I request, Sir.....

Shri H. V. Kamath: With regard to this amendment, Sir.....

Shri T. T. Krishnamachari : May I request, Sir, that you take up the first item afterwards, at the end?

Mr. President : We shall take up item I later. Let us begin with article 16.

Article 16

Shri T. T. Krishnamachari : Sir, I move amendment No. 393 Which reads thus:

“That article 16 be omitted.”

The reason is that we have taken article 16 from the Fundamental Rights Chapter and put it in Part XA, in the Chapter entitled Trade, Commerce and Intercourse within the territory of India. The article now finds place in a different form under article 274-A which reads thus:

“Subject to the other provisions of this Part, trade, commerce and intercourse throughout the territory of India shall be free.”

The difference between this and the article as it appears in article 16 is only in the phraseology of the articles which says that subject to the powers of Parliament, trade, commerce and intercourse etc. shall be free. Having taken it over to Part X-A, there is no meaning in keeping article 16 in the Fundamental Rights, and that is why I have moved this amendment.

May I also explain, Sir, to the Members of this House, who, I believe, are aware of the substance of my explanation, that the original idea of putting the article which confers a very restricted right under fundamental rights has got a history behind it. That was because at the time when we framed the Fundamental Rights we felt that the picture of the Constitution would be different. Even so, the right that is conferred is limited by any law made by Parliament. The appropriate place, therefore, for an article of this nature, which is in reality not a fundamental right, in the sense that other, articles, are fundamental rights, is in the chapter relating to trade and commerce. I think the House will have no objection to deleting what is now more or less a surplus article in the articles on fundamental rights.

(Amendment No. 416 was not moved.)

Pandit Thakur Das Bhargava (East Punjab: General) : May I ask a question of Mr. T. T. Krishnamachari? According to him, article 274A now takes the place of article 16. May I just know if article 25 shall apply to article 274A?