

**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.

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- (a) in accordance with such rules as may be made in this behalf by the President, and
- (b) until rules are so made, in accordance with the rules relating to the filling of casual vacancies in the Constituent Assembly of the Dominion of India and matters connected therewith in force at the time of the filling of such vacancies or immediately before the commencement of this Constitution, as the case may be, subject to such exceptions and modifications as may be made therein before such commencement by the President of that Assembly and thereafter by the President of the Union:

Provided that where any such seat as is mentioned in this article is, immediately before, it becomes vacant, held by a person belonging to the Scheduled Castes or to the Muslim or the Sikh community and representing a State for the time being specified in Part I of the First Schedule, the Person to fill such seat shall, unless the President of the Constituent Assembly or the President of the Union, as the case may be, considers it necessary or expedient to provide otherwise, be of the same, community:

Provided further that at an election to fill any such vacancy in the seat of a member representing a State for the time being specified in Part I of the First Schedule, every member of the Legislative Assembly of that State shall be entitled to participate and vote."

Then I am moving my amendment No. 205 to substitute a different explanation.

"That in amendment No. 164 of List III (Second Week), for the Explanation to clause (1) of the proposed new article 312 F, the following Explanation be substituted:—

*'Explanation.*—For the purposes of this clause—

- (a) all such castes, races or tribes or parts of or groups within castes, races or tribes as are specified in the Government of India (Scheduled Castes) Order, 1936, to be Scheduled Castes in relation to any Province shall be deemed to be Scheduled Castes in relation to that Province or the corresponding State until a notification has been issued by the President under clause (1) of article 300A specifying the Scheduled Castes in relation to that corresponding State;
- (b) all the Scheduled Castes in any Province or State shall be deemed to be a single community—

Then I come to sub-clause (2).

(2) Casual vacancies in the seats of members of a House of the provisional Legislature of a State functioning under article 312 or article 312 C of this Constitution 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 to fill such vacancies) shall be regulated in accordance with such provisions governing the filling of such vacancies and regulating Such matters as were in force immediately before the commencement of this Constitution subject to such exception and modifications as the President may by order by direct."

I do not think that any explanation is necessary. The provisions are quite clear. If any point is raised in the course of the debate, shall be quite prepared to offer such explanation as I could give.

**Mr. President :** There are four or five amendments to this. No. 179, Mr. Shibban Lal Saksena.

**Prof. Shibban Lal Saksena :** Mr. President, Sir, there is some mistake in the printing. I will move my amendment this way—

"That in amendment No. 164 of List III (Second Week), (the first proviso to clause (1) of the proposed new article 312 F, be deleted."

I also move:

“That in amendment No. 164 of List III (Second Week), in clause (2) of the proposed new article 312 F, for the words ‘as the President may by order direct’ the words ‘as the Parliament may by law provide’ be substituted.”

Sir, this article makes provision for the filling of casual vacancies, and this proviso to clause (1) wants that the vacancies of members in this Assembly should be filled by members of the same community. I want the deletion of this proviso. My main reason for the deletion of the proviso is this: We have provided in our Constitution by the agreement of all the minorities themselves that all reservations shall go, except for the Scheduled Castes. Now, according to this proviso, the Scheduled Castes do not stand to gain, because I see that the Scheduled Castes according to their population should have about forty-five seats, whereas they have only about twenty-eight seats in this Assembly. If this proviso is strictly adhered to justice would not be done to them.

Then, Sir, for the rest, we have already decided that there should be no reservation in the general elections. To imagine that members of the legislatures in the provinces will not be generous and fair to them is something which I cannot understand. If they can trust the illiterate people in the whole country to be fair enough to return the minorities in their proper proportion, they must surely trust the members of the provincial legislatures to be much more fair to them. They will be men of knowledge, much more responsible, who will weigh the issues and who will try to see that the minorities are given not only their proper quota but even more than that. As most of the members of the provincial assemblies will be Congressmen and the Congress Parliamentary Board will give the list of candidates to be elected, I am sure that they will take care to see that justice is done to all minorities. Therefore, Sir, I do not want that our Constitution should be disfigured by this proviso. The Muslims, the Sikhs and the other minorities will surely get much better treatment at the hands of the Parliamentary Board of the Congress and the provincial assemblies than they can expect by this proviso, which will only limit them to the number of seats they hold now. For the Scheduled Castes it will be a sad thing, because these members of the Scheduled Castes can be returned to this Assembly only when scheduled caste seats become vacant. This would really perpetuate the injustice done to them by the Cabinet Mission, which gave them seats according to proportional representation in the legislatures. Hence this proviso to clause (1) must go, for it will not serve the purpose for which it is intended. I do not think that the Muslims and Sikhs feel that they will not get a fair deal in regard to the Central legislature in the by elections. Even the Scheduled Castes themselves do not want the number of seats given but they want more. That can be achieved only if this provision is deleted.

By my amendment No. 180 I want to substitute “as the Parliament may by law provide” for the words “as the President may by order direct”, in regard to casual vacancies. The reasons are the same as I have given regarding the previous amendment. I think in the matter of making rules for filling seats, the Parliament should be the final authority and not even the President should have absolute power in the matter. The same Parliament will continue which is making the Constitution and why should not they be permitted to approve the rules to fill casual vacancies ? I think that is fair and proper and in place of the President, Parliament should be substituted.

**Shri V. I. Muniswamy Pillay :** Sir, I beg to move:

“That in amendment No. 164 of List III (Second Week), in the first proviso to clause (1) of the proposed new article 312 F, after the words ‘the Scheduled Castes or’ the words ‘Scheduled Tribes’ be Inserted.”

In the new amendment given by Dr. Ambedkar he has made it clear that he included all such castes, races, tribes or groups within castes. It would be more appropriate if Scheduled Tribes are also included after the words “Scheduled Castes” in the main article, so that what is said in the new amendment may be in consonance with the article itself. Speaking generally on this article I have made it clear, when we discussed article 311, as to the inadequacy of the representation of the Scheduled Castes in the new provisional Parliament and I am thankful to Dr. Ambedkar for making it clear that the President will consider the case of such inadequacy and allot the number of seats that is rightly due to the Scheduled Castes. I welcome the last sentence in the first proviso “unless the President of the Constituent Assembly or the President of the Union, as the case may be, considers it necessary or expedient to provide otherwise, be of the same community.” Originally it was thought that since we were selecting only for 28 seats in the Constituent Assembly only 28 members will be taken to the provisional Parliament. Later it was thought if a member of a particular community vacated the seat that community will be returned and here was a lacuna. The question was whether it would be possible to increase the number of representatives of the Scheduled Castes. With this amendment or with the provision that has been made I feel certain that the number required for the Scheduled Castes will be assured. With these observations I support the amendment moved by Dr. Ambedkar.

**Pandit Thakur Das Bhargava :** (East Punjab : General): Sir I move:

“That in amendment No. 164 of List III (Second Week), in the first proviso to clause (1) of the proposed new article 312 F, the words ‘or to the Muslim or the Sikh community’ be deleted, and for the words ‘be of the same community’ the words ‘belong to the Scheduled Caste’ be substituted.”

So far as the filling of casual vacancies is concerned I wish that the basic principles which we have adopted in regard to the legislatures of the provinces and the Centre are observed. We have ruled so far that general electorates shall take the place of separate electorates and that there shall be no reservation of seats for the Muslims or the Sikhs and that there will be reservation of seats for the Scheduled Castes and they shall also have the right to contest the general seats. If this principle were given effect to, the amendment which I seek to make will be fully justified. I can understand the argument that since the old House is being continued in the coming Assembly therefore the representation of the various communities should continue as before. But this argument is certainly not valid and at the same time this principle has been departed from. In the first place, the present members from the various communities were elected on the basis of separate electorate and this is given the go-bye in the second proviso, because it clearly says that every member of the Legislative Assembly of a State shall be entitled to participate and vote, which means that for the purpose of filling casual vacancies we have adopted the principle of joint electorates in place of separate electorates. If the proviso remains as it is, it would mean that the Muslims and the Sikhs will also have the right to contest the general seats in case of casual vacancies. In this matter also this proviso departs from the original principle. When we have made departure from two basic principles—that of separate electorates as well as allowing the Sikhs and Muslims to contest general seats—it passes one’s comprehension why the accepted principle of non-reservation for Sikhs and Muslims should not be given effect to. So far as reservation is concerned we know that in this House all right-minded Muslims and Sikhs themselves gave it up. It cannot be said that the Assembly coerced them to do so. There

were two sets of persons among the Muslims. Such of them as preferred separate electorates moved their motions here and did not willingly give them up. There were others who came forward and said that they did not want reservation. These persons will be very much hurt with this provision. The same was the case with regard to the Sikhs. They voluntarily gave up reservation and it would not please the Sikhs to depart from this accepted principle. If this Constitution had been framed in 1947 I know that these reservations must have remained for Muslims and Sikhs also, but the experience of the last two years should not be lost upon us. It is absolutely wrong now to continue this and I for one would beg the House to accept the principle which they accepted with regard to the coming elections, that there shall be no reservation for the Sikhs and the Muslims. If our friends the Muslims and Sikhs want that the seats falling vacant should be filled by members of the respective community, namely either Sikhs or Muslims, let it be arranged by convention. I am not opposed to any seats being given to them but it would be wrong to disfigure the Constitution any more by reference to the principle of reservation of seats which the Sikhs and Muslims themselves have given up.

**Shrimati Purnima Banerji** (United Provinces: General): Mr. President, I move:

“That in amendment No. 164 of List III (Second Week), in the first proviso to clause (1) of the proposed new article 312F, for the words ‘Muslim or the Sikh Community’ the words ‘Muslim, Christian, Sikh community or by a woman’ be substituted, and at the end of the said proviso the words ‘or sex as the case may be’ be added.”

Sir, I am conscious of a spirit of diffidence in moving this amendment and sometimes feel that in doing so I may be opening myself to a certain amount of ridicule. But, even at that cost I feel I should state my case. The proviso which we are now discussing provides that in respect of the casual vacancies which are to be filled hereafter for the provisional Parliament, those belonging to the Sikh or the Muslim community will be represented by persons of that community. My amendment seeks just to stretch that same provision for women. I wish to make it quite clear that women do not want any reserved seats for themselves, but nevertheless, I suggest to the House that in respect of the number of women who are now occupying seats in the Assembly, if any of them should vacate their seats they should be filled up by women themselves. We have had casual vacancies in this House before this. Three women have retired so far. One was our late lamented Shrimati Sarojini Naidu, the second was Mrs. Vijayalakshmi Pandit and the third was Shrimati Malati Chaudhuri. Three women Members for various reasons have had to leave this House. Mrs. Naidu who could never be replaced both from among men and women, Mrs. Vijayalakshmi Pandit who is so very highly talented and our friend Shrimati Malati Chaudhuri—all these three women have been replaced by men Members. I do not speak in disparagement of the honourable Members who may have been returned in their places and I am sure they are worthy and fit Members of this House. But I do hold that women could have also filled those places with equal merit and they should have been invited to do so. Since the entire basis of the State has changed and it is no longer a police state, certain social functions such as education and health now feature among the major items of the State’s development. I feel, that not only is the association of women in the field of politics essential but it is indispensable, and therefore I feel that this indispensable section of the people should be amply represented in this House and therefore my amendment proposes that in the casual vacancies which will occur women should at least be returned to the seats which they hold today, if not more. With these words, I move.

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

**Shri H. V. Kamath** : Mr. President, this article provides for the filling of casual vacancies in the provisional Parliament and in the provisional Legislatures of States. The provisions of this article are good as far as they go but I feel that they could be bettered. I would invite the attention of my honourable colleagues to certain issues and doubts that have been raised in my mind on a careful perusal of this draft article 312F. To start with I shall refer to sub-clause (b) of clause (1) of this article. This sub-clause (b) provides that the filling up of casual vacancies shall be regulated by the President of the Union after the commencement of the Constitution in so far as the modifications and exceptions to the rules already passed by us are concerned. I can understand the President of the Assembly not laying those modifications and exceptions before this Assembly before the enforcement or commencement of the Constitution. But I fail to understand why, once the Constitution has been inaugurated or has commenced and the provisional Parliament has started to function, any rules made by the President of the Union after such commencement should not be laid before Parliament for consideration. This House will remember that when certain rules adopted by us a couple of years ago were sought to be amended and altered, those modifications were brought before this House and the House duly approved of them. So in this case, where the President of the Union is concerned, after the Parliament has started functioning it is necessary and advisable from the purely constitutional and also democratic point of view that the decrees or the rules made by the President of the Union should be laid before the provisional Parliament for consideration. Before the Constitution commences there may be difficulty as regards time—there may not be time enough for the President to lay the rules before the House. But once the Constitution has commenced the President of the Union must lay the modifications and exceptions that he might make with regard to the rules before the provisional Parliament for their consideration and formal approval. That is the first point.

The second point arises out of the first part of the explanation to this article. It says that “all the Scheduled Castes in any State shall be deemed to be a single community”. I am rather reluctant to use the word “community” for the Scheduled Castes by themselves as a whole. I believe the House will agree with me when I say that we long ago decided that the Scheduled Castes are not a separate community by themselves but a part of the great Hindu community. This House has decided that point. This part of the explanation, I feel therefore, is a hang-over from the past. We have not been able to shake off this misconception about the Scheduled Castes as being a community. I think therefore that this explanation must be recast so as to delete the description of the Scheduled Castes as a community. Describe them as a sub-community, as a group of the Hindu community. On that I am sure all of us are agreed in this House. Therefore, I would request the Drafting Committee and also this House to amend this part of it suitably so as to describe the Scheduled Castes as a part of the Hindu community and not as a community by themselves.

Then there is the point raised by my Friend Pandit Thakur Das Bhargava. I feel there is much force in his contention that after the decisions we made recently with regard to the abolition of reservation for the Sikhs and the Muslims, it would not be in the fitness of things to retain this so far as the provisional Parliament is concerned. An adequate safeguard is there in this proviso to clause(1):

“..... unless the President of the Constituent Assembly or the President of the Union, as the case may be, considers it necessary or expedient to provide otherwise.....”

That safeguard is there. Of course he may provide in a particular case that the casual vacancy may be filled by a Member not belonging to that particular community, on the basis of joint electorates and non-reservation of seats for Sikhs and Muslims. But I hope this aspect of the matter will be borne in mind by the President of the Assembly and the President of the Union when occasions arise in the future for filling up of casual vacancies. We may, as a matter of fact, give more seats to deserving Muslims and deserving Sikhs than is warranted by their numbers in the population, but let us not perpetuate or let us not continue during this interim period this feature or this provision of reservation and separate electorates which we have already abolished. Therefore I would very much desire that the House would clearly express its mind today that so far as the casual vacancies in the filling of seats of Muslims and Sikhs are concerned there will not be any special consideration given with regard to the reservation on the basis of population or to separate electorate.

**Shri Brajeshwar Prasad :** There is no provision for separate electorates.

**Shri H. V. Kamath :** Article 311 which we passed yesterday says the President may by rule provide for the representation in the Provisional Parliament of States not represented, and so on and so forth. The House will remember that this House itself was elected on the basis of separate electorates: General, Muslim and Sikh. if we do not clearly and categorically lay down in an article here that this will not be followed in the filling of casual vacancies, it may give room for doubt that even in future, so far as the filling of casual vacancies is concerned, the old system of the Cabinet Mission Plan might be followed. Therefore it is very essential that we should provide in this article or elsewhere that separate electorates will have no place and that all elections in the future as regards the filling of casual vacancies will be on the basis of joint electorates.

Then there is the point raised by my Friend Shrimati Purnima Banerji. Though she has not pleaded for her own sex on the basis of special reservation, yet I feel that that is a point which may be easily conceded by this House. She went so far as to say that the seat formerly occupied by the late Shrimati Sarojini Naidu cannot perhaps be filled from among the ranks of men. I know not what she implied but I would not pick a quarrel with her on that point. As a matter of fact I would not mind, I would be quite happy, if there are more women in this House than there are today, but I do not think she should make an issue of that so far as this article is concerned. So far as the work of Government is concerned, if I heard her aright, she said that women should be given a greater chance more scope, in affairs of administration and government than they are being given today. The most common and the strongest objection so far put forward by political philosophers in this connection, that is to say as regards the capability of women for government and administration is that woman is ruled more by the heart than by the head, and where the affairs of Government are concerned, where we have to be cold and calculating in dealing with various kinds of men, women would find it rather awkward and difficult to deal with such persons and that the head may not play the part that it must play in the affairs of government. If the heart were to rule and the head to take a secondary place then it is felt by many thinking men, and thinking women too, that the affairs of government might go somewhat awry, might not fare as well as we might want them to be. However, I do not wish to dwell on this point further, but I think the House will not quarrel with Shrimati Purnima Banerji on this point that where a seat held by a woman Member is vacated that seat should normally go to another woman.

Lastly, there is a point arising out of explanation (2) to this article. That is with regard to the filling of casual vacancies in provisional Legislatures of the

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States. It is true enough that so far as the State Legislatures are concerned, the Constitution has made provisions with regard to elections to these Legislatures as well. But as far as the interim period is concerned, considering that so many changes have occurred in the States recently, in the Governor's Provinces too, what on account of integration and merger and similar other changes, I feel that so far as this matter is concerned, namely the filling of casual vacancies in the State Legislatures during the interim period, I think nothing would be lost but everything gained by the President taking the Governor of the State or the Province into consultation with him so far as this matter is concerned. The Governor being advised by this Council of Ministers in the Provinces or the States would be well posted with the local developments, and being the man on the spot, he will be able to tender advice to the President in this connection. I feel therefore, that the House will be acting wisely if we provide that the President of the Union will in this regard consult the Governor of the State in so far as the matter referred to in explanation (2) is concerned. I hope, Sir that the point I have raised will be earnestly considered by the Drafting Committee and the House for incorporation in this article at this stage or subsequently when the Constitution comes up for Third Reading.

**Shri H. J. Khandekar :** Mr. President, Sir, the new article 311 deals with the provisions as to the filling up of casual vacancies in the provisional Parliament and provincial legislatures of the States. I support this article with certain observations.

The article that we have passed just now, that is article 311, asks the double Members to quit this House. It is an unfortunate feature of this House that the real representatives of the masses are to go away on the 26th of January 1950. As regards the Scheduled Castes, the same mistake is being represented here in this Assembly. In the beginning, we wanted our quota to be represented in this Assembly according to our population. There was a convention that for every ten lakhs of the population of harijans, one member will be returned to this Assembly. In this Assembly, now, there are 28 Harijan Members out of whom two are Ministers. According to the population of Harijans, we ought to have been here not less than sixty. But, unfortunately, according to the last article, 17 Harijan Members of this House out of these 28 are to go away. These Members are the tried leaders of the Harijans and the intelligentsia of the community. According to this article, these vacancies are to be filled in after the commencement of this Constitution. What I suggest is that when powers are given under this article to the President of the Union or the President of the Constituent Assembly for the filling up of casual vacancies. I propose certain things. My suggestion is that members cannot be found among the Harijan community because they are uneducated. You will not be able to get so many members to fill in these casual vacancies from amongst the Scheduled Castes. Therefore, my request is that it is necessary that the President, while considering the filling up of those casual vacancies, should consider the cases of those Members who are going out of this House being double members of this Assembly and the provincial Assembly to be re-elected. Because, as far as my province is concerned, I know that we shall not be able to get more suitable people—of course there are people among the Harijans, but they are already members in the provincial legislatures-. I think this will be the case in the other provinces also. Therefore, I earnestly suggest that the President of the Union or the President of the Constituent Assembly should consider this matter very seriously and while making rules for the filling up of the casual vacancies, he should give some option to the members of the Harijan community.



The other point is that this article says that as many members of the Harijans or Muslims or Sikhs as are here and go out, will be filled up by new members of the same community. We are 28 here; 17 are going out. According to this clause, 17 will be coming in. That means, the position will be the same. No more representation is being given to the Harijans, and as I said the last mistake is being repeated again here. What I suggest is this. The population of the Harijans in the Indian States is about one crore. I am very sorry to inform this House that when members were sent from the Indian States, not a single member was a Harijan except one from Mysore. I request you to take this fact into consideration. I do not know whether the Members from the States are resigning or not. If at all they resign, I suggest that in their places, Harijans should be elected. Moreover, I shall give you one instance. In Madras, our quota last time was eight according to the convention; but only seven members were elected. This one seat is still vacant or it was given to a Caste Hindu. That seat should be given to the Harijans. From the Central Provinces and Berar, our quota was three. Three people were elected. Afterwards one Harijan member resigned.

**Shri S. Nagappa** (Madras: General): Was made to resign.

**Shri H. J. Khandekar** : In his place a caste Hindu was elected. Of course, Dr. Raghuvira, a friend of mine, who was elected in the place of the Harijan member from the Central Provinces served here for the purpose of language. I do not know whether he resigns or not because he is not a double Member. The seat of anybody who resigns from the Central Provinces as a double member should go to the Harijans. My request is that the President of the Union or the President of the Constituent Assembly, whichever the case may be, while making rules or making provisions for the filling up of the casual vacancies, the Harijans should be given the proper quota, that is sixty. The Constitution will come into force from 26th January, 1950. We have adopted a provision in the Constitution that in the provisional Parliament the Scheduled Castes are to be given representation on their population basis. My request is that we must take into consideration this clause of the Constitution.

I support in full the explanation given in this article by my honourable Friend Dr. Ambedkar. It deals with the List of Scheduled Tribes and Scheduled Castes. As soon as this Constitution comes into force, the List of Scheduled Castes and Tribes given in the Act of 1935 goes away and for the interim period there is no list. According to the provisions of this Constitution, the President shall make the list and announce it. Of course he will do it with the consultation of the members of the Scheduled Castes or of the Parliament. That depends upon the President of the Union. But for the transitional period a list is required and as it has been covered by Dr. Ambedkar's Explanation. I fully support it.

**Shri S. Nagappa** : Mr. President, this article relates to the filling of casual vacancies that will be created when the double members vacate their seats. My honourable Friends Mr. Muniswamy Pillay and Mr. Khandekar made clear the position of Scheduled Castes. Now in this article it is said that the places vacated by the Scheduled Classes will be filled up by Scheduled Classes and the places vacated by Muslims will be filled up by Muslims and the places vacated by Sikhs will be filled up by Sikhs alone. In other words, the non-scheduled Caste Hindus will be returned intact. In that case, Scheduled classes have been done great injustice while filling up the vacancies in the beginning. That was explained by my friends, Mr. Muniswamy Pillay and Mr. Khandekar. But no doubt the President of the Union or the President of the Constituent Assembly empowered to do otherwise, *viz.* if he wants to bring, in the places of non- Sikhs and non-Muslims, any number of Scheduled Classes, he can do. But I want an assurance not only from the Chairman of

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the Drafting Committee but from the President of the Constituent Assembly who is here that the representation that was due to the Scheduled Classes on the population basis will be given and shall be given. No doubt what has happened has happened. Now the Provisional Parliament will be functioning from the 26th January. All these days so far as Harijans are concerned the representation was defective and I do not want that to be perpetuated in the new Republic also. It is brought to the notice of the country, the people and to the Government and I hope they will rectify it in order to justify the claims of the Scheduled Classes.

It is after all a fair demand—we are not going beyond our limits. We are asking for what is due to us. We do not want any weightage or anybody else's seat, nor do we want to claim that we are non-Hindus. I agree with Mr. Kamath that the word 'community' should not be used. But I want that a class distinction must be there. You have treated us as a different class, though not as a community. Our political right should not be taken away simply because we merge with you simply because we join with you, simply because we are here with you.

**Mr. President :** As I read this clause, it does not exclude Harijans being elected from other seats. It only assures that they will be elected surely from the seats, which they vacate. But it leaves open the question that they can be elected from other seats also. You started by saying that seats of the other Hindus get also reserved. That is not the case.

**Shri S. Nagappa :** In other words it means that. Supposing four Scheduled Classes vacate, four will come.

**Mr. President :** Supposing you have 27, at least 27 will surely be returned, under this. But 27 may become 54 and there is nothing to prevent that.

**Shri S. Nagappa :** If you confine yourself to this, it goes without saying that non-Scheduled Class Hindus will come in the same number.

**Mr. President :** It does not say that. It assures that 27 Scheduled Caste members will be returned. It leaves open the question as to how many more may come.

**Shri S. Nagappa :** My point is that the due quota of Harijans should come—whether they are to come from Sikh seat or Muslim seat I do not care. I want my number should be intact. That should be brought about and the new Republic should not begin to function with such a defective representation.

**Mr. T. T. Krishnamachari** (Madras: General): Question be now put.

**Mr. President :** Closure has been moved.

The motion is:

“That the question be now put.”

The motion was adopted.

**The Honourable Dr. B. R. Ambedkar :** Sir, just one or two points that have been raised in the course of this debate. The first point that has been touched upon by Mr. Saksena and Pandit Bhargava was in relation to the continuance of the representation of the Muslims and the Sikhs during this interim period. They object to this carry over on the ground that the Muslims and Sikhs have surrendered their right to special representation under the arrangements which have been entered into during the course of the proceedings of this Constituent Assembly. My submission on this point is this, that whatever arrangements have

been made, those arrangements are made in respect of the permanent structure of Parliament which is to come, into operation under this Constitution. That being so, I think it would not be right nor justifiable to alter the structure of the Constituent Assembly which in the main we are carrying over and constituting it as a Provisional Parliament.

With regard to the amendment of Shrimati Purnima Banerji, I do not think it is necessary to make a specific provision for the retention of women in this Constituent Assembly. I have no doubt about it that the President in the exercise of his powers of rule-making will bear this fact in mind and see that certain number of women members of the Constituent Assembly or of the various parties will be brought in as members of the Provisional Parliament.

With regard to Mr. Muniswamy Pillay's amendment, the new thing he seeks to introduce is the provision for the Scheduled Tribes. As a matter of fact there is no objection to making provision for the Scheduled Tribes but the point is this that at present there is no enumeration of Scheduled Tribes, because Scheduled Tribes as such has not been recognised under the Government of India Act, 1935. Whatever tribes are included for the purposes of representation under the Government of India Act are called backward tribes. Consequently, if my Friend Mr. Muniswamy Pillay were to leave this matter in the hands of the Drafting Committee, we shall probably make some suitable arrangement to give effect to his amendment.

**Mr. President :** I will put the amendment to vote now.

The question is:

"That in amendment No. 164 of List III, clause (1) of the proposed new article 312F be deleted."

The amendment was negatived.

**Mr. President :** No. 202.

**Shri V. I. Muniswamy Pillay :** I leave it to the Drafting Committee. I do not press it.

The amendment was, by leave of the Assembly, withdrawn.

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

"That in amendment No. 164 of List III in clause (2) of the proposed new article 312F, for the words 'as the President may by order direct' the words 'as the Parliament may by law provide' be substituted."

The amendment was negatived.

**Mr. President :** Then I put amendment No. 203—that of Pandit Thakur Das Bhargava.

The question is:

"That in amendment No. 164 of List III (second Week), in the first proviso to clause (1) of the proposed now article 312F, the words 'or to the Muslim or the Sikh community' be elected and for the words 'be of the same community' the words 'belong to the Scheduled Caste' be substituted."

The amendment was negatived.

**Mr. President :** Then I come to amendment No. 204.

**Shrimati Purnima Banerji :** Sir, I beg leave to withdraw the amendment I have moved.

The amendment was, by leave of the Assembly, withdrawn.

**Mr. President** : Then I put the article as modified by the amendment No. 205. That is I put amendment No. 164, as amended by amendment No. 205 which amends the explanation.

The question is:

“That proposed article 312F, as amended stand part of the Constitution.”

The motion was adopted.

Article 312F, as amended, was added to the Constitution.

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#### Schedules IIIA and IV

**Mr. President** : Then we have to take up Schedule IIIA.

**Shri T. T. Krishnamachari** : Sir, Schedule III-A is not being moved. It can be taken out of the List. That is the idea.

**Mr. President** : So there is no question of amendments arising.

**Shri Brajeshwar Prasad** : But the proper procedure is that it must be moved What is the idea? Is it to be held over?

**Mr. President** : It is not in the Draft Constitution. It was given only as an amendment and when that amendment is not moved, there is no question of amendments to that amendment arising. So Schedule III-A goes, with all its amendments.

Then we take up Schedule IV.

**Shri T. T. Krishnamachari** : Sir, I move that Schedule IV be deleted.

**Some Honourable Members** : How can it be deleted?

**Mr. President** : So far as the Drafting Committee is concerned, they have been moving for deletion of particular articles. Now, there are amendment to this Schedule IV. I think it will be better if Dr. Ambedkar were to explain the position as to why the Schedule is dropped, because Members have given notice of amendments. That will make the position clear.

**The Honourable Dr. B. R. Ambedkar** : Mr. Krishnamachari will explain.

**Shri T. T. Krishnamachari** : Sir, the Fourth Schedule was necessary because certain provisions were put in the Constitution in order to describe the relations of the President and the Governors *vis-a-vis* the Ministers. It has now been felt that the matter should be left entirely to convention rather than be put into the body of the Constitution as a Schedule, in the shape of Instrument of Instructions, and, there is a fairly large volume of opinion which favours that idea. Therefore, we have decided to drop Schedule III B which we proposed as an amendment and also Schedule IV which finds a place in the Draft Constitution, because it is felt to be entirely unnecessary and superfluous, to give such direction in the Constitution which really should arise out of conventions that grow up from time to time, and the President and the Governors in their respective spheres will be guided by those conventions. As these schedules were felt to be superfluous I had moved that the second Schedule should be deleted.

**Shri B. Das** (Orissa: general): Sir, I am confused. I do not wish that the Schedule IV should be withdrawn bodily so soon. Let us pass all the Schedules dealing with the powers of the Governor-General and the Governor, and if the Drafting Committee think it necessary to drop any of them, then they can do so at a later stage. But now, at the fag end of the day, a sudden surprise