

[The Honourable Dr. B. R. Ambedkar]

If during the course of dealing with articles 290 and 291, the House comes to the conclusion that the provision contained in clause (c) should be prescribed by the law made by Parliament, then I should like to reserve for the Drafting Committee the right to reconsider the last part of sub-clause (c). Subject to that I think the article, as amended, may be passed.

Mr. President : I shall now put the article with the various amendments to vote: first is the amendment of Shrimati Purnima Banerji—No. 38 of List I.

The question is:

“That in amendment No. 2311 of the List of Amendments, in clause (b) of the proposed article 152, for the word ‘thirty-five’ the word ‘thirty’ be substituted.”

The amendment was adopted.

Mr. President : The question is:

“That for article 152, the following be substituted:—

‘152. *Qualification for membership of the State Legislature*.—A person shall not be qualified to be chosen to fill a seat in the Legislature of a State unless he—

- (a) is a citizen of India;
- (b) is, in the case of a seat in a Legislative Assembly, not less than twenty-five years of age and in the case of a seat in the Legislative Council, not less than thirty years of age; and
- (c) possesses such other qualifications as may be prescribed in this behalf by or under any law made by the Legislature of the State’.”

The amendment was adopted.

Mr. President : The question is:

“That in article 152, after the word ‘age’ where it occurs for the first time the words is ‘literate’, and is not otherwise disqualified from being elected; and after the word ‘age’ where it occurs for the second time, the words ‘is qualified to vote in the constituency from which he seeks election, and is not otherwise disqualified from being elected’ be added.”

The amendment was negatived.

Mr. President : The question is:

“That article 152, as amended, stand part of the Constitution.”

The motion was adopted.

Article 152, as amended, was added to the Constitution.

Mr. President : Then we have notice of another article, No. 152-A, which I think is covered by the article which we have just passed; so, that need not be taken up.

Then we go to article 153.

Article 153

Mr. President : Article 153 is for the consideration of the House.

With regard to the very first amendment, No. 2321, as we had a similar amendment with regard to article 69 which was discussed at great length the other day, does Professor Shah wish to move it?

Prof. K. T. Shah : If I am in order I would like to move it. But if you rule it out, it cannot be moved.

Mr. President : It is not a question of ruling it out. If it is moved, there will be a repetition of the arguments once put forward.

Prof. K. T. Shah : I agree that this is a similar amendment, but not identical.

Mr. President : I have not said it is identical.

Prof. K. T. Shah : All right. I do not move it, Sir.

Mr. President : Amendment Nos. 2322, 2323, 2324, 2325 and 2326 are not moved, as they are verbal amendments.

Prof. K. T. Shah : As my amendment No. 2327 is part of the amendments not moved, I do not move it.

Mr. President : Then amendments Nos. 2328, 2329 and 2330 also go, Amendment No. 2331 is not moved.

Mr. Mohd. Tahir (Bihar: Muslim): Mr. President, I move:

“That at the end of sub-clause (c) of clause (2) of article 153, the words ‘if the Governor is satisfied that the administration is failing and the ministry has become unstable’ be inserted.”

In this clause certain powers have been given to the Governor to summon, prorogue or dissolve the Legislative Assembly. Now I want that some reasons may be enumerated which necessitate the dissolution of a House, I find that to clause (3) of article 153 there is an amendment of Dr. Ambedkar in which he wants to omit the clause which runs thus: “(3) the functions of the Governor under sub-clauses (a) and (c) of clause (2) of this article shall be exercised by him in his discretion.” I, on the other hand, want that some reasons should be given for the dissolution. Nowhere in the Constitution are we enumerating the conditions and circumstances under which the House can be dissolved. If we do not put any condition, there might be difficulties. Supposing in some province there is a party in power with whose views the Governor does not agree. In such cases it is possible that the Governor may find some reasons to dissolve the Assembly and make arrangements for fresh elections. If such things happen there will be no justification for a dissolution of the House. Simply because a Governor does not subscribe to the views of the majority party the Assembly should not be dissolved. To avoid such difficulties I think it is necessary that some conditions and circumstances should be enumerated in the Constitution under which alone the Governor can dissolve the House. There should be no other reason for dissolution of the House except maladministration or instability of the Ministry and its unfitness to work. Therefore this matter should be considered and we should provide for certain conditions and circumstances under which the Governor can dissolve the House.

Mr. President : The next amendment, No. 2333, is not moved, Dr. Ambedkar may move amendment No. 2334.

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

“That clause (3) of article 153 be omitted.”

This clause is apparently inconsistent with the scheme for a Constitutional Governor.

Mr. President : Amendment No. 2335 is the same as the amendment just moved. Amendment No. 2336 is not moved.

Shri H.V. Kamath : Mr. President, Sir, may I have your leave to touch upon the meaning or interpretation of the amendment that has just been

[Shri H. V. Kamath]

moved by my learned Friend, Dr. Ambedkar? If this amendment is accepted by the House it would do away with the discretionary powers given to the Governor. There is, however, sub-clause (b). Am I to understand that so far as proroguing of the House is concerned, the Governor acts in consultation with the Chief Minister or the Cabinet and therefore no reference to it is necessary in clause (3)?

Mr. President : He wants clause (3) to be deleted.

Shri H.V. Kamath : In clause (3) there is reference to sub-clauses (a) and (c). I put (a) and (b) on a par with each other. The Governor can summon the Houses or either House to meet at such time and place as he thinks fit. Then I do not know why the act of prorogation should be on a different level.

Mr. President : That is exactly what is not being done now. All the three are being put on a par.

Shri H. V. Kamath : Then I would like to refer to another aspect of this deletion. That is the point which you were good enough to raise in this House the other day, that is to say, that the President of the Union shall have a Council of Ministers to aid and advise him in the exercise of his functions.

The corresponding article here is 143:

“That shall be a Council of Ministers with the Chief Minister at the head to aid and advise the Governor in the exercise of his functions.....”

Sir, as you pointed out in connection with an article relating to the President *vis-a-vis* his Council of Ministers, is there any article, is there any provision, in the Constitution which binds the Governor to accept or to follow always the advice tendered to him by his Council of Ministers? Power is being conferred upon him under this article to dissolve the Legislative Assembly. This is a fairly serious matter in all democracies. There have been instances in various democracies, even in our own provinces sometimes, when a Cabinet seeking to gain time against a motion of censure being brought against them, have sought the Governor's aid, in getting the Assembly prorogued. This of course is not so serious as dissolution of the Legislative Assembly. Here the article blandly says, “subject to the provisions of this article.” As regards clause (1) of the article, I am glad that our Parliament and our other Legislatures would meet more often and for longer periods. I hope that will be considered and will be given effect to at the appropriate time. Clause (2) of this article is important because it deals with the dissolution of the Assembly by the Governor of a State and in view of the fact that there is no specific provision—of course it may be understood and reading between the lines Dr. Ambedkar might say that the substance of it is there, but we have not yet decided even to do away with the discretionary powers of the Governor and only yesterday we had a fully-dress debate on the subject is this House—there is no specific provision in the constitution binding the Governor to accept the advice tendered to him by his Council of Ministers, there is a lacuna in the Constitution. Notwithstanding this, we are conferring upon him the power to dissolve the Legislative Assembly, without even mentioning that he should consult or be guided by the advice of his Ministers in this regard. I am constrained to say that this power which we are conferring upon the Governor will be out of tune with the new set-up that we are going to create in the country unless we bind the Governor to accept the advice tendered to him by his Ministers. I hope that this article will

be held over and the Drafting Committee will bring forward another motion later on revising or altering this article in a suitable manner.

Shri Gopal Narain (United Provinces: General): Mr. President, Sir, before speaking on this article, I wish to lodge a complaint and seek redress from you, I am one of those who have attended all the meetings of this Assembly and sit from beginning to the end, but my patience has been exhausted now. I find that there are a few honourable Members of this House who have monopolised all the debates, who must speak on every article, on every amendment and every amendment to amendment. I know, Sir, that you have your own limitations and you can not stop them under the rules, though I see from your face that you also feel sometimes bored, but you cannot stop them. I suggest to you, Sir, that some time-limit may be imposed upon some Members. They should not be allowed to speak for more than two or three minutes. So far as this article is concerned, it has already taken fifteen minutes, though there is nothing new in it, and it only provides discretionary powers to the Governor. Still a Member comes and oppose it. I seek redress from you, but if you cannot do this, then you must allow us at least to sleep in our seats or do something else than sit in this House. Sir, I support this article.

Mr. President : I am afraid I am helpless in this matter. I leave it to the good sense of the Members.

Shri Brajeshwar Prasad : (Rose to speak).

Mr. President : Do you wish to speak after this? (*Laughter*).

The Honourable Dr. B.R. Ambedkar : I do not think I need reply. This matter has been debated quite often.

Mr. President : Then I will put the amendments to vote.

The question is:

“That at the end of sub-clause (c) of clause (2) of article 153, the words ‘if the Governor is satisfied that the administration is failing and the ministry has become unstable’ be inserted.”

The amendment was negatived.

Mr. President : The question is:

“That clause (3) of article 153 be omitted.”

The amendment was adopted.

Mr. President : The question is:

“That article 153, as amended, stand part of the Constitution.” The motion was adopted.

Article 153, as amended, was added to the Constitution.

New Article 153-A

Mr. President : There is notice of a new article by Professor Shah.

Prof. K.T. Shah : I am told that this matter came up before but I am not aware of it. Perhaps the honourable Chairman of the Drafting Committee would inform me. If it has already been decided, then I would not move this, but I do not think it has come up.

Mr. President : (after referring to amendment No. 1483). That has nothing to do with the right of members.