

Shrimati G. Durgabai (Madras : General): Mr. President, Sir, while accepting and supporting the amendment moved by Dr. Ambedkar, I wish to offer a few remarks on this subject under consideration. I will say that I am in the main in agreement with the principle of the amendment moved by Prof. Shibban Lal Saksena. Though there was an amendment similar to that given notice of by me, I did not move it; but as I have already stated, I am very much in sympathy with the principle underlying that amendment. Sir, the article under consideration lays down, I am sure the House is aware, the conditions in detail for the appeals to the Supreme Court. These conditions are treated in sub-clauses (a), (b) and (c) of Article 111. The effect of this article is to make the conditions of appeal as part of the Constitution, and I am sure that it would be agreed that there should be an element of elasticity to the conditions of appeal, and if we have made these conditions as a part of the Constitution as we find sub-clauses (a), (b) and (c), that would introduce an element of rigidity and also the conditions will be stereotyped. So the object of my amendment, which I did not move, or the object of the amendment moved by Prof. Shibban Lal Saksena is to introduce that kind of elasticity and leave these conditions to the future Parliament to lay down if it finds absolutely necessary and essential. Now if there is to be a change and if we have made these conditions as part of the Constitution, the change could be brought about only by a constitutional revision. Therefore, I am sure that the House has realised the difficulty and the amendment, given that there should be elasticity by leaving this matter absolutely to the future Parliament, is to remove that rigidity and see that the conditions are not stereotyped.

Sir, in the law as it stood prior to the passing of the Federal Court Enlargement of Jurisdiction Act, the conditions of appeal were regulated by the Civil Procedure Code or by Order in Council made by His Majesty. This Civil Procedure Code was liable to be amended by Parliament. So, in answer to my friends who have just said that there should be no intervention of the Parliament, now I would say that this is not a new condition and the intervention of Parliament was not newly introduced because the Parliament could always intervene in the law as it existed today, that it could amend the Civil Procedure Code which would in the main regulate the conditions of appeal by bringing about a legislative change. So, Sir, it would have been very much better if a similar course could have been adopted and also I am sure that the House has noted this fact that the conditions obtaining today are not the conditions as existed some time back. They are radically different today, because we find that a large number of States are being brought under the Indian Administration and also the question is whether the Supreme Court should not be constituted as a Court of appeal from all over India and the idea also is to expand the jurisdiction and extend the jurisdiction to States also. This position has been made clear by an amendment moved by my honourable friend, Shri Raj Bahadur, which I am sure will be accepted. The effect of that amendment is to remove those restrictions with regard to the jurisdiction of the Supreme Court in relation to the States. Therefore, the idea is to expand the jurisdiction and leave the conditions to the Parliament to lay down. Anyhow, I am very glad to support the amendment moved by Dr. Ambedkar, because it has accepted the major part of my amendment namely conditions (a) and (b) accepted, but condition (c) alone is now made rigid by having found a place in this Constitution. Even this matter could have been left to the future Parliament; it would have been open to the Parliament to say under what conditions an appeal should be considered as a fit one to come to the Supreme Court. Anyhow, Dr. Ambedkar has not considered it desirable, but while accepting the two, he has left this matter absolutely beyond the purview of Parliament. As Mr. Alladi Krishnaswami Ayyar stated, half a loaf is better than no loaf at all, and I also would agree with that view and support the amendment moved by Dr. Ambedkar.