

The Honourable Dr. B. R. Ambedkar : I accept the two amendments—No. 124 of List No. VI and amendment No. 1883.

Mr. President : There have been two amendments moved. Both have been accepted by Dr. Ambedkar. I will now put them to the vote.

Mr. President : The question is:

“That with reference to amendment No. 1883 of the List of Amendments, in clause (1) of article 106, after the words ‘Chief Justice may’ the words ‘with the previous consent of the President and’ be inserted.”

The amendment was adopted.

Mr. President : The question is:

“That in clause (1) of article 106, after the words ‘High Court where they occur for the second time, the words ‘duty qualified for appointment as a judge of the Supreme Court’ be inserted.”

The amendment was adopted.

Mr. President : The question is:

“That article 106, as amended, stand part of the Constitution.”

The motion was adopted.

Article 106, as amended, was added to the Constitution.

Article 107

Mr. President : Amendment No. 1884. This is a negative amendment. So I rule it out.

Amendment No. 1885. That question has been decided. So this need not be moved.

Shri Jaspat Roy Kapoor : I am not moving amendment No. 1886 as there is another amendment on the same lines.

Mr. President : Amendment No. 1887 is more or less a verbal amendment. So it need not be moved.

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

“That in article 107 the words ‘subject to the provisions of this article’ be deleted.”

Those words are quite unnecessary.

Shri T. T. Krishnamachari : I move:

“That in article 107, in line 3, after the words ‘at any time’, the words ‘with the previous consent of the President’ be inserted.”

Sir, the purpose of this amendment is much the same as that of the amendment moved by me to the earlier article and accepted by the house. This article deals with the attendance of retired judges in the sittings of the Supreme Court. For the reasons mentioned by me earlier it will be necessary for the Chief Justice to obtain the previous consent of the President, before inviting any such person to act as a Judge of the Supreme Court.

(Amendment Nos. 1889 and 1890 were not moved.)

Mr. President : We have now the amendments and the article for discussion.

The Honourable Dr. B. R. Ambedkar : I accept amendment 125 moved by Shri T. T. Krishnamachari.

Mr. President : The question is:

“That in article 107, in line 3, after the words ‘at any time’, the words ‘with the previous consent of the President’ be inserted.”

The amendment was adopted.

Mr. President : The question is:

“That in article 107 the words ‘subject to the provisions of this article’ be deleted.”

The amendment was adopted.

Mr. President : The question is:

“That article 107, as amended, stand part of the Constitution.”

The motion was adopted.

Article 107, as amended, was added to the Constitution.

Article 108

Mr. President : Article 108 is for the consideration of the House.

Shri H. V. Kamath : Mr. President, I move:

“That for article 108, the following be substituted:—

‘108. The Supreme Court shall sit at such place or places as the Chief Justice may, with the approval of the President, from time to time appoint.’ ”

The article as it stands is in my humble judgment, not happily worded. For the first time since we commenced the article by article consideration of the Constitution we have come across an article which lays down that a particular organ of the State shall meet at a particular place. We have passed already important and articles such as article 69 fixing the venue of meetings of the Houses of Parliament and article 48(4) fixing the official residence of the President. I am sure there are other articles concerning the place where certain bodies or organs of State are supposed to meet. But none of these articles specifies the name of any particular place where that organ of the State should meet. Why, may I ask Dr. Ambedkar, does he feel it necessary to specify in this article that the Supreme Court shall meet in Delhi? The entire Constitution is silent on the point of India's capital. There is nowhere any mention of the capital of our country in the Constitution. There was even an amendment in this House, which however was not moved, but I am told that my friends are pursuing that matter in another way. There have been frequent references to the necessity of desirability of a change in the capital of India. Anyway, without prejudice to that, notwithstanding any attempt that may be made in this direction, I propose to deal with this question here purely on merit. When the whole Constitution is silent on this point, why should we import this mention of the capital, of Delhi, in this article? Is it not far more desirable or happier to leave the choice of the venue of the Supreme Court to the Chief Justice and the President of the Indian Union? Certainly they are best fitted to judge this matter and I am sure that under the Constitution where we are going to elect a President of the Indian Union and have an eminent legal and juristic authority for the Chief Justiceship, I see no reason why we should specify in the Constitution that the Supreme Court should meet at a particular place. There is no valid reason at all for specifying Delhi in this article for that purpose. It may be that the Supreme Court might meet in another place; even if Delhi is to be the capital, they may decide for various reasons that they should meet in another place, I therefore think that the mention of Delhi in this article is unnecessary.

Just another point, Sir, The article as it stands reads as follows: “The Supreme Court shall be a court of record”. What the Supreme Court will be and will not be are matters which have been exhaustively dealt with in the preceding and succeeding articles. The term “court of record” is a borrowed