

more affected. The price of the ordinary consumer goods that we want in our province is higher than if obtains in other provinces on account of the customs duties levied on such goods. All these considerations are there and the common man in the street or in the villages feels the pinch of this tax in his every day life. With these words, Sir, I would request the leaders and the Central Government to consider this point and come to the aid of our new Union, so that we may be rid of this scourge as early as practicable.

Mr. President : The question. is

“That in amendment No. 428, in the proviso to the proposed article 274DD, for the word ‘President’, the word ‘Parliament’ be substituted, and for the words ‘he thinks’ the words ‘it thinks’ be substituted.”

The amendment was negatived.

Mr. President : The question is:

“That with reference to amendment No. 400 of List XVII (Second Week), after article 274D, the following article be inserted:—

274DD. Notwithstanding anything contained in the foregoing provision of this Part or in any other provisions of this Constitution, any State which before the commencement of this Constitution was levying any tax or duty on the import of goods into the State from other States or on the export of goods from the State to other States may if an agreement in that behalf has been entered into between the Government of India and the Government of that State, continue to levy and collect such tax or duty subject to the terms of such agreement and for such period not exceeding ten years from the commencement of this Constitution as may be specified in the agreement:

Power of certain States in Part III of the First Schedule to impose restrictions on trade and commerce by the levy of certain taxes and duties on the import of goods into or the export of goods from such States.

Provided that the President may at any time after the expiration of five years from such commencement terminate or modify any such agreement if, after consideration of the report of the Finance Commission constituted under article 260 of this Constitution, he thinks it necessary to do so.’ ”

The amendment was adopted.

Mr. President : The question is :

“That proposed article 274DD stand part of the Constitution.”

The motion was adopted.

Article 274DD was added to the Constitution.

The Honourable Dr. B. R. Ambedkar : If my honourable Friend Pandit Kunzru has now no objection we may proceed with the new article 280A. He has had another half an hour.

Mr. President : I think we had better take it up a little later.

Article 302AA

Shri T. T. Krishnamachari : Sir, I move:

“That after article 302A, the following article be inserted:—

302-AA. (1) Notwithstanding anything contained in this Constitution and subject to the provisions of article 119 thereof, neither the Supreme Court nor any other court shall have jurisdiction in any dispute arising out of any provision of a treaty, agreement, covenant, engagement, sanad or other similar instrument which was entered into by any Ruler of an Indian State and to which the Government of the Dominion of

Bar of jurisdiction of courts with respect to certain treaties, agreements, etc.

[Shri T.T. Krishnamachari]

India or any of its predecessor Governments was a party and which has or has been continued in operation after the date of commencement of this constitution, or in any dispute in respect of any right accruing under any of the provisions of this Constitution relating to any such treaty, agreement, covenant engagement, *sanad* or other similar instrument.

(2) In this article—

- (a) 'Indian State' means any territory recognised by His Majesty or the Government of the Dominion of India as being such a State; and
- (b) 'Ruler' includes, the Prince, Chief or other person recognised by His Majesty or the Government of the Dominion of India as the Ruler of any Indian State.' "

Sir, so far as the article itself is concerned, it is self-explanatory. The idea is to bar the jurisdiction of the courts including the Supreme Court in regard to adjudicating in respect of any disputes that might arise out of any treaty agreement, covenant, engagement, sanad or other similar instruments that might have been entered into by the Government of the Dominion of India or by any predecessor Government

An Honourable Member : Who will decide?

Shri T. T. Krishnamachari : The idea is that the court shall not decide in this particular matter. It is subject only to the provisions of article 119 by which the President may refer the matter to the Supreme Court and ask for its opinion and the Supreme Court would be bound to communicate its opinion to the President on any matter so referred by him. The House will also remember that there are a few articles in the Constitution specifically, 302A and 267A where there are references to these agreements, covenants, sanads, etc. and even these are precluded from adjudication by any court. The House will recognize that it is very necessary that matters like these should not be made a matter of dispute that goes before a court and one which would well nigh probably upset certain arrangements that have been recommended and agreed to by the Government of India in determining the relation between the rulers of States and the Government of India in the transitory period. After the Constitution is passed, the position will be clear. Practically all the States have come within the scope of Part VIA and they will be governed by the provisions of this Constitution and, excepting so far as certain commitments are positively mentioned in the Constitution, and as I said the two articles 267A and 302A, the covenants will by and large not affect the working of the Constitution; and it is therefore necessary in view of the vast powers that have been conceded in this Constitution to the judiciary that anything that has occurred before the passing of this Constitution and which might incidentally be operateable after the passing of the Constitution must not be a subject-matter of a dispute in a court of law. I think that Members of this House will understand that it is a very necessary provision so as to save unnecessary disputes by people who might feel that they have been affected or injured and who would rush to a court to make the court recognize such rights and other similar matters which have been paractically extinguished by the provisions of this Constitution excepting in so far as certain articles of the Constitution preserve them. Sir, I hope the House will pass the article without any demur.

(Amendment 403 was not moved.)

Mr. President : There is no amendment to this. Does any Member wish to say anything about this article? I will put this straightaway to vote.

The question is :

“That after article 302A, the following article be inserted:—

‘302AA. (1) Notwithstanding anything contained in this Constitution and subject to the provisions of article 119 thereof, neither do Supreme Court nor any other court shall have jurisdiction in any dispute arising out of any provision of a treaty, agreement, covenant, engagement, sanad or other similar instrument which was entered into by any Ruler of an Indian State and to which the Government of the Dominion of India or any of its predecessor Governments was a party and which has or has been continued in operation after the date of commencement of this Constitution, or in any dispute in respect of any right accruing under any of the provisions of this Constitution relating to any such treaty, agreement, covenant, engagement, sanad or other similar instrument.

(2) In this article—

- (a) “Indian State” means any territory recognised by His Majesty or the Government of the Dominion of India as being such a State; and
- (b) “Ruler” includes the Prince, Chief or other person recognised by His Majesty or the Government of the Dominion of India as the Ruler of any Indian State.’ ”

The motion was adopted.

Article 302AA was added to the Constitution.

Schedule III

Mr. President : We might take up the other articles and Schedule III. They are minor things.

Shri T. T. Krishnamachari : Schedule III and the other articles involve reopening of articles and schedule already passed. We have to take the permission of the House.

Mr. President : You will ask for leave reopen.

Shri T. T. Krishnamachari : Mr. President, in the Order Paper today, beginning from item 1, article 13 to the Third Schedule, with the exception of the items relating to article 264-A, 274DD, 302AA which have been passed and 280A which has been held over, all the other items are for re-opening the articles or Schedules that have been passed. I would therefore request that you put to the House the proposition whether they are willing to allow these articles to be re-opened.

Mr. President : I take it that the House gives leave to re-open these articles.

The Honourable Members : Yes.

Mr. President : We shall take up Schedule III.

Shri H. V. Kamath (C. P. & Berar: General): What about article Mr. President: Let us finish first this Schedule.

Shri T. T. Krishnamachari : Sir, I move amendments 401 and 402 together:

“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.”

This is merely an omission which we seek now to rectify. The form of oath that has been prescribed for the Judges of the Supreme Court will be prescribed, if it is accepted by the House to the Comptroller and Auditor-General of India.