

Mr. President : The question is :

“That the following new clause be added at the end of the proposed new article 282 B :-

“That Parliament, in the case of Union services, and the Legislature of the State, in the case of State services, shall lay down rules and regulations in this behalf to be followed by the appropriate authority.”

The amendment was negatived.

Mr. President : I put the original amendment of Dr. Ambedkar-Article 282- B

The question is:

“That proposed article 282- B stand part of the Constitution.”

The motion was adopted.

Article 282- B was added to the Constitution.

Article 282- C

Mr. President : We go to 282- C

Shri Brajeshwar Prasad : Sir, I move:

“That in clause (1) of the proposed article 282 C the words ‘if the Council of States has declared by resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest so to do’ be deleted and after the words ‘other provisions of this Chapter’, the words ‘the Union Public Service Commission shall’ be inserted.”

The whole aim of Article 282 C is to protect the Federal foundations of this Constitution. Therefore this power has been given to the Upper Chamber. They have the right to take the initiative in the matter and the Lower House has no power in this respect. Secondly, not only they have this power of moving this resolution but something like a veto power has been given to them. A resolution must be passed by two-third members of the House. I do not see any reason why the Federal foundations of this Constitution should be protected. Our constitution is not merely federal in character but it is also unitary in character. There is no reason why the unitary foundations of this Constitution should not be protected. Federal Government tends towards unitary type of Government. It would be wrong on our part to put the hands of the clock back. I am in favour that all services in the country should be centralised and I am convinced that there are no classes of persons in this country who are champions of Federal rights.

Let me place my ideas in this connection. Who are the people in this country who want to protect the federal sentiments ? I come to the industrial workers in this land. Sir, Karl Marx had the vision to see that the industrial workers are international minded. Circumstanced as they are today in this world there is no course left open to them but to become champions of internationalism. Therefore these industrial workers are not at all in any way champions of local rights.

Mr. President : All this is quite irrelevant to the amendment.

Shri Brajeshwar Prasad : The whole aim of this article is to protect the Federal Constitution or else there is no meaning in giving this power. I want to deal with the theoretical foundations of this Constitution. If you want me to speak only on the provisions and not to deal with the philosophical background I am quite prepared to do so.

Mr. President : I think you had better confine yourself to the amendment tabled by you instead of talking of the background.

Shri Brajeshwar Prasad : Well, Sir, there is no danger if this power is vested in the hands of Parliament instead of vesting this power in the Upper Chamber because thereby you give the power to the Central Ministry, and no Ministry in its senses would resort to a process of centralisation of services unless a need has been felt for it and unless it has developed the technical resources for that purpose. The other part of the amendment says that the power to regulate recruitment and conditions of service should be placed in the hands of Parliament. I have suggested that this power should be vested in the Union Public Service Commission.

I had more to say, but since you Sir, do not want that I should deal with the theoretical foundations of this article, I stop here.

Mr. President : Yes, because that is merely speculation. Then we come to No. 249 of Dr. Deshmukh. But that is a drafting amendment, I think. Then No. 250.

Dr. P. S. Deshmukh (C. P. & Berar: General) : They are, of a Drafting nature, and I am prepared to leave them to the drafting Committee.

Mr. President : No. 251 also is of a drafting nature.

Dr. P. S. Deshmukh; But I should like to speak on the amendments.

Mr. President : Very well, after I have finished with these. No. 368 Mr. Muniswamy Pillay.

Shri V. I. Muniswamy Pillay (Madras : General) : Sir, with your permission I move the amendment standing in my name :

“That in amendment No. 2 if List I (Seventh Week), in clause (1) of the proposed new article 282 C, after the words ‘Union and the States’ the words ‘giving equal opportunities to all unrepresented communities’ be inserted.”

This clause envisages giving power to Parliament to make laws for the creation of more all-India services coming under the Union and the States, regulate recruitment and so on, I feel it my duty to bring to the notice of the House the paucity of members of the backward communities in the services, both at the Centre and in the Provinces. Sir, due to the influences that have been exercised by some privileged communities, it was not possible for these backward communities to get their adequate share in the services. Since this clause wants to make laws for the rules and regulation of recruitment, I feel that accurate statistics must be obtained before any law is made, so as to find out the number of persons serving, belonging to the various communities in the provinces and in the Union, and to make such laws so that those people who are being left out from the services may get equal opportunities with the rest, in all the services.

Mr. President : Mr. Muniswamy Pillay, there is another provision which directly provides for that. Is it necessary to bring this here, in this roundabout fashion?

Shri V. I. Muniswamy Pillay: There is one impediment in the way. Some of my friends who spoke yesterday were referring to the knowledge of the official language. I think, Sir, since we have a clause coming later, about the language, it is not advisable that any “stick to”—should be made about the official language. But I feel that the language which at present is adopted in all the provinces should be the order of the day, until Parliament by law at a later date affirms what the language in the province and the State should be. With these words, I strongly support the amendment that has been brought forward by Dr. Ambedkar.

Mr. President : There is no other amendment to this article. You wanted to speak, Dr. Deshmukh.

Dr. P. S. Deshmukh : Sir, I support the amendment moved by my Friend Shri Brajeshwar Prasad in regard to the omission of the words:

“If the Council of States has declared by resolution supported by not less than two, thirds of the members present and voting that it is necessary or expedient in the national interest so to do.”

I had intended to move a similar amendment, No. 250, but I do not propose to move it now since an identical amendment has been moved. I have been unable to understand this provision. Nowhere has the initiative, in any important matter been left to any other House except the House of the People in the Central Parliament. But here for the first time, according to my knowledge and information, we give the initiative to the Council of States. Sir, either the central services are desirable or they are undesirable. If they are desirable, then they should not be cramped with so many impediments created in the way of their being started. If they are undesirable, then there should not have been any provision whatsoever. I think, more and more there will be the tendency to have all-India services, and therefore in my opinion there was no point in making their introduction so difficult. Why should the proposal have the support of not less than two-thirds of the members present and voting of the Council of States ? I think these, words are absolutely unnecessary, unless they are intended to clothe the useless House of the Council of States with some dignity or some function. I think that appears to be the only anxiety at the root of this brain-wave, of giving the initiation of such an important matter to the Council of States. I see, no purpose for these words and therefore move that they be omitted.

Mr. President : Dr. Ambedkar, would you like to say anything?

The Honourable Dr. B. R. Ambedkar : Just one word. I think neither Mr. Brajeshwar Prasad nor my friend Dr. Deshmukh, the one in moving the amendment and the other in supporting it, seems to have read carefully the provisions of article 282. Article 282 proceeds by laying down the proposition that the Centre will have the authority to recruit for services which are under the Centre and each State shall be free to make recruitment and lay down conditions of service for persons who are to be under the State service. We have, therefore, by article 282 provided complete jurisdiction. 282 C to some extent takes away the autonomy given to the State by article 282, and obviously if this autonomy is subsequently to be invaded, there must be some authority conferred upon the Centre to do so, and the only method of providing, authority to the Centre to run into, so to say, article 282 is to secure the consent of two-thirds of the members, of the Upper Chamber. The Upper Chamber is the only body mentioned in article 282. *Ex-hypothesi* the Upper Chamber represents the States and therefore their resolution would be tantamount to an authority given by the States. That is the reason why these words are introduced in article 282 C.

Mr. President : I put Shri Brajeshwar Prasad's amendment in two parts. The first part is this. The question is :

“That in clause (1) of the proposed article 282 C, the words ‘if the Council of States has declared by resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest so to do’ be deleted.”

The amendment was negatived.

Mr. President : Then the second part. The question is:

“That in clause (1) of the proposed article 282 C after the words ‘other provisions of Chapter’ the words ‘the Union Public Service Commission shall’ be inserted.”

The amendment was negatived.

Mr. President : Then there is the amendment moved by Shri Muniswamy Pillay.

Shri V. I. Muniswamy Pillay : I would like to withdraw that amendment.

The amendment was by leave of the Assembly, withdrawn.

Mr. President : Then I Put the article as moved by Dr. Ambedkar. The question is :

“That proposed article 282 C stand part of the Constitution.”

The motion was adopted.

Article 282 C was added to the Constitution.

Article 283

Mr. President : Then we come to article 283. Dr. Ambedkar.

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

“That for amendment No. 3037 of the List of Amendments (Volume II), the following be substituted :-

“That for article 283 the following article be substituted:—

283. Until other provisions is made in this behalf under this Constitution, all the laws in force immediately, before the commencement of this Constitution and applicable to any public service or any post which continues to exist after the commencement of this Constitution, as an All-India service or as service or post under the Union or a State shall continue in force so far as consistent with the provisions of this Constitution’.”	Transitional provisions.
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This is a purely transitional provision.

Mr. President : There is amendment No. 12 of Shri Jaspat Roy Kapoor. That is not moved.

No. 252 of Mr. Naziruddin Ahmad is purely of a drafting nature.

No. 253 of Pandit Thakur Das Bhargava is not moved.

There is no amendment moved, then. Does anyone wish to say anything about this article?

(No Member rose to speak.)

Then I put article 283.

The question is :

“That proposed article 283 stand part of the Constitution.”

The motion was adopted.

Article 283 was added to the Constitution.

Article 302

Mr. President : Then we take up article 302. Dr. Ambedkar.

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

“That in clause (1) of article 302 after the word ‘Governor’ the words ‘or Ruler’ be inserted.”

that this will appeal to the drafters of the Constitution and if they accept it, I can tell them that they will be out of much of the trouble. But if they insist upon the draft that they have produced, it will be very difficult for trade and commerce not only to prosper but even to exist.

Shri B. Das (Orissa: General) : Mr. President, I move:

“That in amendment No. 269 of List IV (Seventh Week), in clause (2) of the proposed new article 274C, after the words ‘Prevent Parliament from making any law’ the words ‘With previous consultation of the Government and legislature of a State’ be inserted.”

Sir, I welcome this new part XA. It is necessary that the conditions of our trade and commerce and intercourse within the territory of India, between the different States, are all codified at one place so that we know how trade and commerce should be regulated under the new Constitution. I will confine my remarks only to the amendment I have moved. I do not apprehend any interference by Parliament and the Union into the affairs of the States that I heard of from the two previous Speakers. But as regards my own amendment, while article 282 C (1) allows restrictions on the legislative powers of the Union and of the States with regard to trade and commerce, in clause (2) it takes away that power and gives Parliament special power when a situation will arise when there is scarcity of goods in any part of the territory of India. I concede that the Parliament will have such a power but I do want the points would be clarified by acceptance of my amendments and the States which shall be affected, their Governments and Legislatures must have to be, consulted before clause (2) of article 274 C will operate. Mine is not a revolutionary idea to what is contained in the original draft. I only wish the position of the Provincial Legislature and the Provincial Government be clarified and it will be obligatory on the Union Government to consult the State Governments and State Legislatures.

Mr. President : Mr. Brajeshwar Prasad.

Shri B. P. Jhunjunwala (Bihar : General) : There are other amendments also to this article.

Mr. President : We shall see later on.

Shri Brajeshwar Prasad : Amendment 295 fits in with new article 274-D. The old article 244 has now been replaced by 274 D. Sir, I move :

“That in amendment No. 269 of the List of Amendments, for the proposed article 274 D, following be substituted :—

‘It shall not be lawful for any State either to impose any tax on goods imported from any State or to impose any restrictions on the freedom of trade, commerce or intercourse with any State.’ ”

I want that there should not be any obstacle in the way of the development of a feeling of common consciousness of oneness and unity in this country. The doctrine of nationalism has been accepted by each and every citizen. Now to give a loophole in this matter will lead to undesirable consequences. I know this power has been restricted. In spite of that, I feel that it will be better if we conform to the old fundamental principle that we have accepted in the Fundamental Rights. I do not care what will happen to the finances of the Provincial Governments. Constitution or no Constitution, it is the duty of the Government of India to see that there is peace and progress in this country, that there is general prosperity in all parts of the country. I have nothing more to add.

Shri B. P. Jhunjunwala : Sir, I have tabled an amendment to the amendment of Pandit Thakur Das Bhargava. My amendments are amendments to

[Shri B. P. Jhunjhunwala]

the old articles 243, 244, etc. I beg to move

“That in amendment No. 287 above, in clause (b) of the proposed article 244, after the word and figure ‘article 13’ (proposed to be inserted), the words ‘and with the general economic improvement of India as a whole’ be added.”

There is another amendment No. 293 as follows:—

“That in amendment No. 292 above in the proposed clause (c) of the proposed article 244, after the word ‘Constitution’ the words ‘and with the general economic improvement of India as a whole’ be added.”

Now all these articles have been changed and I could not give my amendment to those changed articles, but Pandit Bhargava has given an amendment to all those articles as have been changed which are given as 282 A, 282 B, 282 C, 274 D and 274 E.

The main purpose of my amendment is that whatever a State Legislature or the Parliament may pass any law or order putting any restriction regarding trade and commerce, between one State and another, that should not be inconsistent with articles 13 and 16 of the Constitution and the general economic improvement of India as a whole. Pandit Bhargava has dealt with article 13 and he has said that there is a fundamental right of every citizen to have free trade and commerce. He has also dealt at length on the use of the words “public interest” and shown how it has been misused by the State. He has given example of grams in Eastern Punjab as to how the Punjab Government has muddled this trade by putting queer restrictions. Similarly there are many instances where you will find that the States in making certain law or order have totally forgotten the interest of India as a whole and have acted only on the temporary interest either of their State or of any particular interest. If there is any time when there is necessity to have any check on the passing of such laws and orders, it is at present when we find that our economic condition is deteriorating in such a way. Without any disrespect to provincial or Parliament Legislature I would like to say that these require some check and Pandit Bhargava has tabled his amendment No. 366 which is 274 E. wherein he says—

“Notwithstanding anything contained in this Constitution any citizen of a State shall have the right to move the Supreme Court by appropriate proceedings by the enforcement of the rights conferred by article 13 or part XA of the Constitution.”

To this I want to add that this right of moving the Supreme Court is also open to a citizen or State when the law or order passed by a State legislature or Parliament is inconsistent with the general economic policy improvement of India as a whole.

I am told that article 16 of the Constitution which gives free right of trade will also be taken away and the right to move the Supreme Court will also be taken away by the amendment which Dr. Ambedkar has moved. If that right is taken away, it is very necessary that the amendment of Pandit Bhargava which is given as 274 F, with my addition be accepted. I shall give a few instances as to how the different laws of the Parliament and of the States have acted against the general economic improvement of India as a whole.

If the honourable Members have seen the communique and the comment of a Staff Reporter as to how our export trade has gone down—in which one of the causes he has mentioned is that we have been unable to export our oilseeds to such an extent as we would have been able to do but for some restrictions on the movement of the same by Provincial Governments, thereby raising its price. This has told a great deal upon the economy of India as a whole. The U.P. Government put restrictions on the movement of mustard seeds and did not allow the mustard seeds to move from its province to another place, with the result that the whole thing was confined to U.P. traders to crush