

CONSTITUENT ASSEMBLY OF INDIA

Wednesday, the 3rd August 1949

The Constituent Assembly of India met in the Constitution Hall New Delhi, at Nine-of the Clock, Mr. President (The Honourable Dr. Rajendra Prasad) in the Chair.

DRAFT CONSTITUTION—(Contd.)

Article 276

Mr. President : We shall now take up article 276. There are certain amendments of which notice has been given which are in Part II of the Printed List.

(Amendment No. 3002 was not moved.)

Mr. Naziruddin Ahmad (West Bengal: Muslim) : May I point out that 3003 is a drafting amendment? It merely transposes a few words from one place to another.

The Honourable Dr. B. R. Ambedkar (Bombay: General): If that is so, I agree.

(Amendment Nos. 3004 and 3005 were not moved.)

Mr. President : No. 3006 is not exactly of a drafting nature. 3006 is consequential to 3003. So, better move both.

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

“That in article 276, the words ‘notwithstanding anything contained in this Constitution’ after the word ‘then’ be deleted and the words ‘notwithstanding anything contained in this Constitution’ be inserted at the beginning of clause (a) of the same article.”

I also move :

“That in clause (b) of article 276, the words ‘notwithstanding that it is one which is not enumerated in the Union List’ be added at the end”.

(Amendment No. 119 of Supplementary List was not moved.)

Mr. President : There is no other amendment. Does anyone wish to speak?

Mr. Naziruddin Ahmad: Mr. President, Sir amendment 3006 for addition of some words at the end of clause (b), I submit, is already covered by the earlier part of the article. The words proposed to be added are :

“notwithstanding that it is one which is not enumerated in the Union List”.

Some power are being given to the President arising out of a Proclamation of Emergency notwithstanding the fact that the subject dealt with is one not enumerated in the Union List. It gives power to the President to act on subjects in the Provincial List. But this safeguard is already there at the beginning of the article 276. Dr. Ambedkar proposes to transpose these words to the beginning of clause (a). But the sense remains the same because the article begins with the words “Notwithstanding anything contained in this Constitution”, which includes the condition “notwithstanding that it is one which is not enumerated in the Union List.” So there is no need to repeat them at the end. They are already implied by the general condition “notwithstanding anything contained in this Constitution” appearing at the beginning. If we are to mention special things like this in spite of the general words, then they will have to be exhaustive, but nobody

[Mr. Naziruddin Ahmad]

can be sure whether there will be other exceptions needing special mention. This amendment is unnecessary.

Shri T. T. Krishnamachari (Madras: General): Mr. President, Sir, I am afraid if my Friend Mr. Naziruddin Ahmad will look at section 126A of the Government of India Act, he will find why Dr. Ambedkar's amendment is necessary, because 276(b) gives executive power to the Union in times of emergency, when an emergency is declared, and these words are necessary in order to make the meaning perfectly clear. The thing has been clarified, in terms of the language used in the Government of India Act, section 126A. If he will read the section once again, he will find that there is no objection to the inclusion of these words in this article.

Mr. President : You do not wish to say anything. Dr. Ambedkar ?

The Honourable Dr. B. R. Ambedkar: No Sir. It is not necessary for me to say anything.

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

The question is:

"That in article 276, the words 'notwithstanding anything contained in this Constitution' after the word 'then' be deleted and the words 'notwithstanding anything contained in this Constitution' be inserted at the beginning of .clause (a) of the same article."

The amendment was adopted.

Mr. President: The question is:

"That in clause (b) of article 276 the words notwithstanding that it is one which is not enumerated in the Union List' be added at the end'.

The amendment was adopted.

Mr. President : Then I put the article as amended.

The question is :

"That article 276, as amended, stand part of the Constitution."

The motion was adopted.

Article 276, as amended, was added to the Constitution.

Articles 188, 277-A, 278 and 278-A

Mr. President : Then we come to article 277.

The Honourable Dr. B. R. Ambedkar: I would like to hold article 277 back, for the present.

Mr. President : Shall we then take up article 277-A ? Article 277 is held back for the present and we take up article 277-A now.

The Honourable Dr. B. R. Ambedkar : Sir, I think it would be better if three amendments were taken together, namely, amendment to drop article 188, introduction of a new article 277-A and the substitution of the old article 278 by the two new articles 278 and 278—A because they are cognate matters. They might be put separately for voting, purposes. But for discussion, I think, might be taken together.

Mr. President : Articles 188, 2/8 and 278-A may be taken together because they deal with cognate matters and it would be better if the discussion of all the articles is taken up together, although we may put them to vote separately.