

CONSTITUENT ASSEMBLY OF INDIA

Friday, the 7th October 1949

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

TAKING THE PLEDGE AND SIGNING THE REGISTER

The following Member took the Pledge and signed the Register:—

Shri Samaldas Laxmidas Gandhi : (Junagadh).

DRAFT CONSTITUTION—(Contd.)

Article 306

Mr. President : We shall now proceed with the consideration of the articles relating to transitory provisions.

The Honourable Dr. B. R. Ambedkar (Bombay: General): Sir, I move:

“That for clauses (a), (b) and (c) of article 306, the following clauses be substituted:—

- “(a) trade and commerce within a State in, and the production, supply and distribution of, cotton and woollen textiles, raw cotton (including ginned cotton and unginned cotton or Kapas), cotton seed, paper (including newsprint), foodstuffs (including edible oilseeds and oil), coal (including coke and derivatives of coal), iron, steel and mica;
- (b) offences against laws with respect to any of the matters mentioned in clause (a), jurisdiction and powers of all courts except the Supreme Court with respect to any of those matters, and fees in respect of any of those matters but not including fees taken in any court.”

The only changes which the amendment seeks to make in the original article 306 are these. From sub-clause (a), it is now proposed to omit petroleum and petroleum products and mechanically propelled vehicles. The reason why petroleum and petroleum products are sought to be omitted from sub-clause (a) is because that item is now included in List I of the Seventh Schedule. Mechanically propelled vehicles are omitted because they are at present decontrolled and they are placed in the Concurrent List. If the Centre wishes to legislate, it can legislate. Sub-clause (b) of the original article, relief and rehabilitation of displaced persons, is no longer necessary because that is also put in the Concurrent List. In regard to sub-clause (c), Inquiries and Statistics is also included in the Concurrent List and therefore this is also omitted. It is only a consequential thing. These are all the changes which this amendment seeks to make in the original article 306.

Mr. President : May I enquire of Dr. Ambedkar? My impression is that cattle fodder including oil cakes and other concentrates was one of the things, adequate control over which was at one time felt necessary. The Government of India Act was sought to be amended; but it would not be amended at the time and considerable difficulty was being felt. I do not know whether you have considered that.

The Honourable Dr. B. R. Ambedkar : This article was re-drafted in consultation with the Industry and Supply Department. We have put in these matters which they thought were necessary to be controlled by the Centre, for a period of five years. If the House thinks that any particular addition may be made to the items included in sub-clause (a), I certainly have no objection.

Mr. President : I speak from my experience which is now rather out of date.

The Honourable Dr. B. R. Ambedkar : I think it is rather desirable to include that item.

Dr. P. S. Deshmukh (C.P. & Berar: General) : That may be done in consultation with the Agriculture Department.

Mr. President : That is what I suggest.

The Honourable Dr. B. R. Ambedkar : I think we shall add that. I can put in, foodstuffs including cattle fodder.

Mr. President : Cattle fodder including oil cakes and other concentrates.

There are certain amendments to this. Amendment No. 2. Dr. Deshmukh.

Dr. P. S. Deshmukh : Sir, I move:

“That in amendment No. 1 above, in the proposed clause (a) of article 306, for the words ‘State in the words ‘State with respect to be substituted.”

“That in amendment No. 1 above, in the proposed clause (a) of article 306, for the words and brackets coal (including coke and derivatives of coal)’ the words ‘coal, coke and derivatives of coal be substituted.”

These are more or less of a drafting nature, although the first one that I have moved would make some difference if my wording is preferred. However, I do not wish to press them and I am prepared to leave them for the consideration of the Drafting Committee.

Mr. President : There is an amendment printed in Volume II in the name of Pandit Kunzru.

Shri Brajeshwar Prasad (Bihar: General): I have an amendment Sir.

Mr. President : Yes, you can move it.

Shri Brajeshwar Prasad : Sir, I move:

“That with reference to amendments Nos. 3286 and 3287 of the List of Amendments (Volume II) in article 306, for the word ‘five’ the word ‘fifteen’ be substituted.”

The members of the Drafting Committee are of opinion that they will be able to tide over the economic difficulties with which we are confronted in the transitional period within a period, of five years. That is the only purpose why article 306 has been brought in this Draft Constitution. I am of opinion that within five years they will not succeed in their venture. The economic crisis with which we are confronted is not only of a national character. It has an international bearing. I am of opinion that, as a result of the economic structure of the capitalist society and as a result of the war, the whole structure of human society is crumbling down and India especially is passing through a period of decadence and decline. The entire fabric of our society is in the melting pot. I feel that revolution is knocking at our doors. Matters like foodstuffs and minerals should have been kept within the purview of the Government of India, but now the only thing that we can do is to keep these under the Government of India at least for the transitional period. The period of transitions will cover a period of fifteen years and not five years.

But no crisis can continue for a longer period and if it continues longer, it will mean the end of the State. Either we tide over the crisis or the crisis will tide over us. It will bring utter chaos such as we are witnessing in China today if the crisis continues for more than fifteen years. So we must surmount these difficulties within this period.

The basis for this Constitution is federal in structure. I hold the opinion that centrifugal forces will become so strong that the process of amendment will have to be resorted to in order to change this Constitution. We must take into consideration the political facts of our life. With this background in view article 306 ought to be modified. My amendment is very reasonable., In the concluding portion of article 306 it has been said that all laws passed under this article to the extent to which they are inconsistent with the main provisions of this Constitution will cease to operate. I think this is unnecessary and undesirable. The work of centralization which will be achieved within five years should not be undone. The provincial Governments must accept the laws passed within this period of five years or fifteen years if the House accepts my amendment. The scope of article 306 is also limited from another point of view. We have given powers to Parliament to deal with production, supply and distribution etc., of these commodities. The entire gamut of these subjects ought to have been brought within the purview of the Government of India. Why this limited sphere ? This limited power is not desirable. I think fissiparous forces ought to be circumvented if we are to become a powerful nation.

Pandit Hirday Nath Kunzru (United Provinces : General): Sir, I move:

“That in clause (a) of article 306 after the word ‘coal’ the words ‘charcoal, firewood’ be inserted.”

I am sure the House is well aware that under the Defence of India Act the prices of charcoal and firewood were controlled. But for the power delegated to the provinces by the Government of India the provinces would not have been in a position to control the prices of these two articles. The Defence of India Act is no longer in force and it is therefore desirable to amend clause (a) of the article placed before us by Dr. Ambedkar in order to include these two things. I understand that after the Defence of India Act expired these things continue to be controlled by the Government of India under the provisions of an Act amending the Government of India Act, 1935, passed by Parliament in 1946. There is no mention of charcoal or firewood there. But it is believed that they are included among the derivatives of coal. I am totally unable to accept this explanation. No one has challenged the action taken by the authorities in fixing the prices of charcoal and firewood but had anybody done so, I doubt whether any Court would have accepted the plea that charcoal or firewood was a derivative of coal. What we understand by coal, generally speaking is anthracite. Charcoal is the derivative of wood, and certainly not a derivative of coal. Neither charcoal nor wood can be regarded as a derivative of coal. It is, therefore, necessary to provide for the control of the Government of India expressly in respect of both these things. The common man is concerned with them. When we are providing for the control of the Government of India over a number of other things, it is both desirable and necessary that we should think of the needs of the poor man too, and take power in the Constitution to control the prices of those articles also, that affect his household budget. We all know how serious the position was during the war, in respect of these articles, and we also know how high their prices still are. We usually think of the high prices of foodstuffs, and few people realise that the high prices of charcoal and firewood are matters of as much anxiety to the poor man as the high prices of the foodstuffs.

[Pandit Hirday Nath Kunzru]

As Dr. Ambedkar is in a mood to consider suggestions to amend the clauses placed before him, I hope that he will take this matter too into consideration and take power to see that the clause (a) is so amended as to give complete power to the Government of India to control trade in charcoal and firewood also.

Mr. President : These are all the amendments. Does anyone wish to say anything about the original proposition or any of the amendments ?

Prof. Shibban Lal Saksena (United Provinces : General): Mr. President, Sir, in this article, we have provided that certain subjects which normally form part of the State List should be in the Concurrent List for the first five years. At present also there is a similar provision in the Government of India Act (Adaptation) 1946 which is intended to tide over the present period. But the period fixed here in this article seems to me to be too short. This article says that for the first five years these items which are mentioned in the State List, it may be necessary to have in the Concurrent List so that necessary action may be taken by the Parliament. I would in this connection commend the amendment moved by my Friend Shri Brajeshwar Prasad to the effect that this period of five years is too short and that it should be for a longer period. If found unnecessary, we may cut it short, but there is no harm in having provision for a longer period in the Constitution.

Secondly, Sir, I would have liked that the Subject of relief and rehabilitation too had been mentioned in this list of subjects to be put in the Concurrent List. I do not know if it is the intention to omit this Subject from the Concurrent List. If not here, this subject should be mentioned somewhere else in the Constitution so that Parliament may be able to make proper laws for the relief and rehabilitation of millions of people who have been.....

Mr. President : Entry 33 B of Concurrent List includes Relief and Rehabilitation of persons displaced from their original places on account of the partition. So, you will see, it has been provided.

Prof. Shibban Lal Saksena : Sir, I am glad it has found a place in the Constitution. I will not say anything further about it. I shall withdraw my suggestion, But I feel that the period of five years should be extended.

Mr. President : Does anyone else wish to speak? Dr. Ambedkar?

The Honourable Dr. B. R. Ambedkar : Sir, I have only to say this much. I am not able to accept the amendment moved by Shri Brajeshwar Prasad. With regard to the other amendment suggested by yourself and by my Friend Dr. Kunzru, I may say that I have an open mind and I am prepared to introduce the necessary amendments after consultation with the Ministry of Industry and Supply. Therefore my amendment may be put through now.

Mr. President : And the Ministry of Agriculture also. You may consult that Ministry also.

The Honourable Dr. B. R. Ambedkar : Yes, Sir, I will consult the Ministries concerned.

Mr. President : Subject to what Dr. Ambedkar has said, I will put the article to vote. I take up the amendments first. Amendment No. 2 of Dr. Deshmukh is more or less verbal and he may leave it to the Drafting Committee also No. 3. What about No. 4?

Dr. P. S. Deshmukh : I am not moving it.

Mr. President : Then I put No. 5-amendment of Shri Brajeshwar Prasad.

The question is:

“That with reference to amendments Nos. 3286 and 3287 of the List of Amendments (Vol. 11), in article 306, for the word ‘five’ the word ‘fifteen’ be substituted.”

The amendment was negatived.

Mr. President : Then I put tile amendment moved by Dr. Ambedkar.

The question is:

“That for clauses (a), (b) and (c) of article 306 the following clauses be substituted:—

- ‘(a) trade and commerce within a State in, and the production, supply and distribution of, cotton and woollen textiles, raw cotton (including ginned cotton and unginned cotton or Kapas), cotton seed, paper (including newsprint), foodstuffs (including edible oil-seeds and oil), coal (including coke and derivatives of coal), iron, steel and mica;
- (b) offences against laws with respect to any of the matters mentioned ill clause (a), jurisdiction and powers of all courts except the Supreme Court with respect to any of those matters, and fees in respect of any of those matters but not including fees taken in any court’.”

The amendment was adopted.

Mr. President : Then I put the article as amendment by Dr. Ambedkar’s amendment.

The question is:

“That article 306, as amended, stand part of the Constitution.”

The motion was adopted.

Article 306, as amended, was added to tile Constitution.

Article 309

Mr. President : Then we take up article 309.

The Honourable Dr. B. R. Ambedkar : There is an amendment by Shri Brajeshwar Prasad adding a new article 307A.

Mr. President : But shall we take it up now?

The Honourable Dr. B. R. Ambedkar : It may be kept back.

Shri T. T. Krishnamachari (Madras: General) : ‘The new article suggested by Pandit Thakur Das Bhargava in amendment No. 3303, Volume II may, I think be disposed of.

Mr. President : Well. Pandit Thakur Das Bhargava? He is not in the House. There are two others who have given notice of it. Lala Achint Ram?’ Shri Deshbandhu Gupta? None of them is moving the amendment. The amendment of Mr. Brajeshwar Prasad also cannot be moved.

I will put article 309 to vote. There is no amendment to it.

The question is :

“That article 309 stand part of the Constitution.”

The motion was adopted.

Article 309 was added to the Constitution.