

Article 230

Mr. President : The motion is:

“That article 230 form part of the Constitution.”

(Amendment No. 2784 was not moved.)

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

“That in article 230, for the words ‘for any State or part thereof’, the words ‘for the whole or any part of the territory of India’ be substituted.”

(Amendment Nos. 2786 and 2787 were not moved.)

Mr. President : The question is:

“That in article 230, for the words ‘for any State or part thereof’ the words ‘for the whole or any part of the territory of India’ be substituted.”

The amendment was adopted.

Mr. President : The question is:

“That article 230, as amended, stand part of the Constitution.”

The motion was adopted.

Article 230, as amended, was added to the Constitution.

Article 234

Mr. President : The motion is:

“That article 231 form part of the Constitution.”

(Amendment Nos. 2789 and 2790 were not moved.)

Mr. President : There is another amendment No. 196.

Shri T. T. Krishnamachari : Sir, I formally move amendment No. 2788:

“That clause (2) of article 231 be deleted.”

Sir, this more or less on the lines of the amendment which we have already adopted.

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

“That with reference to amendment No. 2788 of the List of Amendments, in clause (2) of article 231, after the word and figure ‘Part I’ the words and figures ‘or Part III’ be inserted.”

Shri A. Thanu Pillai (Travancore State): Mr. President, Sir, when the Draft was originally prepared, there was no intention of placing the States in Part III on the same footing as the States in Part I of the first Schedule. In fact, it is a quite recent idea that the States in Part III should be brought into line with the States in Part I in regard to the power of Parliament to legislate and necessary amendments are being incorporated in the various articles that we are dealing with. When we came to article 225, that article was held over. That relates to the general right of Parliament to legislate for the States in Part III and consideration is held over because evidently the relations between the Centre or Parliament and the States in Part III have not been fully settled. That is all right; but what I wish to point out is this. In regard to law making, till now, the right of the Central legislature did not extend to States in Part III. The laws in

[Shri A. Thanu Pillai]

States like Travancore and Mysore have all along been made by the local legislature. I wish to bring to the notice of this House the fact that there is a lot of difference between the laws in the States and in the rest of India. For instance, I may say that in Travancore, we have abolished the death penalty for murder. Now, that subject would come in the Concurrent List; so also various other matters. How are you going to reconcile that fact with the provisions in article 231, namely, that all existing laws, not only laws to be enacted by the Central legislature till now, will prevail whenever there is conflict between the laws of the States and the Central laws? It would be a tremendous task to bring into line these two sets of laws and to reconcile them. Until that is done, the enforcement of article 231 in respect of the States in Part III will be well nigh impossible. I do not find any provision regarding the way in which the difficulty is proposed to be met. I only wanted to bring this to the notice of the House so that this serious difficulty may be got over and suitable provisions made in the Constitution. A lot of work will have to be done in bringing about uniformity. Generally Indians laws will have to be adopted in the States. But in some cases, the law in the States will have to be introduced in the whole of the country. For instance in regard to the death penalty, Travancore cannot be asked to go back to the old order of things and re-impose death penalty for murder. Wherever we find more progressive legislation existing in the States than in the provinces, that legislation will have to be accepted by the Indian Parliament and uniformity will have to be brought about. I wish to know from Dr. Ambedkar how the difficulty is proposed to be got over. I hope that uniformity will be brought about and that those that are now striving for it will succeed in inducing those that are responsible for administration and legislation in the States to agree to have uniform legislation in regard to matters affecting the whole country. If we pass article 231 without realising the magnitude of the difficulties that face us in regard to this matter, it would be wrong step. I wish to bring this matter to the notice of the House and particularly of Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Sir, I agree that Mr. Thanu Pillai's point requires explanation. Now the explanation is this. I am sure he will agree that the rule regarding repugnancy which is mentioned in article 231 must be observed so far as future laws made by Parliament are concerned. He will see that the wording in article 231 is 'whether passed before or after'. Surely with regard to laws made by Parliament after the commencement of this Constitution, the rule of repugnancy must have universal application with regard to laws made both by the States in Part I and by the States mentioned in Part III. With regard to the question of repugnancy as to the laws made before the passing of this Constitution, the position is this. As I have said so often in this House, it is our desire and I am sure the desire of the House that all articles in the Constitution should be made generally applicable to all States without making any specific differentiation between States in Part I and Part III. It is no good that whenever you pass an article you should have added to that article a proviso making some kind of saving in favour of States in Part III, although there is no doubt about it that some savings will have to be made with regard to laws made by States in Part III. That is proposed to be done, as I said, in a new Part or a new Schedule where the reservation in respect of States in Part III will be enacted, so that so far as laws made before the Constitution comes into existence are concerned, they would be saved by some provision enacted in that special form or special Schedule. I should like to add to that one more point *viz.*, that while it is proposed to make reservations in that special part in favour of Part III States, nonetheless that reservation could not be absolute because the reservations made therein, at any rate some provisions in that special part, will be

governed by article 307 which gives the President the power to make adaptations. Now that adaptation will apply both to States in Part I as well as to States in Part III. Therefore so far as regards laws made by Parliament or the Legislatures of States in Part III before the commencement, they will in the first instance be saved from the operation of article 231 but they will also be subject to the provisions of article 307 dealing with adaptation.

Mr. President : The question is:

“That with reference to amendment No. 2788 of the List of Amendments, in clause (2) of article 231, after the word and figure ‘Part I’ the words and figures ‘or Part III’ be inserted.”

The amendment was adopted.

Mr. President : The question is:

“That article 231, as amended, stand part of the Constitution.”

The motion was adopted.

Article 231, as amended, was added to the Constitution.

Article 232

Mr. President : We take up article 232.

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

“That the heading to article 232 ‘Restriction on Legislative Powers’ be omitted.”

With your permission I move my new amendment:

“(i) That after the word and figure ‘Part I’ the words and figures ‘or Part III’ be inserted; and

(ii) after clause (a) of article 232, the following clause be inserted :

‘(aa) where the recommendation required was that of the Ruler, either by the Ruler or by the President.’ ”

Now Sir, I have come to understand that there is some sentimental objection to the use of the word ‘ruler’. I am prepared to yield to that sentiment and what I therefore propose is that the House should accept this amendment for the moment and leave the matter to the Drafting Committee to find a better word to replace the word ‘ruler’. Otherwise the whole of the article would have to be unnecessarily held over for no other reason except that we cannot find at the moment a better word to substitute for the word ‘ruler’.

Mr. President : The question is:

“That the heading to article 232 ‘Restriction on Legislative Powers’ be omitted.”

The amendment was adopted.

Mr. President : The question is:

“That in article 232—

(i) after the word and figure ‘Part I’ the words and figures ‘or Part III’ be inserted; and

(ii) after clause (a) of article 232, the following clause be inserted :

‘(aa) where the recommendation required was that of the ruler, either by the Ruler or by the President.’ ”

The amendment was adopted.

Mr. President : The question is:

“That article 232, as amended, stand part of the Constitution.”

The motion was adopted.

Article 232, as amended, was added to the Constitution.