

## CONSTITUENT ASSEMBLY OF INDIA

*Saturday, the 20th August 1949*

The Constituent Assembly of India met in the Constitution Hall, New Delhi, at Nine of the Clock, Mr. Vice-President (Shri T. T. Krishnamachari) in the Chair.

### DRAFT CONSTITUTION—(Contd.)

#### Article 277—(Contd.)

**Shri Biswanath Das** (Orissa: General): Mr. Vice-President, Sir, I stand to oppose article 277 as unnecessary in this Constitution. Sir, the emergency powers incorporated in this Constitution are more or less adapted on the lines of Section 93 of the Government of India Act, 1935, with certain modifications necessary from their point of view for the purpose. An analysis of the clauses reveals that it is classified under three heads, firstly, provisions relating to war emergencies, secondly, provisions relating to domestic violence and thirdly, provisions relating to any such violence and acts of violence which the President considers imminent and dangerous. A Government functioning under any constitution has always the right to take all necessary powers to deal with the situation in cases of external aggression or war emergencies. To that extent, any restriction of the powers and privileges of the ordinary citizens may be allowed under the Constitution. I do not believe that any honourable Member of this House seriously object to that aspect of the question. It would be ridiculous to call it democracy if a party or a provincial Government goes on in its own way to take a course of action which is contradictory and conflicting with the best interests of the Union or its safety. Under these circumstances, any power reserved for the Centre in war time and war emergencies is welcome.

Sir, we come to the question of domestic violence and any acts of violence which according to the President are considered imminent and dangerous. These are different questions and have to be considered from a different point of view. As I have stated on many occasions, I repeat that we are contemplating party Government in a system of democracy. Party Government necessarily means different parties. In a federation with a Centre and Units, there is no denying the fact that different political parties may be in charge of the administration in the different units or even in the Centre. Under these circumstances, there is a possibility of misuse of these powers. Speaking personally. I have experience of this misuse. Recollecting my past experience of Madras and the Justice Party, I have seen how the District Boards and Municipalities were mercilessly superseded without rhyme or reason because the Government had the power kept to itself to supersede these municipalities. What has been done in Madras by a certain party with regard to district boards and municipalities may be repeated by the Centre. Therefore, I plead with the Honourable Members of this House that no more power need be left with the Centre or with the Governors who are practically the agents of the Centre to deal with any such situation.

Any power that you reserve to yourself for war emergency is quite welcome. We do not oppose it. I concede the fact that the provisions contained in articles 275 to 277 and the rest are not as drastic as they are in the small Section 93 of the Government of India Act. I do realise that the framers of the Constitution

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have not arrogated to the Governor all the executive and legislative powers that you have under Section 93. I also further concede the fact that you do not wipe off the High Court if and when it suits you. All that is conceded. Why should you have article as 277 which is not even contemplated under Section 93? Section 93 does not suspend the allocation of grants from the Centre. Speaking from past experience, let me state that even in the war years (during the second world war), the provinces were getting their financial allocation from the Centre, even in the provinces where we had government under Section 93. I also feel that a responsible Government functioning at the Centre cannot afford to suspend the grants that are given to the provinces to be utilised for nation building activities unless it wants to bury itself. There is also the possibility of a totalitarian party coming into power at the Centre. Under these circumstances, I do not see any reason why more powers should be reserved in the Centre under the Constitution for taking necessary action in such cases. Sir, this is giving autonomy with vengeance to the provinces. Therefore, I plead with the honourable Members of this House as also with the Drafting Committee that a reconsideration of this article is called for.

Again, I have to state that the reports, both of the Central Committee and the Provincial Committee, have not recommended such powers as are proposed to be given to the provinces under article 277. I do not see any reason why the Drafting Committee should have taken this course without any authority from this House or anything of the like contained or contemplated in the reports of the Provincial or Central Constitution Committees. With the proclamation of emergency under article 275, autonomy in the provinces is being suppressed and the powers practically vested in the provincial executive lapses more or less into the Centre in the sense that the province has to be governed under the directions of the President. That being the position, why should you take a further step in refusing even the grants, suspending or reducing the grants which are allocated to the provinces not by the President, nor by the legislature, but by a non-political body that you yourself have constituted?

Assuming for a minute that the grants are suspended, activities, connected with it for nation-building or administrative activities are suspended to that extent. What do you do with the money? Allocations have been made on a regular defined basis; each province gets its share while this money lies idle without being used for its legitimate purpose. Why should you create this discrimination among the provinces? If power is taken under sub-clauses (b) and (c) as I have already stated for domestic violence or such acts of violence as the President considers imminent and dangerous in the province or provinces, why should you punish the people of the province as different from the Government which may be responsible for mishandling or for encouraging these unlawful and violent activities? It may be enough if the provincial executive is suspended; it may be enough if the provincial legislature is also suspended. But, why should the people be punished for an act for which they are not in the least responsible? Under these circumstances, I find neither reason nor justice in the article has been placed before the House for approval. I have no option but to oppose it.

**Shri Brajeshwar Prasad** (Bihar: General): Mr. Vice-President, Sir, I rise to support this article with all the emphasis that I command. My Friend Mr. Biswanath Das raised the question of democracy. He is shedding tears at the prospect of democracy being liquidated when there is a great emergency in this country. I am definitely of opinion that the issue involved is not democracy but the security of the country and I feel that this article is a necessary corollary of article 275. There must be a political reservoir of power somewhere at the Centre to deal and to meet with a situation that may arise in the country when there is a grave emergency in this country. The whole idea is unsupportable

that any Government at the Centre will starve the provinces and medical facilities, Educational facilities or other nation-building departments will come to an end. Mr. Biswanath Das is under the impression that provincial autonomy or democracy will survive in this country if there is a totalitarian party at the Centre. If a totalitarian Government at the Centre emerges, there will be no provincial autonomy left. I am of opinion that we have already given too much powers to the provinces and at a time when there is an emergency the whole Constitution must be changed into a unitary constitution. It is only when there is a unitary State in this country that there can be progress. The main issue is not democracy but security of the country and the economic well-being of the people of India. We want progress of the country. Therefore, I support this article.

**Shri Kuladhar Chaliha** (Assam: General): Sir, I consider this a very drastic provision. It will have the effect of completely dislocating a province. In fact I think Assam will be the first casualty. If you have the power to suspend the Constitution, then how will the provinces function? Under the pretext of this provision probably you will take all the finances to the Centre and we will have nothing left to the provinces. What will happen under this provision? On a certain date the Communists of Burma might come into the Eastern frontier. Then under that pretext an emergency will be declared and you will take all the powers. If the entire State is on revolt against the Centre, then of course this emergency may be declared; but unless there is definition of what is an emergency and under what circumstances these provisions could be applied, it will be causing something which is not expected. I submit that this provision is put in a manner which does not show all the consequences; if this is applied, it will lead to the greatest hardship. Mr. Brajeshwar Prasad is of course a very straight and balanced man and he always thinks of the stability of the country and thinks that the Constitution may be jeopardised if powers are left to provinces, and he further thinks all the good qualities are in the Centre and they are all devoid of good qualities in the provinces. He is anxious to concentrate all power in the President. If we go on like this the provinces will be left with nothing. You are only introducing dyarchy like the old dyarchy and everything will be in the Centre and provinces will be mere nonentities. If you want to have this provision, then you have to define what is an emergency and under what circumstances they can be applied; otherwise this word 'emergency' is so vague that even if a small Naga tribe attacks Assam you will declare emergency, or if there is Communist disturbance at Dibrugarh you may declare an emergency. I therefore request Dr. Ambedkar to define the word 'emergency' and under what circumstance this suspension or taking the taxes can be taken by the Centre. Provinces are of course going to be mere puppets in the hands of the Centre and I trust the gentlemen in charge of the drafting of the Constitution will think over the matter and try to define what an emergency is and under what circumstances this can be applied.

**Mr. Vice-President :** (Shri T. T. Krishnamachari): I think Shrimati Durga Bai has moved for closure. I am sure the House will agree to that.

**Honourable Members :** No. No.

**Shrimati G. Durgabai** (Madras: General): Mr. Vice-President, Article 277 empowers the President to effect alterations which are necessary in the existing arrangements with regard to the distribution of revenues between the units and the Centre. This power is conceded to the President only for the period of emergency and in my opinion this is a necessary sequel to article 275 which has already been agreed to by this House. This House has already agreed that during a period of emergency the President ought to be clothed with overriding powers to safeguard the interest and peace of the country. What are those special powers worth, may I ask, if the President is denied the authority of

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pleading with the units to readjust the allocation of finances between the unit and the Centre? A grave emergency arises when there is a war or a threat even to the Constitution of this country and no sacrifice is too great to successfully overcome this period of emergency. An honourable Member vehemently opposed this article 277. She has conceded that the President could ask the units to stop expenditure on development schemes of the units, but in the same breath she said that the Centre should not have power to readjust the allocation of finances or make the necessary adjustments with regard to existing finances between the units and the Centre. It should not be forgotten that first of all the President means the President acting on the advice of his Cabinet; secondly we have given this power to President only for the period of emergency. This power will not exceed in any case the financial year and lastly, it is subject again to the intervention of the Parliament at any stage even during this period if anything went wrong.

So I do not understand why some of the honourable Members should take objection to the giving of these powers, under the circumstances that have already been explained by Dr. Ambedkar, and also by other Members who have supported this article. Under these circumstances, it is extraordinarily unjust to suppose that this article provides for financial autocracy of the Centre. Certainly it should not be considered so because we have given these powers for a period which we call an emergency period, and also we have limited its period only to the financial year in any case, and also we have given the power to Parliament to intervene at any time if anything went wrong. Therefore, Sir, I support the article 277 as amended by Dr. Ambedkar.

**Shri S. V. Krishnamoorthy Rao** (Mysore State): Mr. Vice-President, Sir, I also rise to support article 277 as it is framed and amended by Dr. Ambedkar's amendment. With all respect to Pandit Kunzru, I oppose his amendment. In fact, I think Mr. Chaliha has not read article 275. An emergency comes into operation only in case of war, or internal disorder or external aggression. In such circumstances, extraordinary powers have to be given to the Centre. The suspicion, I believe, is born out of the feeling that the Centre is something different from the Provinces. In fact, the period of emergency lasts only for two months, and it continues only if Parliament approves of the emergency powers within one month of the date of the meeting of Parliament; if it is not approved, then the state of emergency lapses. And also, the period for which the financial powers are given under Section 277 cannot be longer than one year because the budget is framed from year to year. During the period of emergency, the security and safety of the entire country must be the sole responsibility of the Centre and extraordinary powers have to be given to the Centre. Otherwise, during the period of grave emergency, if quarrels for adjustment of financial contributions are allowed to be going on between the Provinces and the Centre, the safety of India will be jeopardised; and if India survives every province survives and every citizen survives,—not otherwise. The safety of the country must be the predominant factor and these powers as are given under article 277 are absolutely essential, and therefore, I support this article.

**The Honourable Shri Satyanarayan Sinha** (Bihar: General): The question may now be put.

**Mr. Vice-President** : I have promised Mr. Sarwate that I would allow him to speak. I will put the question later.

**Mr. Naziruddin Ahmad** (West Bengal: Muslim): There are also several other speakers; you may give them a little time each, say two minutes at least.

**Shri V. S. Sarwate** (Madhya Bharat): Mr. Vice-President, I thank you for giving me this opportunity to express my feelings. However, I shall not be long. I think that Sections 276, 277 and 227 are to be read together. When an emergency arises, the Government at the Centre would have to function in two departments, the Executive and the Legislative. By article 227, powers have been given to the Centre to legislate on matters which come within the purview of the State legislature. By article 276 (b) power has been given to the Central Government to take upon itself executive functions in respect of such matters. Now, when the Central Government takes upon itself certain duties which otherwise would have been done or executed by the Provinces or States, then it is but natural and necessary that it should be provided with the necessary funds. Therefore, it follows that article 277 is a repercussion in the financial sphere, of the powers which have been given by articles 227 and 276 to which the House has already agreed. For instance if the Centre takes over to itself the functions of the police, in case of emergency in a State, it will require certain more financial expenditure. That has been provided by article 277. If this provision is not made, then it would be something like providing a car and not providing the petrol for running the car. Therefore, I say that these three articles are closely knit together and you cannot take away the financial provisions from the rest. With these remarks I support this proposition.

**The Honourable Shri Satyanarayan Sinha** : Sir, the question may be put now.

**Shri H. V. Kamath** (C. P. & Berar: General): Sir, Mr. B. Das has been trying to catch your eye since yesterday.

**Mr. Naziruddin Ahmad** : Sir, the request to put the question is very premature.

**Mr. Vice-President** : I do not know about that. I have asked Mr. B. Das to speak.

**Shri B. Das** (Orissa: General): Sir, Part XI of the Draft Constitution provides the emergency provisions. If you look at pages 129 to 131, you find articles 275 and 276 where you have the original intentions of the Union Powers Committee and the Union Constitution Committee of which Pandit Jawaharlal Nehru was the Chairman. The Drafting Committee seem to have had some inspiration and it has not been explained how it got this inspiration about the financial provisions in article 277, and the subsequent article 278,—additional articles introduced by them. Sir, it is said that India is for world peace and is following in the footsteps of the Father of the Nation. But anyone who reads article 277 can see for himself, and if it is passed it would show that India is preparing to starve all the resources of the Provinces for aggressive Wars against other nations. What does article 277 require? It would give that power to the President—this new Frankenstein that has been created by the Draft Constitution, for the President of India is not a democratic President, he is to be something like the South American Presidents who will exercise all emergency powers—all financial powers and even starve the provinces. Articles 249 to 259 have been discussed threadbare on behalf of those under-fed provinces of Assam, Orissa, Bihar and Bengal which are starved for no fault of theirs, and if article 277 is allowed to be passed on the floor of the House, woe betide these poor provinces.

Sir, if I compare the attitude of mind of the authors of the Drafting Committee and that of the predecessor government here,—the former British rulers, I find that the latter did not take away the resources of the provinces during the last great war. They went on, it is true, taxing, they went on extending their taxable capacity by putting extra income-tax, corporation-tax, excess profit-tax and so many other taxes. They brought in higher export duties and

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so on. Of course, that was taxing the people of the Provinces; but at no stage did the Centre encroach upon the resources of the Provinces. Today we are asked to hand over that power of confiscating the provincial revenues to the President. We are told that an elected Cabinet would be there and the Cabinet would advise the President. We have an elected Finance Minister in the present Government as Member of this House. Why is it that he has not justified his attitude as to why he advised or his Ministry advised the Drafting Committee to encroach or expropriate or usurp the resources of the provinces in time of emergency? Sir, this is a challenge to the democratic spirit of the future Parliament. Do members' of the Drafting Committee think that the Parliament will not be willing to hand over such absolute power to the President or the Cabinet when an emergency arises? It did in other countries. Why should the Indian Parliament behave differently? I may say the future Parliamentarians will be as good, bad or indifferent as we all are at present.

I feel grateful that my honourable Friend Pandit Hriday Nath Kunzru has raised a debate on the important point of the President's power in regard to usurpation of provincial financial resources. It is like capital levy. It is like taking away by force what others possess. During the last Great War, the Nazis took away iron and metals from the householders not only in their own country but in conquered territories. Why should the Government of India, like the Nazis, expropriate the revenues assigned to the States in an emergency? I cannot understand it at all. Is it charity which the Centre has been giving to provinces, that it would take away that part of the revenue in times of emergency? I find the provinces derive substantial shares of revenue from income-tax and central taxes:

Orissa	. . . . .	24 percent.
Assam	. . . . .	22 percent.
Bihar	. . . . .	20 percent.
Bengal	. . . . .	19 percent.
U.P.	. . . . .	18 percent.
Bombay	. . . . .	19 percent.

and Madras which has the largest revenue of 55.94 crores has 15 per cent. from the sources of income-tax. Surely this is not a new allocation that we have done today. The present Government is not responsible for this assignment except for certain modifications made by an Ordinance in 1947 whereby when Pakistan came into existence West Bengal which originally had 20 per cent. of income-tax now will have to be content with 15 per cent.

I think, Sir, that such an emergency power is not necessary. Such an usurpation will not be allowed in any democracy, not to speak of India. I listened most attentively to the speech of my honourable Friend Mr. Alladi Krishnaswami Iyer and I felt that his was a legal argument and there was no substance in it to justify the granting of such power to the President or the Cabinet. Everybody knows that the Government of India are now angling to collect all the sales-tax on behalf of the provinces and to distribute them. If article 277 will be in the brain of the Finance Minister and his Ministry, they will try to collect all resources, so that the provinces will have little which they will collect, and in time of emergency the Centre will apply article 277 and thereby take away whatever provincial resources are collected by the Centre. Who says that the Cabinet of the time in time of, emergency will be more democratic than it is today? The sympathy which the Finance Minister and the Finance Ministry have shown over the discussions on the Federal Finances on the floor of this sovereign House shows that provinces will get scant justice, not to speak of scant courtesy, in times of emergency.

Suppose we have a Finance Minister who gets fluttered over every little incident who becomes extra-ambitious. During the Second World War, the Government of India through their Executive Councillors became extra ambitious and took away by means of Ordinances all our resources—lock, stock and barrel. Who can similarly doubt the power of the Central Government to pass Ordinances as ambitiously or as ignorantly as the British Government did-? They imposed “control” prices and supplied all they required for themselves and the Allies and the result is that India is in the grip of inflation and prices are now 365 per cent. of the pre-war level, whereas in America they are somewhere about 200 per cent. and in England somewhere about 100. per cent. That is the effect of the “control” prices and controlled purchases.

Let me hope there will be no war, no emergency. I am for peace in India and peace in the world. But supposing an emergency unfortunately arises, who suffers ? The people. The People have to suffer and supply goods at controlled prices as they did between 1939 and 1947. What does inflation mean ? It means that the provincial governments and the people cannot make both ends meet, and if a new Finance Minister is extra-ambitious he may begin taking all the resources of the provinces by asking the President to exercise article 277. How much is that—something like 60 per cent. of the income-tax; 40 percent. of the excise duties and 40 per cent. of the jute duty in certain provinces; it comes to something like Rs. 60 crores now.

If this sovereign House had accepted the Sarkar Committee Report the provinces would have got about 60 per cent of the proceeds of all sources of Income-tax (which comes to somewhere about 150 crores of rupees) and about 60 per cent. of the share of excise duties which would have meant very large sums. If you will kindly permit me, I shall illustrate my point with reference to Orissa. The total revenue of Orissa is Rs. 6.82 crores of which about 3 crores is derived from the Centre as extraordinary grants. That means Orissa’s net revenue is only Rs. 3.82 crores. The standard of living of people in Orissa is very, very low.

**Mr. Vice-President :** Are all these details necessary? Will the honourable Member please conclude his speech?

**Shri B. Das :** I would very much like to. But I am only expressing the feelings of the lacerated hearts of provinces which have to be deprived of even the moiety which till now they were getting from the Centre, as share of central taxes. I want to quote certain figures to illustrate the standards of our administrations.

Bombay spends five annas and one pie on Education; U.P. spends 6.5 annas; Bihar spends 3.11 annas; Assam spends 6.2 annas, while Orissa spends 4.1 annas. If you take the question of public health and medicine—about which we talk always—the figures are more discouraging. C.P. spends 2.1 annas *per capita*; Assam spends 3.1 annas. Orissa spends much less.

This is the condition of the provinces and today we are asked to be a party to article 277 whereby even the low standard of living in the provinces will become lower still. , I am very much perturbed; I am very much disturbed. I think democracy will not lead to autocracy which will create Frankensteins and South, American Presidents who can do anything. I have studied this Constitution carefully. I find the President can any moment become an autocrat: he can dismiss his Cabinet and dissolve the Legislature. It is no use framing a Utopian Constitution which any President can upset; and who knows that the Gandites will rule India all along !

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I feel very sad at heart—I fully support the observations of my honourable Friend Pandit Kunzru and I have fully sympathy with the lady Member from Bengal, Shrimati Renuka Ray, who spoke so cogently on behalf of her province. Assam has spoken and Orissa has been speaking for the second province. I, therefore, feel that Dr. Ambedkar will see his way, to withdraw article 277 or redraft it to suit the wishes of the aggrieved provinces.

**Mr. Vice-President :** The question is:

“That the question be now put.”

The motion was adopted.

**The Honourable Dr. B. R. Ambedkar** (Bombay: General): Mr. Vice-President, Sir, I have given as close an attention as it is possible to give to the amendment moved by my honourable Friend Pandit Kunzru, and I am sorry to say that I do not see eye to eye with him, because I feel that in a large measure his amendment seems to be quite unnecessary.

Let us begin by having an idea as to what financial relations between the Centre and the provinces are normally going to be. I think it is clear from the articles which have already been passed that the provinces will be drawing upon the Centre, in the normal course of things

- (1) proceeds of income-tax under article 251;
- (2) a share of the central excise duties under article 253; and
- (3) certain grants and subventions under article 255.

I am not speaking of the jute duty because it stands on a separate footing and has been statutorily guaranteed.

Let us also have an idea as to what the article as proposed by me proposes to do. What the article proposes to do is this, that it should be open to the President when an emergency has been proclaimed to have the power to reallocate the proceeds of the income-tax, the excise duties and the grants which the Centre would be making under the provisions of article 255. The article, as proposed by me, gives the President discretion to modify the allocations under these three heads. That is the position of the draft article as presented to the House by the Drafting Committee.

Now, what does my Friend Pandit Kunzru propose to do by his amendment ? If I have understood him correctly, he does not differ from the Drafting Committee in leaving with the President complete discretion to modify two of the three items to which I have made reference, that is to say, he is prepared to leave with the President full and complete discretion to modify any allocation made to the provinces by the Centre out of the proceeds of the excise duty, and the grants made by the Centre under article 255. If I understood him correctly, he would have no difficulty if the President, by order, completely wiped off any share that the Centre was bound to give in normal times to the provinces out of the proceeds of the excise duties and the grants made by the Centre.

**Pandit Hirday Nath Kunzru** (United Provinces: General): I never said any such thing.

**The Honourable Dr. B. R. Ambedkar :** Your amendment is limited only to the income-tax. That is what I am trying to point out. You do not, by your amendment, in any way suggest that there should be any different method of dealing with the proceeds of the excise duties or the grants made by the Centre under article 255.



**Pandit Hirday Nath Kunzru :** The reason why I cast my amendment in that form is this. In so far as the distribution of the proceeds of any taxes depends on a statute passed by Parliament that power cannot be taken away from Parliament but it does not belong to the President. But so far as income-tax is concerned, the Government of India Act, 1935, envisaged the transfer of the full share of the provinces to them within a certain period and allowed the Governor-General, in case there was an emergency, to delay the transfer to the provinces and thus lengthen the total period in which the provinces were 'to get their full share. That was the only reason; the inference drawn by my honourable Friend is completely unjustified.

**The Honourable Dr. B. R. Ambedkar :** I am entitled to draw the most natural inference from the amendment as tabled.

**Pandit Hirday Nath Kunzru :** The honourable Member is completely misunderstanding me. Under my amendment, the President will have no power to alter the distribution of the proceeds of the Union excise duties.

**The Honourable Dr. B. R. Ambedkar :** I am sorry the honourable Member did not make the matter clear in his amendment. And if he wants to put a new construction now and make a fundamental change the amendment should have been such as to give me perfect notice as to what was intended. There is nothing in the amendment to suggest that the honourable Member wants to alter the provisions of articles 253 and 255. It may be an after thought but I cannot deal with after thoughts; I have to deal with the amendment as it is tabled. Therefore, as I read the amendment, my construction is very natural.

**Pandit Hirday Nath Kunzru :** The honourable Member is utterly unjustified.

**The Honourable Dr. B. R. Ambedkar :** That is the honourable Member's opinion. My reading is that something new is being put forward now.

**Pandit Hirday Nath Kunzru :** The honourable Member is misrepresenting me and knows that he is doing so.

**The Honourable Dr. B. R. Ambedkar :** The honourable Member is misrepresenting his own thoughts. Therefore, as I understand it, there is no question of my honourable Friend suggesting any alteration in the system of modifying the proceeds of the excise duty and the grant. The only question that he raised is the question of the modification of the allocation of income-tax during an emergency. Even so what do I find? If I again read his amendment correctly, he is not altogether taking away the discretion which is left to the President in the matter of the modification of the allocation of the income-tax. All that he is doing is that if the President was to make a modification of the allocation of the income-tax as contained in the previous order, then the President should proceed in a certain manner which he has stated in his amendment. In other words, the only difference between the draft clause as put by me and the amendment of my honourable Friend Pandit Kunzru is this that, so far as the discretion of the President is concerned, it should not be left unregulated, that it should be regulated in the manner which he suggests.

My reply to that is this : Where is the reason to believe that in modifying or exercising the power of the President to modify the Provisions relating to the distribution of the income-tax he will act so arbitrarily as to take away altogether the proceeds of the income-tax ? Where is the ground for believing that the President will not even adopt the suggestion made by my honourable Friend, Pandit Kunzru, in the amendment as he has put it? There is no reason to suppose or to make such an arbitrary suggestion that the President is going to wipe out altogether the total proceeds which the provinces are entitled to receive under the allocation. After all the President will be a reasonable man; he will know that to a very considerable extent the proceeds

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of the income-tax do form part of the revenues of the provinces; and he will also know that, notwithstanding the fact that there is an emergency, it is as much necessary to help the Centre as it is necessary to keep the provinces going.

Therefore in my judgment there is no necessity to tie down the hands of the President to act in a particular manner in the way suggested by the amendment of my Friend Pandit Kunzru. It might be that the President on consultation with the provinces or on consultation with the Finance Commission or any other expert authority might find some other method of dealing with the proceeds of the income-tax in an emergency, and the suggestion that he might have then might prove far better than what my Friend Pandit Kunzru is suggesting. I therefore think that it would be very wrong to tie down the hands of the President to act, in a particular manner and not leave him the liberty or discretion to act in many other ways that might suggest themselves to him. I suggest that it is better to leave the draft as elastic as it is proposed to be done by the Drafting Committee; no advantage will be gained by accepting the amendment of my Friend Pandit Kunzru.

As I have said, I have made another amendment in the original draft which left the matter entirely and completely to the discretion of the President and Parliament had no say in the matter. By the new amendment I have proposed it is now possible for Parliament to consider any order that the President may make with regard to the allocation of the revenues; and therefore if the President is doing something which is likely to be very deleterious or injurious to the interests of the provinces, surely many representatives in Parliament who would be drawn from the provinces and who would undoubtedly not forget the interests of the provinces would be in a position to set matters right, I therefore think that the original arrangement should be maintained by virtue of the fact that it is he more elastic than what is suggested by my honourable Friend Pandit Kunzru.

**Mr. Vice-President :** The question is:

“That article 277 be renumbered as clause (1) of article 277 and to the said article as so renumbered the following clause be added :—

‘(2) Every order made under clause (1) of this article shall, as soon as may be after it is made, be laid before each House of Parliament.’ ”

The amendment was adopted.

**Mr. Vice-President :** The question is

“That with reference to amendment No. 3007 of the List of Amendments and Amendment No. 13 of List I (Fourth Week) of Amendments to Amendments, for article 277, the following article be substituted :—

<p>‘277. (1) While a Proclamation of Emergency is in operation the Union may, notwithstanding anything contained in article 251 of this Constitution retain out of the moneys assigned by clause (1) of that, article to States in the first year of a prescribed period such sum as may be prescribed and Thereafter in each year of the said prescribed period a sum less than that retained in the preceding year by an amount, being the same amount in each year so calculated that the sum to be retained in the last year of the period will be equal to the amount of each such annual deduction :</p>	<p>Modification of the provisions relating to distribution of taxes on income during the period a Proclamation of Emergency is in operation.</p>
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Provided that the President may in any year of the said prescribed period direct that the sum to be retained by the Union in that year shall be the sum retained in the preceding year and that the said Prescribed period shall be correspondingly extended but he shall not give any such direction except after consultation with the States nor shall he give any in such direction unless he is satisfied that the maintenance of the financial stability of the Government of India requires him so to do.

(2) In this article ‘prescribed’ means prescribed by the President by Order.’ ”

The amendment was negatived.

**Mr. Vice-President :** The question is:

“That article 277, as amended, stand part of the Constitution.”

The motion was adopted.

Article 277, as amended, was added to the Constitution.

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#### **New Article 279-A**

**Mr. Vice-President :** Pandit Thakur Das Bhargava may move his amendment No. 73 to add a new article 279-A. There is an amendment of his also to article 280 in exactly the same terms as amendment No. 73. I wish to know from him whether he will move this as a new article or propose it as an amendment to article 280.

**Pandit Thakur Das Bhargava** (East Punjab: General): Sir, I beg to move:

“That with reference to amendment No. 15 of List I (Fourth Week) of Amendments to Amendments after article 279, the following new article be added:—

‘279-A. Any law made, or any executive action taken under article 279 in derogation.’ ”

**Mr. Naziruddin Ahmad :** On a point of order, Mr. Vice-President. This should be moved as an amendment to article 280.

**Mr. Vice-President :** But he wants now to move it as a new article after article 279.

**Mr. Naziruddin Ahmad :** Then, article 280 also may be moved and the whole thing considered together.

**Pandit Thakur Das Bhargava :** I have no objection to that course being adopted.

**Mr. Vice-President :** I think Pandit Bhargava might move his amendment No. 74 after article 280 is moved. Instead of moving amendment No. 73, he may move amendment No. 74 after Dr. Ambedkar moves article 280.

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#### **Article 280**

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

“That for article 280, the following article be substituted :—

‘280. (1) Where a Proclamation of Emergency is in operation, the President may by order declare that the right to move any court for the enforcement of such of the rights conferred by Part III of this Constitution as may be mentioned in the order and all proceedings pending in any court for the enforcement of the rights so mentioned shall remain suspended for the period during which the Proclamation is in force or for such shorter period as may be specified in the Order.

(2) An order made as aforesaid may extend to the whole or any part of the territory of India.

(3) Every order made under clause (1) of this article shall as soon as may be after it is made be laid before each House of Parliament.’ ”

Sir, the House will realise that clauses (2) and (3) are additions to the old article. In the old article there was a provision that while a Proclamation of Emergency was in force the President may suspend the provisions for the rights contained in Part III throughout India. Now, it is held that, notwithstanding the fact that there may be emergency, it may be quite possible