

The Honourable Dr. B. R. Ambedkar : I would like you to take up article 280-A.

Pandit Hirday Nath Kunzru : I strongly object to that article being taken up today. I received the amendment only this morning. The matter with which it deals is a very important one and we should be allowed some time to consider it and to put forward amendments, if we want to do so.

Mr. Naziruddin Ahmad : In addition, this article proposes to introduce a new kind of emergency unknown in any system.

The Honourable Dr. B. R. Ambedkar : Sir, I hope you will not allow these technicalities to stand in the way of the business of the House. Now, even if the honourable Member got the amendment at nine o'clock, from nine to twelve he had time. I do not think there is anything obscure in this amendment. A man of much less intelligence than my honourable Friend Pandit Kunzru could understand it on first reading. I have no doubt about it.

Pandit Hirday Nath Kunzru : Sir, it is a very important matter and Dr. Ambedkar's impatience and rudeness should not be allowed to override the rights of the Members—rights which they clearly enjoy under the rules. I demand, Sir, that we should be given more time to consider this amendment notwithstanding the obvious desire of Dr. Ambedkar to rush the amendment through the House.

Mr. President : I would suggest that we go in the order in which it is on the agenda and take up article 274DD.

The Honourable Dr. B. R. Ambedkar : I am prepared to do that, Sir, but I must say that we are so much pressed for time that I do not think that these technicalities ought to be given more importance than they deserve.

Pandit Hirday Nath Kunzru : It is a pity that the Chairman of the Drafting, Committee, who by virtue of his position may be supposed to appreciate the rights of others, makes light of them.

Article 274-DD

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

“That with reference to amendment No. 400 of List XVII (Second Week), after article 274D, the following article be inserted :—

‘274DD. Notwithstanding anything contained in the foregoing provisions of this Part or in any other provisions of this Constitution, any State which before the commencement of this Constitution was levying any tax or duty on the import of goods into the State from other States or on the export of goods from the State to other States may, if an agreement in that behalf has been entered into between the Government of India and the Government of that State, continue to levy and collect such tax or duty subject to the terms of such agreement and for such period not exceeding ten years from the commencement of this Constitution as may be specified in the agreement :

Provided that the President may at any time after the expiration of five years from such commencement terminate or modify any such agreement if, after consideration of the report of the Finance Commission constituted under article 260 of this Constitution, he thinks it necessary to do so.’ ”

Sir, this new article is a mere consequential amendment to article 258, which the House has already accepted, whereby the power is given to the Government of India to enter into agreement with States in Part III for the purposes of making certain financial adjustments during a temporary period.

DRAFT CONSTITUTION

*The Assembly reassembled after Lunch at Half Past Four of the Clock, Mr. President
(The Honourable Dr. Rajendra Prasad) in the Chair.*

Article 280A

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

“That after article 280, the following new article be inserted :

‘280-A. (1) If the President is satisfied that a situation has arisen whereby the financial stability or credit of India or of any part of the territory thereof is threatened, he may by a Proclamation make a declaration to that effect.

(2) The provisions of clause (2) of article 275 of this Constitution shall apply in relation to a proclamation issued under clause (1) of this article as they apply in relation to a Proclamation of Emergency issued under clause (1) of the said article 275.

(3) During the period any such proclamation as is mentioned in clause (1) of this article is in operation, the executive authority of the Union shall extend to the giving of directions to any State to observe such canons of financial propriety as may be specified in the directions, and to the giving of such other directions as the President may deem necessary and adequate for the purpose.

(4) Notwithstanding anything contained in this Constitution—

(a) any such direction may include—

(i) a provision requiring the reduction of salaries and allowances of all or any class of persons serving in connection with the affairs of a State;

(ii) a provision requiring all Money Bills or other Bills to which the provisions of article 182 of this Constitution apply to be reserved for the consideration of the President after they are passed by the Legislature of the state ;

(b) it shall be competent for the President during the period any proclamation issued under clause (1) of this article is in operation to issue directions for the reduction of salaries and allowances of all or any class of persons serving in connection with the affairs of the Union including the judges of the Supreme Court and the High Courts.

(5) Any failure to comply with any directions given under clause (3) of this article shall be deemed to be a failure to carry on the Government of the State in accordance with the provisions of this Constitution’.”

Sir, having regard to the present economic and financial situation in this country there can hardly be any Member of this Assembly who would dispute the necessity of some such provision as is embodied in this new article 280A and I therefore, do not propose to spend any time in giving any justification for the inclusion of this article in our Draft Constitution. All that I propose to say is this, that this article more or less follows the pattern of what is called the National Recovery Act of the United States passed in the year 1930 or thereabouts, which gave the power to the President to make similar provisions in order to remove the difficulties, both economic and financial, that had overtaken the American People as a result of the great depression from which they were suffering. The reason why, for instance, We have thought it necessary to include such a provision in the Constitution is because we know that under the American Constitution within a very short time the legislation passed by the President was challenged in the Supreme Court and the Supreme Court declared the whole of that legislation to be unconstitutional, with the result that after that declaration of the Supreme Court, the President can hardly do anything which he wanted to do under the provisions of the National Recovery Act. A similar fate perhaps might overwhelm our President if he were to grapple with a similar financial and economic emergency. In order to prevent any such difficulty we thought it was much better to make an express provision in the Constitution itself and that is the reason why this article has been brought forth.

Prof. Shibban Lal Saksena : Sir, I beg to move:—

“That in amendment No. 429 of List XVIII (Second Week), in clause (1) of the proposed new article 280A, for the words ‘has arisen’ the words ‘is imminent’ be substituted.”

The article if my amendment is accepted will read thus :

“If the President is satisfied that a situation is imminent whereby the financial stability or credit of India or of any part of the territory thereof is threatened, he may by a proclamation make a declaration to that effect.”

My reason for this amendment is this that after the situation has arisen, it might lead to much disturbance and people might lose confidence in the country’s credit. The article says that if a situation has already arisen and there is chaos, people will lose confidence in the credit of the State. I want instead of the words “has arisen”, the words, “is imminent” to be substituted.

My second amendment is No. 441 which reads as follows:—

“That in amendment No. 429 of List XVIII (Second Week), in clause (3) of the proposed now article 280A, after the word ‘operation’ the words ‘Parliament shall have power to make laws in respect of subjects contained in the State List as if they were subjects in the Concurrent list, and’ be inserted.”

If my amendment is accepted, the article will read as under:—

“During the period any such proclamation as is mentioned in clause (1) of this article is in operation Parliament shall have power to make laws in respect of subjects contained in the State List as if they were Subjects in the Concurrent List, and the executive authority of the Union shall extend to the giving of directions to any State to observe such canons of financial propriety as may be specified in the directions, and to the giving of such other directions as the President may deem necessary and adequate for the purpose.”

Sir, these amendments of mine are only intended to cover two lacunae in the article. Although the article is an extraordinary one and provides for financial emergency, in the present state of our country, I think it is necessary that the power should be with the executive. I have only tried to compare it with article 275. What I wanted is this: First of all, by changing the words “has arisen” into “is imminent” in clause (1), we would be able to take measures before the situation becomes grave. Therefore as soon as a financial emergency is imminent, we can take the necessary measures if we substitute the words “is imminent” for the words “has arisen”.

Then the President should have the power to treat all State Subjects as if they were subjects in the Concurrent List and Parliament should be able to legislate about them. It is quite possible that the State may be forced by some legislation of their own, by their own laws to act in a particular manner and may not have the legal authority to carry out the directions of the President. What I want is that the Parliament should have power to alter those laws of the States and therefore I want that during that period Parliament shall have power to pass laws even on subjects contained in. List No. 2 as if they were in the Concurrent List, so that the necessary financial measures will be taken in order to meet the emergency. I think that unless that is done, a mere order will not enable the President to pass orders or to have them carried out because they may conflict with the laws of the States and it may not be possible for the President to get those laws changed. Further the Provinces may not be agreeable to them. So what I want is that Parliament should be given this power that in those matters laws may be made by Parliament.

I think, Sir, that these amendments are necessary. We want this power. May I also say that this article does not take away any powers of the legislatures also and I think it is necessary in the interests of the State especially when we are in the midst of financial distress.

Shri H. V. Kamath: Sir, may I ask your permission for a verbal change in this amendment No. 438? I propose to use the word “breakdown” instead of the word “chaos”.

Mr. President : Yes. (*Interruption.*)

Shri H. V. Kamath: I have got the President’s permission to change the word “chaos” to “breakdown”. Sir I move amendments Nos. 438, 442 and 444 of List No. XIX. Amendment No. 438 is to the effect.

“That in clause (1) of the proposed new article 280A. for the words ‘whereby the stability or credit of India or of any part of the territory thereof is threatened, the words ‘which threatens India or any part thereof with financial breakdown or economic disaster,’ be substituted.”

Amendment No. 442 is to the effect:

“That in amendment No. 429 of the same List, clause (4) of the proposed new article 280A be deleted.”

Amendment No. 444 is to the effect:

“That in amendment No. 429 of the same List, clause (5) of the proposed new article 280A be deleted.”

This new article 280-A invests the President of the Union with further emergency powers, powers in excess of what have been conferred on him by the Constitution under articles 275, 276 and subsequent articles upto 280. This article envisages a contingency or a situation where the financial stability or credit of India or any part thereof may be threatened. I feel that this contingency or danger to economic stability or credit of India or any part thereof ought not to be regarded as an adequate ground for the proclamation of an emergency. An emergency proclamation can be justified only under more dire circumstances, that is, only in the event of or only when there is danger of a financial breakdown or economic disaster. To invest the President with such wide powers in the event of the financial stability or the credit of India or of a province or State thereof, being threatened is going much too far.

This morning, you rightly observed, Sir that many provinces are complaining about or have already complained about the ill distribution of the Income-tax proceeds, and that a new inroad upon their revenues was made this morning, as some honourable Members felt, by the article on Salas Tax adopted by this House. Some provinces like Madras, and partially the Central Provinces too, have inaugurated prohibition. That has eaten into the revenues of the provinces, and has further put them to extra expenditure on prohibition staff and ancillary paraphernalia.

Suppose, under these circumstances, the situation in future worsens. The world economic situation may worsen may aggravate. We shall try our best to see that our economic conditions improve, but what with devaluation all over the world including the devaluation of our own Rupee, no one would be Such a rash prophet as to say that we will be better off in the near future. Suppose, if the worst comes to the worst, the economic situation worsens further and the provinces, on account of the loss in revenue on account of prohibition and on account of other factors besides, cannot put into effect the constructive schemes which they have in mind, and suppose they are hard put even to make both ends meet, and their budgets are deficit budgets, imagine, it is not an improbable situations series of deficit budgets—may not be large deficits even small deficits every year—such a situation may be construed by the President as one where the financial stability or credit of the particular province or State is threatened. May I ask, will that be adequate ground for the President to assume to himself the powers which will be his once a proclamation of emergency is

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made? I say, Sir, if we really want to implement the scheme of provincial autonomy, in spirit as well as letter, this is not the way to treat our constituent units. Certainly see to it that financially, economically, we are sound. But, on the slightest pretext of the administration not being able to put through their schemes, and not being able to produce surplus budgets, on these pretexts, it will—I will not use any strong words—it will not be wise for the President to proclaim an emergency and assume to himself all the extraordinary powers that will accrue to him once such proclamation is made.

I agree, I admit freely, that this course must be adopted if there is imminent danger of a financial breakdown,—that is certainly a much worse situation potentially a much more dangerous situation than economic instability. Economic stability may mean nothing to anybody or all things to all men. If there is any danger of financial breakdown or economic disaster, then certainly I can agree to vest certain emergency powers in the President, but not otherwise; not on the mere threat to economic stability or financial stability of a province. That may mean, as I said, many things. I cannot agree to vest emergency powers in the President for this reason of any threat to economic stability. My submission to House is that if there is danger of a breakdown or a disaster, then only the President may be invested with emergency powers.

I am afraid, looking to the paucity of attendance in the House today, that we are very likely to pass this article without mature care and attention being bestowed on it. It is an unfortunate circumstance that Deepawali is so close. Honourable Friends are more keen on illuminating their homes during Diwali than on illuminating the darkness that seems to have overtaken the House at the fag-end. I hope, in spite of the paucity of attendance, those Members who are Present here will carefully consider this matter as to whether it would be necessary to invest the President with such powers when the financial stability or credit is merely threatened.

I come now to amendments 442 and 444 which seek to delete clauses 4 (a)—it ought to be 4(a); It has been wrongly typed here; I sent amendment No. 442 as referring to clause 4(a) of the proposed new clause, not the whole of clause (4)—and clause 5 of the proposed new article. The House will see that clause (3) gives the President ample powers in the event of a Proclamation of Emergency under these circumstances. The last part of clause (3) reads thus: “and to the giving of such other directions as the President may deem necessary and adequate for the purpose.” This omnibus provision enables him to do practically what he likes so long as when he passes the order he says, “I am satisfied that it is necessary and adequate for the purpose.” He can do whatever he likes and nobody can question his acts or decrees or ordinances in a court of law or anywhere else on earth. In the face of this, I personally feel that there is no necessity for incorporating clause 4(a) in this article, because clause 4(a) refers to the reduction of salaries and allowances and some provisions about Money Bills which are matters which could come within the scope of the provision embodied in the second part of clause (3). So, this can be safely deleted without any detraction from the meaning that is attached to clause (a) and without derogating from any of the powers that this clause confers on the President in the event of a financial emergency.

Clause (5) is a mere consequential provision. Why it is put in here at all. I do not understand. I fail to see any *raison d'être* for this clause. If the House will turn to article 277A and 278 which this House adopted a few months ago my honourable Colleagues will see that this contingency when the Government of any State cannot be carried on in accordance with the provisions of this Constitution is clearly, unambiguously visualized in these articles 277A and 278. Now,

Sir, the Governor of the State must decide as to whether the Government of that State can or cannot be carried on in accordance with the provisions of this Constitution and the Governor makes a report. The first clause of 278 says—

“If the President, on receipt of a proclamation issued by the Governor of a State under article 188 of this Constitution, is satisfied that a situation has arisen in which the government of the State cannot be carried on in accordance with the provisions of this Constitution, he may by proclamation etc. etc.”

This is very clear. After the issue of directions by the President under this new article 280A when he visualizes a financial emergency in India or any part thereof, what is the need for this clause (5)? The Governor is on the spot and he can and will, if he is a conscientious and diligent Governor, he is bound to report to the President from time to time as to how these directions are being implemented. What are we doing here by incorporating all sorts of jumble—I would not use stronger words—and absolutely unnecessary verbiage? We have adopted articles where we have provided for emergency powers, and if the Governor feels and is satisfied that the Government of the State cannot be carried on in accordance with the Constitution, he will report to the President, why should we say ‘Any failure to comply with the directions given etc.’? Who will judge? That is the crux of the matter referred to in clause (5). Who will judge—will it be the President or Governor or some other authority? Make it clear and do not leave it vague. If the President is satisfied it is a failure, then make it clear that if the President is satisfied that it is a failure, then it means the State Government has failed. Otherwise say that the Governor of the State will report to the President about the failure or otherwise.

But clause (5) in the first place is unnecessary, redundant, and secondly, it is very vague. The authority or the person to judge where there is a failure or not is nowhere defined and it is dangerous to leave it so vague as this. Make it clear beyond any shadow of doubt that the President will judge as to whether it is a failure or not. If it is left vague, it will reflect on our own wisdom. I hope that Dr. Ambedkar’s learning is not so completely divorced from good sense and wisdom that he cannot see the force of my contention. He is learned I agree, but I hope his learning is not completely divorced from other components of human wisdom; and I hope he will bestow sufficient attention upon the amendments I have moved. I commend them with all my heart to the House for the consideration.

Shri Brajeshwar Prasad : Mr. President, Sir I move amendments 439, 440 and 443. They read as follows:

“That in amendment No. 429 of List XVIII (Second Week), in clause (1) of the proposed new article 280A after the words “threatened” the words “or is likely to be threatened” be inserted.”

“That in amendment No. 429 of List XVIII (Second Week), for clause (2) of the proposed new article 280A, the following be substituted:—

‘(2) The proclamation issued under clause (1) of this article shall continue till such time it is revoked by the President.’ ”

“That in amendment No. 429 of List XVIII (Second Week), for paragraph (ii) of sub-clause (a) of clause (4) of the proposed new article 280A, the following be substituted:—

‘(ii) a provision requiring all Bills to be reserved for the consideration of the President after they are passed by the Legislature of the State.’ ”

I would make a few comments in connection with the amendments which I have moved. Sir, I am of opinion that when there is a period of financial crisis, provincial autonomy must completely be suspended till such time as the emergency lasts. There should be no hesitation, there should be no qualms of conscience on this account. I am of opinion that the period of emergency should

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last till such time as the President in his discretion may consider to be necessary. This proclamation should last till the emergency lasts. There is no sense in going to Parliament and seeking its approval whether the period should be extended or not. The President and the President alone is the best person to judge whether the emergency is over or not. Do not distrust the President—he is the first citizen of the State. He represents the people of India in a more true sense than any member of Parliament. He is elected by the representatives of the Legislatures of the Centre and the Provinces. He is not elected by a particular constituency. Therefore it is in the fitness of things that power should be vested in the hands of the President alone.

I am of opinion that by doing so we will not be violating any Constitutional convention because the essence of Federal Constitution is the separation of powers. Under the new Constitution our Parliament is not going to be a sovereign body. I cite the case of the American President. He has a large number of powers. Nobody can say that he is a dictator or autocrat or that by vesting powers there has been any violation of the principle of federalism. Therefore, I am of opinion that power must be vested in his hands to deal with any situation that may arise in the future as a result of financial instability or crisis.

We have achieved our freedom only a few years ago. Is it right or proper that we should jeopardise our freedom at the altar of some newfangled notion or concept? Our State has become free at a time when the political horizon is full of anxiety. The political and economic situation not only of this country, but of all parts of the world is on the brink of disaster.

Therefore, our Constitution must take these factors into account.

Sir, there is another factor which must be borne in mind. This institution of Parliamentary Government is quite alien to the genius of our people. Our ancient law givers were Saints and Seers and not Parliamentarians. Therefore, I have more faith in a President than in a Parliament elected on the basis of adult franchise in a country where there is no literacy, where the standard of living is very low and where the people are the victims of communal passions. Therefore, I am of opinion that we must not jeopardise the interest of the State at the altar of Parliamentarism or of any ideology. Ideologies are mere concepts. They may be cloudy, hazy and nebulous. But the State is a solid reality, and we cannot jeopardise the interests, of the State at the altar of some newfangled notions. In the words of the German philosopher Hegel—"The State is God on earth". I am, therefore, of opinion that if vital questions are left to be decided by Parliament, it will mean the end of the State. It is only in a very highly developed community that Parliament plays an effective part. In a country like India it is bound to occupy a secondary role. For a long time to come, the executive and the executive alone will play a dominant part in our national life. If our Constitution does not recognise this fact, it will break down and plunge the country into chaos and anarchy.

Mr. President : Did you move amendment No. 443?

Shri Brajeshwar Prasad : Yes, Sir, all the three amendments.

Mr. President : All the amendments are moved and the article are now open for discussion.

Shri R. K. Sidhwa (C.P. & Berar: General): Mr. President, Sir, yesterday, when my Friend Mr. Krishnamachari told me that a clause regarding financial emergency was to come up, I felt that probably there was going to be some another cut upon the right and privileges of the legislature. But when I received this article last night, I must admit that I found that this article is justified; and

under the conditions that exist now, and that may exist, I do feel that if this article had not been there, our Constitution would not have been complete. I give credit to the Drafting Committee for even at this last moment, to have realised that such a situation might arise, and therefore, the President must be empowered with these extraordinary powers. My Friend Mr. Kamath has been having unnecessary apprehensions of the President misusing these powers. Mr. Kamath said that even if there is a deficit budget, the President might declare that there is an emergency in the financial stability of the country. If we have a President who really declares, because of a deficit budget that there is financial emergency, then I must say that that President is not worthy of occupying the high place that he would occupy, and I may add that it is the House and the persons who will be electing the President who would be responsible for it. But I am quite confident that both Houses will elect a really able and eminent, just and right type of person who will exercise his powers rightly and who will judiciously interpret the provisions of this article. I have no apprehensions on that, whosoever may be the President of the Indian Union.

Sir, what does the clause say ? It says—

“If the President is satisfied that a situation has arisen whereby the financial stability or credit of India or of any part of the territory thereof is threatened, he may by a proclamation make a declaration to that effect.”

Now, we know from our experience of our two and a half years of independence, that the political freedom that we are enjoying is absolute, but as far as our economic conditions is concerned, we have to depend upon other countries finances: as, we have not stabilised our finances yet. I do not mean, therefore, that there is an emergency now. I can only say, here is the economic picture before us; and whatever may have been the reasons that have led to it, they are not of our making. But the circumstances under which we were living and were governed, and the world situation, have led to the present economic condition. This is not an emergency. But a real emergency might arise whereby the financial stability may be affected, and we will be perfectly justified if we have an article like this, and I have no doubt at all in my mind that this article then would be very helpful.

Mr. Kamath made capital out of clause (4), but I welcome that article. What does it say? It says that the President shall have the power to reduce the salaries and allowances of the staff when necessary.

Shri H. V. Kamath: My only difficulty was that this power was not vested under clause (3).

Shri R. K. Sidhwa : But clause (4) says—

“Notwithstanding anything contained in this Constitution—

‘any such direction may include (i) a provision requiring the reduction of salaries and allowances of all or any class of persons serving in connection with the affairs of a State.’ ”

Today we know very well how our staff is not only heavily paid but how they are excessive in numbers. But that apart, this is a very happy provision, and we should all welcome that the President is vested with this power, because we know that in the Constitution, we have provided for the salary of the Judges and that it may not be reduced in times of emergency. We have been clamouring over the high salaries of the Judges, and when the Drafting Committee comes with a provision that in the event of a financial instability. The President will have the right even to cut down the salary, we say that it is not proper. I am very sorry to hear this. I must, on the other hand, give credit to the Drafting Committee. I am a man to give credit where credit is due, though I give a bit

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of my mind where that is necessary. About the judges also, in (b) we have said that the President can reduce the salaries of the judges of the Supreme Court and the High Courts. I welcome this article. It did not strike me at all that such a provision is necessary, but after reading it, and after seeing what is surrounding us, and what is going to happen, I feel that it is very necessary. Let us foresee things. We must also foresee what may happen in future. We cannot always be content with confining our ideas to the present. A Statesman is he who foresees things. A politician is he who foresees what is going to happen.

We know we have achieved our political freedom, but unless our economies are fully stabilised, then the political freedom which we have won will always be in such a position that we will not be able to render the service to humanity as we would like to. 'Today we know we passed so many laws and I know there was a little fear in the minds of several Members in connection with the article relating to the Sales Tax. And I do feel that they were justified in feeling that they would have to cut down their finances and so would not be able to introduce so many of their development schemes. But still I supported the article, because it is in the greater interests of the country. And at any time when there is a question of cutting down the powers of the Legislature or of the President comes up, we should look at the merits of it, and looking at the merits of the present question. I feel the article is perfectly justified and I am confident that the President, whosoever he may be, he will exercise his power rightly, and interpret this article in the right sense and in the right manner and for the benefit of the country and the benefit of the people of this country. With these words, I support the amendment that has been moved by Dr. Ambedkar, article 280A.

I do not want to say anything more. But if you were to look at the article and at the provisions of sub-clause (ii) of clause (4), you will see that it relates to even money Bills. Power is given to the President to see that if he feels that the provisions of article 174 combined with those of 182 are likely to jeopardise the financial stability of the country, he will certainly use his power, and apply the brakes in applying this article 280A. But as the preamble of the article states, it comes up only when there is an emergent situation as far as the financial stability is concerned. I have no apprehension that this article will be misused by the President, and with these words, I commend it to the House.

Pandit Hirday Nath Kunzru : Mr. President, the Mover of the amendment excused himself for not justifying the amendment by saying that it was certain that every Member understood its need. That was a very easy way for him of getting rid of his responsibility. He made a show of defending the amendment by referring to the American National Recovery Act. Now, the American National Recovery Act was meant to enable the American nation to tide over the great economic depression that had overcome the United States of America along with the other countries of the world in the thirties. Is there anything in this amendment that will enable the Government of India to deal with an economic depression when it comes in the same way in which President Roosevelt tried to deal with it? The whole object of the amendment seems to be to reduce expenditure and to prevent the provincial Governments from giving up any of their existing sources of revenue. Can an amendment with this purpose be said by any stretch of language to resemble even remotely the National Recovery Act of the United States?

Sir, every Member of this House I am sure will admit that the power that is being conferred on the Central Government is a drastic power. It is necessary therefore for us to understand why article 280A is proposed to be inserted

in the Constitution at the fag-end of the debate on the Second Reading of the Constitution. This matter, if it is of cardinal importance, could have been dealt with along with the other financial provisions contained in the Constitution. But the fact that this was not done shows that there was no general need felt at the time the financial articles were considered for enabling the Central Government to- exercise complete budgetary control over the provinces. What has occurred since then to justify this amendment? Sir, clause (4) of the amendment refers to certain matters that may be included in the directions given by the President when a Proclamation has been issued declaring that the financial stability or credit of India or of any part of it is threatened. The President will have the power to direct any state to observe such 'canons of financial propriety' as may be specified in the directions given by him. Clause (4) is illustrative of the directions that the President may issue. Sub-clause (a) of this clause empowers the President to require a State to reduce the salaries and allowances of all or any class of public servants. Sir, we had to go through a serious economic crisis not many years ago. It affected not merely the Central Government, but also the provinces. Were the provinces backward then in reducing their expenditure? Did they show any reluctance to reduce the salaries of their public servants or were they only too glad to follow the example of the Central Government and reduce the salaries of all classes of public functionaries? Why has it been necessary, with this experience before us, to propose such an amendment to this House? Is there any reason why, disregarding all past experience, we should show complete distrust of the provinces and treat them as though they were children and the President a village school master?

Sir, item (ii) of sub-clause (a) lays down that the President may require that all Money Bills or other Bills to which the provisions of article 182 of the Constitution apply shall be reserved for his consideration after they are passed by the Legislature of the State.

The House knows what the definition of a Money Bill is. A Money Bill is any Bill that provides among other things for the imposition, abolition, remission, alteration or regulation of any tax. I think these words give us a clue to the significance of the amendment that has been placed before us. A Province can by itself hardly do anything that would jeopardise the financial stability or credit of India. It can at the most injure itself. But if we turn to the provincial sources of revenue that are enumerated in the Provincial List, we shall find that there is hardly any source the use of which can be a danger to the financial stability of the Centre or of a province. Even if a province by its foolishness places itself in a difficult financial position, why should it not be allowed to learn by its mistakes ?

Perhaps, Sir, it will interest the House if I enumerate the chief sources of provincial income. They are chiefly land revenue, stamp duties other than those mentioned in the Union List, estate and succession duties on agricultural land, income-tax on agricultural income, excise duties on alcoholic liquors, opium, etc., sales taxes including taxes on the consumption of electricity and taxes on luxuries including taxes on entertainments and amusements.

Shri T. T. Krishnamachari : What about vehicles tax?

Pandit Hriday Nath Kunzru : I have not mentioned it because vehicles tax, etc. are generally used for the benefit of local bodies. Now, which of these source of revenue can be misused by the provinces? If the policy that has been followed by certain provinces with the approval of the Centre is followed by other provinces, land revenue is bound to go down, and its reduction cannot be a grievance to the Central Government. The provincial governments have so far shown no reluctance to increase the rates of stamp duties, or to make as much use as they can of sales taxes or taxes on agricultural income. The only tax in

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respect of which a serious difference of opinion has arisen between the Central Government and some of the provincial governments is the excise duty on alcoholic liquors and certain narcotics. Some provinces, notwithstanding, I understand, the advice repeatedly given to them by the Government of India, have persisted in following a policy of prohibition, which will lead in course of time to a complete abolition of the revenue from excise duties. The advice given by the Central Government may be perfectly right. The present situation may well in the opinion of students of Indian finance require that the provinces should proceed slowly in respect of the introduction of measures leading to complete prohibition. The Centre and the provinces alike are faced with financial difficulties, and it does not seem to be right that at a time like this any province should try to forego any large source of revenue. It may in theory be desirable to bring about a complete cessation of the use of alcoholic liquors and narcotics, but we cannot have all the good things of the world at once. It will therefore be necessary for the provinces to exercise self-restraint and wait for better times to bring about this reform.

But if they do not listen to the Central Government, is this any reason why so drastic a power as article 280A will confer on the Government of India should be taken so that the provinces may be able to do nothing contrary to the wishes of the Central Government once the President has proclaimed that the financial stability not merely of the whole of India but of any part of it is threatened? Whenever there is serious disagreement between a province and the Central Government, the President can always be persuaded to say that the financial stability or credit of the province is in danger, and then the consequences envisaged by article 280A will follow. The Centre will acquire complete control over the budget of the province and will be able to dictate both to the provincial government and to the provincial legislature what financial policies they should adopt.

This is not a measure for bringing about a better distribution of the resources of India between the Centre and the provinces. This is not meant to enable the Central Government to deal with unemployment relief, or public works, or any of those problems whose solution would lead to economic contentment and add to the wealth of India. The object of this measure is totally different. As the Mover of the amendment has prudently abstained from giving any reasons justifying the amendment, we have to 'think- for ourselves and find out as best we may what may have induced the Central Government to agree to the insertion of such an article into the Constitution. Thinking over the recent financial history of these provinces, I can discover no reason for the anxiety of the Central Government to have the power to exercise financial control over the provinces except the one that I have given.

It is for the House to determine whether the Constitution which our Prime Minister stated in his address before the American House of Representatives and the Senate the other day, followed the principle of federalism which had been borrowed from the American Constitution, should for all practical purposes be converted into a unitary Constitution. Even if the Constitution were unitary, would it be wise for the Central Government to try to curb the financial discretion of the provinces even if their measures were likely to injure them? How is democracy to be established in the provinces, how is a sense of responsibility to be created among the legislators, how are the Ministers to learn by experience unless they are left to face the consequences of their mistakes? If the Centre wants to step in at every turn, if it wants that it should be able to exercise such complete control that nothing that was harmful to the interests of any province or of India might be allotted to be done, then we must say goodbye to democracy. The Centre will certainly be glad to exercise even greater control than is given

to it by this Constitution, if we may judge from the facts that we have before us, if we may judge from past experience. But this will not put it right and I venture to say that the mover has not made out the slightest justification for the acceptance of his amendment,

Shri K. M. Munshi (Bombay: General): Mr. President, Sir, I can easily appreciate the feelings of my honourable Friend, Pandit Kunzru, in opposing this 28A but he will also realise the grave situation to which reference has already been made by my Friend, Dr. Ambedkar. The debate in the Parliament, in the other part of the House, a fortnight ago, clearly showed that the country is on the brink of a precipice, and I do not think that the crisis which we are facing now is in any way less important than what faced France in 1937 when it passed the law of June 1937 or a similar measure passed by the United States of America in 1933. If I may read the preamble of the N.R.A. which America adopted:

“A national emergency productive of widespread employment and disorganization to industry which burdens the State and foreign commerce and affects the public welfare and under mines the standard of living of the American people is hereby said to exist.”

If my honourable Friend, Pandit Kunzru reads the speeches made by the Members of this House and the Finance Minister on the devaluation debate, I am sure he will feel convinced that a situation like the one which is before the country may require wider powers in the Centre of the nature of those that are contained in article 280A. His fears that there will be multiplication of functionaries is not real because the Centre, when it acts under this article 280A, will act through the functionaries of the State itself. It is not going to employ its own machinery in place of the provincial machinery. The other argument that the provinces can do nothing without the permission of the Centre is also not quite correct. In normal circumstances, when the finances of the country are stable, so long as the credit of the country stands, there is no chance of this article being brought into force. It is only when there is a financial emergency that it has to be brought into force and till then the provinces are completely free to do what they like. The attitude is not “school masterly” as suggested. The attitude is that the Centre will step in at the time when there is a breakdown in the financial structure of the country.

This article in the Constitution is the realization of one supreme fact that the economic structure of the country is one and indivisible. If a province breaks financially, it will affect the finances of the Centre: if the Centre suffers, all the provinces will break. Therefore the interdependence of the provinces and the Centre is so great that the whole financial integrity of the country is one and a time might arise when unitary control may be absolutely necessary.

Sir, I may mention that the different articles which this House has passed so far provide that in an emergency, and even in ordinary times, there be a certain amount of integration between the Centre and the provinces. I will only refer to article 226 under which a vote of the Upper House can rule that an item in the State List should be transferred to the Centre. We have the nominated Governors, whom we accepted in place of elected Governors. We have also the emergency sections in articles 275 and 278; when the constitutional structure of a province breaks down the Centre can interfere. When, for instance, internal disturbance threatens any part of the country, the Centre can interfere by emergency legislation. But is it suggested that if there is a financial breakdown of the whole country the Centre must sit idle and do nothing? I submit, therefore, that we have not so far departed from the fabric which we have raised.

Only one word more and I have done, my Friend, Pandit Kunzru, has said that the mover of the article, Dr. Ambedkar, has not explained the object of the measure. I think the object of the measure is patent on the face of it. It is

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not merely the desire of this Government that they should interfere in the provinces but it should be the desire of every Government in India to see that the financial stability of India is maintained at any cost and under all circumstances. This is the primary consideration before any Government, either this or any, other.

We have in the preamble, which will come before the House tomorrow, said that the sovereign people of India make this Constitution. The sovereign people are not all the people but the sovereign people of India as one unit acting through its supreme organ, the Constituent Assembly, which is creating the Constitution for the country as a whole. There is no provincial-autonomy, there is no federation by or for itself: these are not sacrosanct words. Every Government must satisfy the needs of the sovereign people of India. In a financial emergency there cannot be a greater privilege than that all financial affairs shall be controlled and directed from the Centre, as put forward in 280A. That is the object, and I submit it is an object without which the Constitution would remain incomplete and I invite the House to carry this article unanimously.

Mr. President : Have you anything to say?

The Honourable Dr. B. R. Ambedkar : If you think it is necessary, I will speak.

Mr. President : No, no. I do not say so. Then I will put the amendment to the vote.

Shri H. V. Kamath : I suggest that Dr. Ambedkar might consider the change of the wording from "threatened" to "gravely threatened".

Mr. President : You did make your suggestion. He will consider whether it is worth considering. I do not think I should allow you to make a second speech in the form of a suggestion to Dr. Ambedkar.

Shri Rohini Kumar Chaudhuri (Assam : General): I wanted to make my only speech.

Mr. President : But I have already closed the debate.

The question is:

"That in amendment No. 429 of List XVIII (Second Week), in clause (1) of the proposed new article 280A, for the words 'has arisen' the words 'is imminent' be substituted."

The amendment was negatived.

Mr. President : The question is:

"That in amendment No. 429 of List XVIII (Second Week), in clause (1) of the proposed new article 280-A, for the words 'whereby the financial stability or credit of India or of any part of the territory thereof is threatened', the words which threatens India or any part thereof with financial break down or economic disaster', be substituted.

The amendment was negatived.

Mr. President : The question is:

"That in amendment No. 429 of List XVIII (Second Week), in clause (1) of the proposed new article 280-A, after the word 'threatened' the words 'or is likely to be threatened' be inserted."

The amendment was negatived.

Mr. President : The question is:

"That in amendment No. 429 of List XVIII (Second Week), for clause (2) of the proposed new article 280-A, the following be substituted:—

(2) The proclamation issued under clause (1) of this article shall continue till such time it is revoked by the President."

The amendment was negatived.

Mr. President : The question is:

“That in amendment No. 429 of List XVIII (Second Week), in clause (3) of the proposed new article 280-A, after the word ‘operation’ the words ‘Parliament shall have Power to make laws in respect of subjects contained in the State List as if they were subjects in the Concurrent List, and’ be inserted.”

The amendment was negatived.

Mr. President : The question is:

“That in amendment No. 429 of List XVIII (Second Week), clause (4) of the proposed new article 280-A be deleted.”

The amendment was negatived.

Mr. President : The question is:

“That in amendment No. 429 of List XVIII (Second Week), for paragraph (ii) of sub-clause (a) of clause (4) of the proposed new article 280-A, the following be substituted:—

- (ii) a provision requiring all Bills to be reserved for the consideration of the President after they are passed by the Legislature of the State.’ ”

The amendment was negatived.

Mr. President : The question is:

“That in amendment No. 429 of List XVIII (Second Week), clause (5) of the proposed new article 280-A be deleted.”

The amendment was negatived.

Mr. President : I shall now put the original amendment of Dr. Ambedkar. The question is:

“That after article 280, the following new article be inserted:—

‘280A. (1) If the President is satisfied that a situation has arisen whereby the financial stability or credit of India or of any part of the territory thereof is threatened, he may by a proclamation make a declaration to that effect.

- (2) The provisions of clause (2) of article 275 of this Constitution shall apply in relation to a proclamation issued under clause (1) of this article as they apply in relation to a Proclamation of Emergency issued under clause (1) of the said article 275.
- (3) During the period any such proclamation as is mentioned in clause (1) of this article is in operation, the executive authority of the Union shall extend to the giving of directions to any State to observe such canons of financial propriety as may be specified in the directions, and to the giving of such other directions as the President may deem necessary and adequate for the purpose.
- (4) Notwithstanding anything contained in this Constitution—
 - (a) any such direction may include—
 - (i) a provision requiring the reduction of salaries and allowances of all or any class of persons serving in connection with the affairs of a State;
 - (ii) a provision requiring all Money Bills or other Bills to which the provisions of article 182 of this Constitution apply to be reserved for the consideration of the President after they are passed by the Legislature of the State;
 - (b) it shall be competent for the President during the period any proclamation issued under clause (1) of this article is in operation to issue directions for the reduction of salaries and allowances of all or any class of persons serving in connection with the affairs of the Union including the judges of the Supreme Court and the High Courts.
 - (5) Any failure to comply with any directions given under clause (3) of this article shall be deemed to be a failure to carry on the Government of the State in accordance with the provisions of this Constitution.’ ”

The motion was adopted.

Article 280A was added to the Constitution.

Article 85

Mr. President : We shall now take up the other items.