

**Article 221**

**Mr. President :** There is no amendment to this article.

The question is:

“That article 221 stand part of the Constitution.”

The motion was negatived.

Article 221 was deleted from the Constitution.

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**Article 222**

**Mr. President :** There is no amendment to this article also.

The question is:

“That article 222 stand part of the Constitution.”

The motion was negatived.

Article 222 was deleted from the Constitution.

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**Article 223**

**Mr. President :** There are several amendments to this article.

(Amendment Nos. 2754 to 2759 were not moved.)

The question is:

“That article 223 stand part of the Constitution.”

The motion was adopted.

Article 223 was added to the Constitution.

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**Article 224**

**The Honourable Dr. B. R. Ambedkar :** I wish that article 224 and 225 be held over.

**Mr. President :** Articles 224 and 225 are held over.

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**Article 226**

**The Honourable Dr. B. R. Ambedkar :** I formally move amendment No. 2775.

Then I move an amendment to this.

Sir, I move:

“That for amendment No. 2775 of the List of Amendments, the following be substituted :—

“That article 226 be renumbered as clause (1) of article 226, and

- (a) at the end of the said clause as so renumbered the words ‘while the resolution remains in force’ be added; and

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(b) after clause (1) of article 226, as so renumbered, the following clauses be added :—

‘(2) A resolution passed under clause (1) of this article shall remain in force for such period not exceeding one year as may be specified therein :

Provided that if and so often as a resolution approving the continuance in force of any such resolution is passed in the manner provided in clause (1) of this article, such resolution shall continue in force for a further period of one year from the date on which under this clause it would otherwise have ceased to be in force.

(3) A law made by Parliament which Parliament would not but for the passing of a resolution under clause (1) of this article have been competent to make shall to the extent of the incompetency cease to have effect on the expiration of a period of six months after the resolution has ceased to be in force, except as respects things done or omitted to be done before the expiration of the said period.’ ”

(Amendment No. 2776 was not moved.)

**Prof. Shibban Lal Saksena :** Mr. President, Sir, this is a very contentious article and Dr. Ambedkar has tried to carry away some portion of its sting by his amendment, but I only want to say, Sir, that the amendment has made the article almost useless for the purpose for which it is intended. It was intended by this article that if a large number of provinces desired that in some matter there should be co-ordination among them and because they have not got singly the power to frame any such law for co-ordinating the efforts of those provinces, they may ask their representatives in the Council of States to pass a resolution by two-thirds majority giving the power to the Parliament to legislate on that subject also. For instance let us suppose that there is an emergency about food in four or five provinces. Unless there is some law relating to the control and distribution of food in all these provinces, it will be of no use for a single province to pass any law to meet the emergency, for food as such may be a provincial subject, and the Centre will then have no right to frame any legislation about it. Therefore, this article only gives power to the Upper House to pass a resolution by two-thirds majority to ask the Parliament to pass some law which might tide over the emergency and help those four or five provinces.

Now, Sir, this article as originally intended was to give this power without any limit of time and that means that until the emergency lasted, it could remain. But some people have seen in this article a limitation of the powers of Provincial autonomy, and therefore they resented the old article and the amendment of Dr. Ambedkar is to meet that view-point. By reducing the period to one year, I do not see how any emergency can really be met. So every year there shall have to be a vote of the Council of States and only if the Council agrees to extend the period by another year, the legislation undertaken by the Parliament in the Preceding year will continue. On the off-chance of having that vote, I do not think any major schemes can be undertaken. I think therefore it is much better, instead of saying that every year a new resolution will have to be passed to state that at least in the first instance, the resolution of the Council of States will confer power for three years and after that, it could be extended year by year, until the emergency is over. Therefore, I think that if the purpose for which this article is put in is to be achieved, then, the period of one year should be changed to three years in the first instance and then one year afterwards. That would give Parliament power to make laws for three years in the first instance and their life may be extended year by year by two-thirds majority of the Upper House. There can be no comprehensive planning for one year. It is quite possible that in the next year there may be a new election of one-third of the members’ and they may not pass that law, and it may so happen that the whole of the money spent in the first year may become a waste. This fixing of the period of one year may work as a serious handicap.

I would therefore request Dr. Ambedkar himself to amendment by saying three years in the first instance, which period will be extended from year to year if required. In fact in, America where Parliament has got no power to legislate on subjects which are within the jurisdiction of the States, it has been felt that there is very great difficulty in meeting such an emergency and they are able to carry on their schemes which require the concurrence of the States by a sort of allurements to finance the schemes. This article was intended to overcome that difficulty. I therefore request the House that even at this late stage the period may be fixed as three years, as the article as it stands at present is meaningless.

**Shri H. V. Pataskar** (Bombay: General): Mr. President, Sir, this is a very important article and I think it deserves more attention so far as the question of the powers of the States are concerned.

With reference to the provisions which we have already passed, we have three lists. (i) the Union List which contains the subjects which are entirely within the jurisdiction of Parliament to pass laws regulating them; (ii) the Concurrent List regarding which both the States as well as the Parliament can legislate, and in that connection, legislation of Parliament will certainly prevail as against the legislation passed by the States: (iii) the States List, that is, one regarding which the States alone will have jurisdiction to pass legislation. I would also like to draw the attention of the House to the fact that with respect to what remains outside the purview of any of these lists, these matters are being handed over to the Union Parliament, that is, all the residuary powers are with the Union Parliament. Therefore, the only power that will be left with the States will be those that will be included in what will be later on determined as the States list.

It would be open to the House looking to the condition in the country to reduce the number of subjects that will be included in the States List. This may have to be done for various reasons. There is the acute problem of food which is not only confronting us, but also many other countries of the world. It may become necessary that the matter should be taken over by the Union Parliament. Similarly, there may be other subjects, like those necessary for the peace and security of the country. It may become necessary that some of the subjects which were originally included in the States List will have to be included in the Union List. Under these circumstances it is a matter for serious consideration whether we should now enact this article 226.

It may be argued that there are cases in which the State can legislate only in respect of the area which is included in its jurisdiction and a problem may arise which requires that there should be legislation applicable to more than one State and in that case certainly it becomes necessary that the Union Parliament shall pass that legislation as the State will have no power to pass such legislation. But for that, we are making provision in article 229, that if the State Assembly and the Council, if one is there, together so decide, the Union Parliament will be given power to legislate even in respect of State subjects. That also, to my mind, is necessary. But it has to be considered seriously whether power under article 226 is necessary, and what is its implication. Article 226 says: "Notwithstanding anything in the foregoing provisions of this Chapter, if the Council of States has declared by resolution supported by not less than two-thirds of the members, present and voting that it is necessary or expedient in the national interest that Parliament should make laws....." The main ground on which this power is proposed to be given is that in the national interests, the Parliament should make laws for the States. If it is really a matter of national interest I do not understand why the State itself will

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not either pass the legislation itself or be willing to consent to legislation by Parliament. Why should we presume that the State will assume such an anti-national attitude? There are other provisions in the Constitution under which on the ground of national interest, emergency, etc., Parliament can interfere. Particularly the wording in article 226, "in the national interest, Parliament should make laws" is something which implies that that the Centre requires legislation by Parliament in a matter of national importance, which the State is not prepared to pass. In respect of the meagre subjects which are left for legislation by the States, I think such cases are likely to be very rare. I do not think that article 226 is at all necessary. Of course, as I said, this deserves to be discussed before we come to a particular conclusion. I do not say that I am opposed to it; I would be prepared to accept it; for after all, one may come to a different conclusion. After considering the other side's views, I only wish to point out that to allow this article to be passed without considering all the aspects will not be happy from any point of view.

**Shri O. V. Alagesan** (Madras: General): Mr. President, Sir, I see great mischief in this article. It is contended on the other side that this is only an extended and indirect version of article 229 that is to follow. If it is so innocent as that, my feeling is that it is redundant. This article provides for interference in matters contained in the States List by the Central Government through the agency of the Council of States. The saving feature is, it is said, that in the Council of States the representatives of the various States are going to sit and they are not likely to overlook the interests of the States concerned and to reinforce this, matters like food are brought into the picture. In matters like food it will be in the interest of the States concerned if the Centre steps in and comes to their rescue. In such cases the States will certainly avail themselves of the provision made in article 229. They will have the good sense to request the Centre to step in and legislate in such matters which will be beyond their power or capacity to deal with. Now, I should like to put a pointed question to Dr. Ambedkar. For instance, now there is a situation prevailing in the State of Hyderabad and in Madras Presidency. In some of the border areas in these two States there is disturbance of public peace. Now I would like to ask whether it will be proper, under similar circumstances, for the Centre to intervene and take over the entire portfolio of law and order from the two States concerned and step in. Sir, I am sure that it will be a mockery of provincial autonomy if such a thing happens. So, my point is that this article, if it is only an extended version of article 229, is superfluous but if there is something behind it, if it is intended that the Centre should go beyond what is contained in article 229, then it is surely mischievous and need not find a place here. Dr. Ambedkar's original amendment has provided for three years. I should like to know from my friends who have contended that it is necessary that this provision of three years should be there, whether an emergency can be called an emergency if it is going to last for three years and more. Then it will cease to be an emergency and become a permanent feature. So the present amendment has tried to modify the vigour of this section which has great potentiality for mischief to interfere with provincial autonomy. I would request Dr. Ambedkar even at this late stage, if it would be possible for him, to withdraw this article and assure that there will be no interference with provincial autonomy.

**Shri T. T. Krishnamachari** : Mr. President, Sir, the amendment moved by Dr. Ambedkar to article 226 undoubtedly requires some explanation. I heard

with attention the remarks of my honourable Friend Mr. Pataskar and also of my Friend Mr. Alagesan. The House will realise that the article as amended by Dr. Ambedkar's amendment seems totally different to the article as it originally stood in the Draft, and the article as it originally stood in the Draft was intended to cover any lacuna that might exist in the distribution of powers wherein it is necessary that the Centre should co-ordinate the activities of the provinces quickly without going through the process indicated by Article 229 and also to cover cases where there is a certain amount of overlapping. The article as it stood originally had also this disadvantage *viz.*, that it sought to put the power over the particular subject which the Centre was attracting, to itself by means of a resolution passed by the Council of States and, so to say, placing it permanently, for ever, in the Concurrent List; that was its main defect. When a particular action was taken and the field of provincial autonomy was encroached upon; very necessarily perhaps there must be a time limit for the continuance in force of such action. It is no use putting that subject permanently in the Concurrent List. I have no doubt that it is this aspect of the matter that made Dr. Ambedkar give notice of a previous amendment *viz.*, limiting the scope of action that might be taken by Parliament by the authorisation provided in the manner indicated in 226 to a period of three years. There would according to that scheme be no objection to renewing it for a further period of three years and also to renew it thereafter provided a certain amount of time is allowed to lapse between lapsing of that particular resolution and a fresh resolution to be moved on the same lines. I do see the force of the arguments of my honourable Friend Mr. Pataskar and the previous speaker in the objections raised by them to the scheme of this article. I am one of those who believes and believes very firmly that wherever we assign to the provinces a certain field in which they could act, we must leave the provinces entirely in sole charge of that field, not because of any rigid adherence to theoretical reasons that the federalism adopted by us should be pure and we should not have a mixed kind of federalism such as exists in Canada, but merely because I feel that the responsibilities of Provincial Ministers must be laid squarely on them and there should be no opportunity provided for them to take shelter under the plea of divided responsibility between the Centre and the Provinces. Sir, on this particular point I hold strong views and I do feel that when we consider this whole chapter of distribution of powers we must have that particular fact in view all the time. It does not matter if the powers that are given to provinces do not cover a very wide range. It may be necessary for the Centre to have a larger amount of powers. That does not really interfere with the provinces working smoothly so long as within the scheme of powers allotted to provinces there is no interference from the Centre. Looked at from that point of view, 226 as it originally stood was undoubtedly objectionable that notwithstanding the fact that the Centre is empowered by the Council of States in which the component States are adequately represented and that act of empowering the Parliament is by a two-thirds majority which implied that the States agree to the Centre attracting to itself that provincial power. I do feel that it might conceivably be the thin end of the wedge of the encouragement of the Centre attracting to itself greater powers from the provinces, so that in this process of integration of powers at the Centre for the purpose of uniformity of action in avowedly important matters the general idea that the Centre must have larger powers would come to be accepted. Looked at from the other point of view *viz.*, from the economic objectives to which we are wedded, economic intervention of the Centre becomes more than a formal necessity—all these facts will undoubtedly work for larger aggregation of powers in the Centre at the expense of the States and it is also true that in the other Federations or quasi-Federations as they exist today like U. S. A., Australia and Canada, we find the process of the Centre attracting to itself powers to a greater degree as time goes on is going on rapidly whether constitutionally or by reason of Judicial pronouncements or by the exigencies of time, so much so that we have found a check to this movement of attracting powers to Centre by the adverse vote on the referendum passed by the people of Australia in respect of

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a demand made by the Federal Ministry for greater powers to Centre for the purpose of executing their post-war plans. There is a lesson to be learnt for us from what has happened in Australia even while the referendum has been backed not by one party but by both parties. Both parties wanted greater power to the Centre but the referendum has unfortunately been negatived. Therefore it seems to me that in this scheme of distribution of powers which will be supplemented by the financial powers following in a later Chapter, then ultimately by the scheme in the three parts of Schedule VII, we should be very careful to leave to the provinces or as it is now called to the States, certain amount of power intact. I would at the appropriate time suggest that where it is necessary for the Centre to have powers to co-ordinate action by the various units for vital reasons, it is better to put that subject in the Concurrent List rather than leave it in the States List and at the same time make in roads into this field by various other devices. Not merely by the device envisaged in this article but there are other devices as well and there will be time enough for me to deal with those devices at the appropriate time and suggest safeguards against these being used. Therefore while I do hold that article 226 as it originally stood was objectionable and—if I may borrow a word from the previous speaker—even mischievous, and one that sought to detract from the States the full quantum of responsibility that ought to be with them, I feel that the amendment takes away the substance of this objection against article 226. Again, I can see the argument of my Friend Mr. Pataskar who perhaps might appreciate the necessity for a provision like article 226 but fails to see the necessity for a provision similar to the one that the amendment envisages, particularly in view of there being a subsequent article 229. I am afraid, Sir, that Mr. Pataskar has not appreciated the scope of article 229 which, as will be realised, is a reproduction of a similar section, *i.e.*, section 103, of the Government of India Act. And it is worthwhile, even at this stage, as a comparison has been made between 226 and 229, to find out on how many occasions the provisions of a similar section of the Government of India Act have been used. I do recollect that some time in 1939 Resolutions were moved in the various provinces empowering the Centre to undertake legislation in respect of drug control. I also remember, two years back before the Centre embarked on this Damodar Valley Corporation enactment, two Governments—Bihar and Bengal—had to pass legislation under the powers vested in them under section 103. So article 229 provides for co-ordinate action in matters in which the provinces are primarily interested, and more often than not, it will happen that only two provinces are interested and an enabling provision is provided so that there may be co-ordinating legislation by the Centre. And it has to be remembered that this process also takes a lot of time. To get a province to move, you want the co-operation of the executive, you want the co-operation of the members of the legislature; and it takes a lot of time. And if it did happen that the Centre wanted some powers in respect of an urgent matter where the provisions of the emergency sections need not and could not be involved, naturally there should be some method by which the Centre could act. It may be that some lawyer here might say that since residuary powers are left to the Centre the precedent created by the judgment of the Canadian case—Attorney-General of Ontario *versus* Canada Temperance Association—might probably be utilised because of the fact that the residuary powers are left to the Centre in this Constitution like the Canadian constitution. But again there is this difficulty, as Prof. K. C. Wheare, an authority on federalism, has pointed out, the very idea of precisely delineating powers that has been undertaken in Schedule 7 of the Government of India Act which we have followed closely and further improved upon in Schedule 7 of the Draft Constitution would not permit room for taking advantage of an interpretation of the residuary powers as meaning that the Centre can interfere in a matter which is avowedly within the province of the State and where the Centre has really no business, except in the public interest, to interfere. So I do believe that there is

some utility in article 226 as amended by the amendment moved by Dr. Ambedkar which takes away all the sting that might have been attached to the original article or as the article would have been as altered by Dr. Ambedkar's original amendment. The position as it would be if the article is accepted in its present form is that the matter will have to be brought before the Council of States every year; by way of a resolution so as to keep the Parliamentary enactment made under the authority of the resolution alive. And we have not put a time limit. There is no question of the whole thing lapsing at the end of three years or six years. If the emergency continues one can take it that the Council of States will be responsive enough to realise the need for keeping alive legislation enacted under cover of this Resolution and go on extending the life of such enactment by a fresh Resolution year after year. We have had experience on the other side of the House of certain enactments which have economic implications being extended year after year by a resolution of the House; and I do not suppose that except for asking questions there has been any serious opposition to giving Government these powers, provided Government convinces the House of the necessity of retaining those powers. At the same time it preserves a certain amount of freedom of action on the part of the States. If after the first year perhaps a snatch vote or something like that enables the Centre to undertake legislation which infringes ostensibly and avowedly into the field of provincial autonomy, there is enough scope for the provinces or States to tell their representatives in the Council of the States that when it came up for renewal next year they should not renew it. And if at all there is any mischief, it would be only for one year. But it is very unlikely, when the powers are so restricted and are conceded for a year and are to be renewed year by year by a Resolution of the Council of States, that Parliament or the central executive will embark on any action under article 226 without fully satisfying themselves of the need for emergent action, and also at the same time providing against treading on the corns of the Members of the State Legislatures and the executive Government of the States. I feel, Sir, that the balance of advantage seems to be in retaining a provision of this nature as amended by Dr. Ambedkar's amendment No. 194. The mischief, if at all there is any, is restricted to a very limited period; and the very fact that it is limited to a very short period itself offers no temptation for the Centre using it as a means of augmenting its own power; and if it is used at all, it will be used for a valid and definitely useful purpose to which by and large the component States are not likely to object. I felt, Sir, that even though I was taking the time of the House in a matter which did not seem to provoke very much of a controversy at this moment, it is very necessary, in order to dispel mistaken ideas that might exist in the States, that this Draft Constitution has been so framed that it tends to help in attracting all the powers to the Centre, that the field of provincial autonomy left was very restricted. It is to counter this idea that this particular article has been carefully considered, the *pros and cons* have been fully canvassed and this amendment has been introduced as being such as provides for minimum interference with provincial autonomy and only in cases where the emergency is very great and the safeguards against any mischief are contained in the provisions of the amendment itself. I do hope that the House will accept Dr. Ambedkar's amendment and the people of this country at large, will be convinced of the *bonafides* of us in this House whose intentions are to preserve provincial autonomy as far as possible, and to

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the extent that we have conferred provincial autonomy on the States, to keep those powers intact without undue interference. Sir, I support the amendment.

**Shri Brajeshwar Prasad** (Bihar: General): Sir, I rise to support the article as it stands for two or three reasons. I do not regard this article as designed to cover any period of emergency; there are other emergency provisions in the Constitution for that purpose. It is clear that when a subject has assumed the proportions of national importance the Central Government should interfere. A provincial subject can become a central subject if it has assumed the proportions of national importance. When our national economy is in the incipient stage of development, we cannot make a water-tight or rigid distinction between central and provincial subjects. There are no central and provincial subjects. All subjects must remain integrated. I think that, whatever the intentions of the members of the Drafting Committee may be, this article may be utilised for the purpose of constitutional amendment.

When the people at the Centre realize that it is no longer feasible and proper to keep a subject under the Provincial List they can make it a Central subject without undergoing the cumbersome procedure of a Constitutional amendment. The procedure laid down is that the Council of States by a two-thirds majority can recommend to the Government to take the administration of that subject into its own hands. I do not think that this procedure is proper. I feel that the duty of determining which subject has assumed the proportion of national importance should be left to the leaders at the Centre and not in the hands of the members of the Council of States. They are in far better position to take a detached view of things. There is a world of difference between a provincial capital and Delhi. The People at Delhi can know whether a subject has assumed the proportions of national importance or not. People living in the Provinces are engrossed with provincial problems; their outlook is narrow and circumscribed. Therefore, to leave it to the representatives of the Provincial Legislatures sitting in the Council of States to move such a resolution is really nullifying the good that can accrue to the Centre if the power to move such a resolution is vested in the House of the people.

I feel that the period which has been prescribed in the amendment, namely that such a step can be taken only for one year is not proper. How can a subject which has assumed the proportions of national importance become a provincial subject again after a period of one year? Today it is a subject of national importance, but tomorrow it becomes a subject of provincial importance I think people have no vision of what they are going to do. In a developing economy I am quite sure that most of the subjects that have been placed in the Provincial List will become Central subjects. It is no use frustrating and creating obstacles in the way of the Central Government. Let us not emphasize centrifugal tendencies.

**Shri B. M. Gupte** (Bombay: General): Sir, I am inclined to oppose both the original Draft and the amendment moved by Dr. Ambedkar. I certainly concede that the amendment moved by Dr. Ambedkar takes away some of the rigour of the original proposition. But in my opinion it yet remains objectionable.

My first objection is that it is not proper to allow only one House, namely the Upper House to amend the Constitution which has got a sanctity of its own. There is the article 304 which lays down particular provisions with some definite kind of majority, for amendment of the Constitution. Of course it is desirable to have some elasticity. Therefore, I would not have minded if the continuance of the resolution had been secured by a vote of the State



Legislatures concerned. As it is, borrowing the phraseology used in another context, I might say that if the resolution really reflects the opinion of the State legislatures it is useless. But if it does not reflect the opinion of the State legislatures it is mischievous. If it reflected the opinion of the State Legislature there was no difficulty at all in getting the item passed in the various State Legislatures. If, on the other hand, it did not reflect their opinion then of course we were going counter to the wishes of those who were responsible according to the Constitution for these subjects. I do admit that there might be a time when such a power to the Centre is required. Then, provided for a definite emergency like that. But in the absence of any emergency, to amend the Constitution by such a resolution is not proper. The Council of States' resolution stands for one year. Why not make it renewable on this definite condition that before the expiry of that period a majority of the State Legislature should pass resolutions asking for the continuance of that resolution say for two years or three years? Thereafter, if the amendment is to continue, then it should be done by the usual manner laid down by article 304. In view of these fundamental objections of allowing only the Upper House without Parliament having any say and without the Legislature of the State having any say in the matter, I suggest it is worthwhile considering whether the article should be maintained in this form.

**Shri Mahavir Tyagi :** (United Provinces: General): Sir, I think the original article was much better worded and was more useful than the amendment proposed. although the amendment does not substantially change the meaning or the motive, the original article was quite sufficient for the purposes for which we are providing. There is a tendency in the country as well as in this House and people still feel that the Provinces will enjoy autonomy, that the States will be autonomous States or something like that. They have enjoyed this feeling for sometime past. Although the whole country has now become independent and autonomous they do not yet feel the pleasure of enjoying this all-India autonomy and of merging their own entity into this all-India autonomy. So there is a sort of orthodox feeling of clinging to some powers as if the Provinces can do better.

The States are analogous to various parts of the human body. Each part cannot go absolutely separate and become autonomous; it is a connected whole. The manner in which we have been making our Constitution so far also proves that we agree to the idea of constituting our States as one whole and constituting these various Provinces and States as limbs of that one body. The very fact that Parliament will enact laws whenever and with regard to whichever province it is necessary to get laws enacted from the Centre shows that this exception to the routine shall be taken only when there is some necessity and that too when the Council of States themselves by two-thirds majority decide in its favour. Suppose there is some financial crisis of a very dangerous or severe type in one province. Suppose the resolution requested Parliament to enact a law in this respect for six months. According to the amendment of Dr. Ambedkar, after six months the law will lose its force. So after six months the Council of States has again to sit and extend the period so as to enable Parliament to extend the law. This is a cumbersome process.

What is the harm, why should we suspect the motive even if the period, six months or one year, is not mentioned at all? A body which can enact a law can also de-act it. Especially when particular care is taken to see that there is no encroachment on the rights of the subjects, there is no reason to think that there will be occasion for interference. If a neighbouring State feels that the situation in the adjoining State is adversely affecting its administration it should move the Centre to intervene, by such legislation as will improve the peace and prosperity of the whole of India. I submit that the original clause seems to be much better than the amendment moved by Dr. Ambedkar. The

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amendment of Dr. Ambedkar does not improve the meaning of the article or the intent of the Constituent Assembly. If the period is to be first six and then another six months it will needlessly lead to extra expenditure and delay matters.

Sir, there is a feeling in some big provinces which are financially well off that they must have full autonomy and that there should be no interference by the Centre. There are certain provinces in which a certain class of people are in a majority: they desire to be independent of the Centre. This is but the same old conception of the Muslim League days. A certain community which was in the majority in a certain province wanted to have full autonomy so that nobody could interfere with it, even though that interference might be in the interests of India as a whole. That was the old tendency. I do not want to criticise them. But it is a fact that some provinces, that have enough revenues at their disposal, recent interference by the Centre even though it is necessary in the interests of the whole of India. In Russia too the Centre has such powers of interference even though the villages there have autonomous powers even in matters judicial. But then all that power is dependent on the Central Government approving the exercise of those powers. The direction of the supreme policy is vested in the Centre. Our Union can be strong only when the Centre is fully empowered to make laws uniformly applicable to the whole of India. With these words I support the original article.

**Shri V. S. Sarwate** (Madhya Bharat): Mr. President, I think that the article as it stands encroached upon the powers of the Provinces. However, it would have been in the fitness of things if, in cases of emergency, the Centre has the power to legislate for the whole of India. But the wording, as it is used, seems to be much wider than is required for emergencies. It says: 'When it is necessary or expedient in the national interests.' The national interest give much wider scope than emergencies. As this is so, the arguments in favour of the Centre legislating for emergencies do not apply. It seems to me the power given here is wider than is necessary.

**The Honourable Shri K. Santhanam:** The 'emergency' is dealt with in the next article.

**Shri V. S. Sarwate :** If that is the case then this is unnecessary here. I would further submit that the idea behind empowering the Council of States to pass a resolution seems to be this. Supposing a case arises when it is necessary that the Centre should legislate. If this provision be not there, the alternative would be for all the Provinces and States to pass a resolution that the Centre should legislate in that particular emergency. To avoid that cumbrous process the Council of States which is mostly composed of representatives of the States has been empowered to pass a resolution. On the first occasion it may be proper for the Centre to take appropriate action, based on that resolution.

But on the second occasion, i.e. when an occasion arises for repeating the resolution, it could have been better left to the provinces to pass a resolution it should be left to the provinces to decide whether an emergency exists or not. If the provinces are satisfied that an emergency exists, they will pass a resolution that the Centre should legislate for the whole of India. So, in my judgment, it seems that to empower the Council of States to pass such a resolution again and again is unjustified. In the first instance, it may be justified. It may in such cases be proper. But if the same state of things continues, it should be left to the provinces to judge of the circumstances and to pass the necessary resolution. What I mean to say is this: The Council of States should have power to pass a resolution only once. It should not have the power to pass a resolution again. In that case it should be left to the provinces to pass a resolution. With this observation, I support the amendment.

**Shri S. V. Krishnamoorthy Rao** (Mysore State): Mr. President, Sir, I support article 226. Article 223 gives residuary powers to the Parliament. Article 227 gives powers to the Parliament in cases of national emergencies, when an Emergency Proclamation is in force, and article 229 gives powers to the provinces to pass a resolution in their legislature asking the Centre to take action. Article 226, when a question assumes national importance or becomes a matter of national interest gives a speedier procedure than what is contained in article 229. Much of the mischief that was originally contained in the original article has been taken away by the recent amendment moved by Dr. Ambedkar and Mr. T. T. Krishnamachari. If a resolution is passed year after year by Parliament, where is the harm? After all, who are the members of the Council of States? They are representatives elected by the Lower House of the provinces. If really such a resolution were to be against the interests of the States, the States legislatures can represent to the Centre that such a resolution is against the interest of the States. In fact, there is no question of encroachment of the provincial powers at all here. It is only in cases of real national emergency, when a question has assumed national importance, a speedier remedy is provided under 226. If a resolution passed by the Council of States is against the interests of any State, that State can be expected to pull up their members and to make sure that such a resolution is not passed at the next session after one year. A resolution passed under 226 normally continues only for one year and only when a national emergency continues to persist year after year, a further resolution for one year can be passed. Giving such power to the Council of States is very necessary under the circumstances and I heartily support this article, Sir.

**Shri M. Ananthasayanam Ayyangar** : The question may now be put.

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

“That the question be now put.”

The motion was adopted.

**Mr. President** : Before I put the amendment to the vote, do you wish to say anything, Dr. Ambedkar?

**The Honourable Dr. B. R. Ambedkar** : Much has already been said. Unless you desire me to speak, I would rather not say anything.

**Mr. President** : That is your choice.

The question is:

“That for amendment No. 2775 of the List of Amendments, the following be substituted :—

“That article 226 be re-numbered as clause (1) of article 226, and,

- (a) at the end of the said clause as so re-numbered the words ‘while the resolution remains in force’ be added; and
- (b) after clause (1) of article 226, as so re-numbered the following clauses be added :—
- ‘(2) A resolution passed under clause (1) of this article shall remain in force for such period not exceeding one year as may be specified therein :

Provided that if and so often as a resolution approving the continuance in force of any such resolution is passed in the manner provided in clause (1) of this article, such resolution shall continue in force for a further period of one year from the date on which under this clause it would otherwise have ceased to be in force.

- (3) A law made by Parliament which would not but for the passing of a resolution under clause (1) of this article have been competent to make shall to the extent of the incompetency cease to have effect on the expiration of a period of six months after the resolution has ceased to be in force, except as respects things done or omitted to be done before the expiration of the said period.”

The amendment was adopted.

**Mr. President :** There is no amendment to this article.

“That article 226, as amended, stand part of the Constitution.”

The motion was adopted.

Article 226, as amended, was added to the Constitution.

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#### Article 227

**Mr. President :** There is no amendment to this article.

The question is:

“That article 227 stand part of the Constitution.”

The motion was adopted.

Article 227 was added to the Constitution.

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#### Article 228

**Mr. President :** There is one amendment of which notice has been given by several Members, No. 2779.

**Shri T. T. Krishnamachari :** It is not necessary to move it, Sir.

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

“That article 228 stand part of the Constitution.”

The motion was adopted.

Article 228 was added to the Constitution.

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#### Article 229

(Amendments Nos. 2781 and 2782 were not moved.)

**Mr. Tajamul Husain** (Bihar: Muslim): Mr. President, Sir, I move:

“That in clause (2) of article 229, for the words ‘but shall not’ the words ‘and may also’ be substituted.”

Article 229, clause (1), lays down that if it appears to any provincial legislature that any matter over which Parliament has power to make laws for that province should be regulated in that province by Parliament by law and a resolution to that effect is passed by the provincial legislature, it shall be lawful for Parliament to pass an Act for regulating that matter accordingly and that Act shall apply to the province concerned. Clause (2) of article 229 lays down that an Act passed by Parliament as mentioned in clause (1) can be amended or repealed by an Act of Parliament but shall not be amended or repealed by an Act of the provincial legislature. My amendment seeks that any Act so passed by Parliament may be amended or repealed by Parliament and may also be amended or repealed by the provincial legislature concerned. Section 103 of the Government of India Act of 1935 lays down that the Provincial legislature concerned can amend or repeal the Act made by Parliament concerning that province. My amendment is entirely based on section 103 of the Government of India Act. Previously what used to happen was that the provinces used to send a resolution to the Central Legislature and the Government of India accordingly made an Act concerning that province and that Act or law could be amended or repealed under section 103 of the Government of India Act by the province concerned. But now according to this article 229 (2), it cannot amend. I submit, Sir, it is a great hardship. I would submit in the alternative if this House is not prepared to agree with my amendment—although I believe my amendment is very reasonable—I would request this House to amend this article in such a way that in those provisions which were passed by the Central Legislature at the request of