

CONSTITUENT ASSEMBLY OF INDIA

Thursday, the 13th October, 1949

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

DRAFT CONSTITUTION—(Contd.)

Part VI-A—(Contd.)

Mr. President : I think it would be better to take the other articles which are sought to be amended in connection with the States and take all the amendments, and then have the general discussion. I do not think it is necessary for Dr. Ambedkar to read the whole thing.

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

“That article 224 be omitted.”

“That article 225 be omitted.”

“That after article 235, the following now article be inserted, namely:—

‘235 A. (1) Notwithstanding anything contained in this Constitution, a State for the time being specified in Part III of the First Schedule having any armed force immediately before the commencement of this Constitution may, until Parliament by law otherwise provides, continue to maintain the said force after such commencement subject to such general or special orders as the President may from time to time issue in this behalf.

Armed forces in
States in Part III of
the First Schedule.

(2) Any such armed force as is referred to in clause (1) of this article shall form part of the forces of the Union.’ ”

“That for article 236, the following article be substituted, namely:—

236. The Government of India may by agreement with the Government of any territory not being part of the territory of India undertake any executive, legislative or judicial functions vested in the Government of such territory, but every such ‘agreement shall be subject to and governed by, any law relating to the exercise of foreign jurisdiction for the time being in force,’ ”

Power of the Union to
undertake executive,
legislative or judicial
functions in relation to any
territory not being part of the
territory of India.

“That article 237 be omitted.”

“That after article 274 D, the following new articles be inserted, namely:—

‘274 DD. Notwithstanding anything contained in the foregoing provisions of this Part the President may enter into an agreement with a State for the time being specified in Part III of the First Schedule with respect to the levy and collection of any tax or duty leviable by the State on Goods imported into the State from other States or on goods exported from the State to other States, and any agreement entered into under this article shall continue in force for such period not exceeding ten years from the commencement of this Constitution as may be specified in the agreement :

Power of certain State in Part
III of the First Schedule to
impose restrictions on trade
and commerce by the levy of
certain taxes and duties on
goods imported into or
exported from such State.

under clause (1) of this article and for such period as may, subject to any agreement entered into in that behalf under clause (1) of article 258 of this Constitution, be determined by order of the President.”

“That after article 270, the following new article be inserted :-

‘270A. (1) As from the commencement of this Constitution—

(a) All assets relating to any of the matters enumerated in the Union List vested immediately before such commencement, in any Indian State corresponding to any State for the time being specified in Part III of the First Schedule shall be vested in the Government of India, and

(b) all liabilities relating to any of the said matters of the Government of any Indian State corresponding to any State for the time being specified in Part III of the First Schedule shall be the liabilities of the Government of India.

subject to any agreement entered into in that behalf by the Government of India with the Government of that State.

(2) As from the commencement of this Constitution the Government of each State for the time being specified in Part III of the first Schedule shall be the successor of the Government of the corresponding Indian State as regards all property, assets, liabilities in obligations other than the assets and liabilities referred to in (1) of this article.”

Shri Brajeshwar Prasad (Bihar: General) : Sir, I would like to suggest that these two amendments No. 218 and 219 relating to articles 224 and 225 should be disposed of first, or the amendments standing in the name of honourable Members to these articles will also have to be moved.

Mr. President : They have to be deleted. It dispose of them.

The question is:

“That article 224 be omitted.”

The motion was adopted.

Article 224 was deleted from the Constitution.

Mr. President : The question is;

“That article 225 be omitted.”

The motion was adopted.

Article 225 was deleted from the Constitution.

Mr. President : Then we shall take up amendments to 220.

Shri Brajeshwar Prasad : Sir, I move :

“That in amendment No. 220 of List VII (Second Week), in clause (1), of the proposed new article 235A, for the words ‘ until Parliament by law otherwise provides’ the words until the President by order otherwise provides’ be substituted.”

I am opposed to these words, because I hold that these words are inappropriate. There must be a clear distinction between executive orders and legislative authority. This is a subject which is purely of an executive character. The question as to when the armed forces of the State should be fully integrated with the Indian Army is not a legislative matter. It is a matter which can be decided by the executive authority. There should be no confusion between the executive and the legislative functions. Here no vital principle is involved. We have already accepted that the Indian Army is also a part of the Indian

Mr. President : Then it is out of order. As a matter of fact I have noted my paper that it is out of order. It is out of order because we are not discussing the question of the Provinces here, but we are discussing the question of the States. So far as the provinces are concerned, we have dealt with the question already and finished with it.

Shri Brajeshwar Prasad : Sir, I bow down to your ruling.

Shri R. K. Sidhwa (C. P. & Berar : General) : Mr. President, Sir, I beg to move :

“That in amendment No. 220 of List VII (Second Week), in clause (1) of the proposed new article 235 A, for the words ‘may until Parliament by law otherwise-provides, continue to maintain the said force after such commencement subject to such general or special orders as the President may from time to time issue in this behalf’ the word, ‘shall merge into the armed forces of the Union and shall form part of the forces of the Union’ be substituted.”

Sir, with your permission I shall move amendment No. 252 also which reads thus (I am deleting the first part of the amendment relating to ten years and am moving only the second part) :

“That in amendment No. 225 of List VII (Second Week), in the proposed new article 306 B, the following be inserted at the end of the article but before the proviso :—

‘During the period of ten years as stated therein all States shall introduce immediately laws for full-fledged elected local bodies within one year from the commencement of this Constitution.’ ”

As far as the first amendment is concerned, I find that the armed forces which at present exist in the States are to be under the control of the Commander-in-Chief of India: that is to say, they will be under the control of the Forces of India. But I do not understand why a special distinction should be made in the case of armed forces being retained in the States. We have in the provinces no armed forces. All the provinces today have got their police forces and there are also armed police forces, but there are no military armed forces in any province. There were none in the previous regime and there are none even now. Of course under the old regime the Indian States maintained armed forces for reasons which we know. But now when they have merged with provinces or have formed into separate units why should they have separate armed forces within the States? I wish, therefore, that all the armed forces should be removed from the States and be merged with the armed forces of India. Then they will be under the control of the Indian Union. I see no reason why the States should be given the special privilege of keeping separate armed forces. It might create many conflicts.. The armed forces in India will be under the supervision of the Commander-in-Chief. If these separate armed forces are allowed to be kept in the States without any specific reasons, for what purpose will they be maintained ? After all the police force is there. If any necessity arises, the armed forces will be available from the Indian Union. I therefore hope that the amendment moved by me would be considered by the Drafting Committee, that the armed forces of the States should be merged with those of the Indian Union and they should be under the control of the Commander-in-Chief of India.

As regards the second amendment I entirely agree with what was stated yesterday in the statement of the Honourable Sardar Vallabhbhai Patel, which was read out by Mr. Munshi. The conditions in Indian States in regard to political matters are not parallel to what exist in the provinces. We all know that very well. I do not come from the States, but I have extensively toured in the Indian States and Congress workers have taken me many times to Indian States for propaganda work. From what little I know of several Indian States, their condition is most miserable. There is no local body existing there. When I went to Cutch I did not find a printing press there and when

[Shri R. K. Sidhwa]

exist. With these words, Sir, I commend both the amendments Nos. 246 and 252 for the acceptance of the House.

Prof. Shibban Lal Saksena (United Provinces : General) : Sir, I beg to move :

“That in amendment No. 220 of List VII (Second Week), in clause (2) of the proposed new article 235A, the words ‘and the Union shall bear the expenses thereof’ be added at the end.”

This amendment No. 220 says :

“Notwithstanding anything contained in this Constitution, a State for the time being specified in Part III of the First Schedule having any armed force immediately before the commencement of this Constitution may, until Parliament by law otherwise provides, continue to maintain the said force after such commencement subject to such general or special orders as the President may from time to time issue in this behalf.

(2) Any such armed force as is referred to in clause (1) of this article shall form part of the forces of the Union.”

The question arises, who shall bear the costs ? In the first part it is said that until Parliament otherwise decides, the armed force shall be maintained by the State itself. In part 2 it is said that armed force shall form part of the forces of the Union. There is some discrepancy between the two. I personally feel, Sir, that what is intended is that very soon we shall have all the forces under the control of the Union and until Parliament passes a law to that effect, they continue to remain as they are. I think as they become part of the forces of the Union, the expenses should be borne by the Union and they should be under the control and discipline of the Union as is intended by clause (2). In fact, many of the States may not be able to provide for the maintenance of these forces. I, therefore, think that even though it may take some time for the Parliament to pass a law taking over all these forces, still *de facto* the forces must come to the Union and the expenses thereof must also be borne by the Union.

I have also given notice of amendments 303, 304 and 305. Amendment No. 303 refers to article 274 DD and says :

“That in amendment No. 223 of List VII (Second Week), in the proposed new article 274 DD, after the words ‘the President’ where they occur for the first time, the words subject to the approval of the Parliament be inserted.”

Article 274 DD says : “Notwithstanding anything contained in the foregoing provisions of this part the President may enter into an agreement with a State..... etc.” What I want is that this power which is being given to the President to enter into financial agreements with the States, especially when agreements must be subject to the approval of Parliament. Therefore, I want to introduce these words.

Then Sir, article 274 DDD says : “Nothing in articles 274A and 274 C of this Constitution shall affect the provisions of any existing law except in so far as the President may by order otherwise provide.” To this, my amendment is :

“That in amendment No. 223 of List VII (Second Week), in the proposed new article 274 DDD, for the words ‘President may by order’ the words ‘Parliament may by law’ be substituted.”

What I want is that here also for the words “the President may by order provide”, the words “Parliament may by law provide”, be substituted. My only argument is that I do not want that this power should be given to the President Which means the Cabinet, but it should be given to Parliament especially in matters of such importance.

Mr. President : The question is:

“That in amendment No. 217 of List VII (Second Week), in item (13) of the proposed article 211 A. the words ‘after consultation with the Rajpramukh’ be deleted from article 197”.

The amendment was negatived.

Shri R. K. Sidhwa : I beg to withdraw my amendment No. 246.

The amendment was by leave of the Assembly, withdrawn.

Mr. President : The question is:

“That in amendment No. 220 of List VII (Second Week), in clause (2) of the proposed new article 235A, the words ‘and the Union shall bear the expenses thereof’ be added at the end.”

The amendment was negatived.

Mr. President : The question is:

“That article 237 be deleted.”

The motion was adopted.

Article 237 was deleted from the Constitution.

Mr. President : The question is:

“That in amendment No. 223 of List VII (Second Week), in the proviso to the proposed new article 274 DDD, for the words ‘President may by order’ the words Parliament may by law’ be substituted.”

The amendment was negatived.

Shri T. T. Krishnamachari : Article 274 DD may be held over, Sir, to a subsequent day.

Mr. President : I shall put now article 302A to vote. The question is:

“That after article 302, the following new article be inserted, namely :

<p>‘302A. In the exercise of the power of Parliament or of the Legislature of a State to make laws or in the exercise of the executive power of the Union or of a State, due regard shall be had to the guarantee or assurance given under any such covenant or agreement as is referred to in article 267A of this Constitution with respect to the personal rights, privileges and dignities of the Ruler of an Indian State’.”</p>	<p>Rights and privileges of Rulers of Indian States.</p>
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The motion was adopted.

Article 302A was added to the Constitution.

Mr. President : I shall now put the amendments to article 306-B. Part (ii) of No. 251 is disallowed as being out of order.

The question is:

“That in amendment No. 225 of List VII (Second Week), in the proposed now article 306 B,—

the words “during a period of ten years from the commencement thereof, or during such longer or shorter period as Parliament may by law provide in respect of any State”, be deleted.

The amendment was negatived.

Shri R. K. Sidhwa : I would like to withdraw my amendment No. 252.

The amendment was by leave of the Assembly, withdrawn.

Mr. President : I shall now put the amendment of Prof. Shibban Lal Saksena to the proposed new article 270-A.

The question is:

“That in amendment No. 302 of List XIII (Second Week), in clause (1) of the proposed new article 270A, the words ‘and approved by Parliament’ be added at the end.”

The amendment was negatived.

Mr. President : I shall now put Part VI A as amended by the two amendments which have been accepted, namely Nos. 276 and 278.

The question is:

“That proposed Part VIA, as amended, stand part of the Constitution.”

The motion was adopted.

Part VIA, as amended, was added to the Constitution.

Mr. President : I will put new article 235-A to vote.

The question is:

“That after article 235, the following new article be inserted, namely:—

<p>235A. (1) Notwithstanding anything contained in this Constitution, a State for the time being specified in Part III of the First Schedule having any armed force immediately before the commencement of this Constitution may, until Parliament by law otherwise provides, continue to maintain the said force after such commencement subject to such general or special orders as the President may from time to time issue in this behalf.</p>	<p>Armed forces in State in Part III of the First Schedule.</p>
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(2) Any such armed force as is referred to in clause (1) of this article shall form part of the forces of the Union’.”

The motion was adopted.

Article 235-A was added to the Constitution.

Mr. President : The question is:

“That article 236, as amended, stand part of the Constitution.”

The motion was adopted.

Article 236, as amended was added to the Constitution.

Mr. President : The question is:

“That new article 274 DDD stand part of the Constitution.”

The motion was adopted.

Article 274 DDD was added to the Constitution.

Mr. President : I shall now put article 360-B.

The question is:

“That after article 306, the following new article be inserted:—

<p>306 B Notwithstanding anything contained in this Constitution, during it period of ten years from the commencement thereof, or during such longer or shorter period as Parliament may by law provide in respect of any State, the Government of every State for the time being specified in Part III of the First Schedule shall be under the general control of, and comply with such particular directions, if any, as may from</p>	<p>Temporary provisions with respect to States in Part III of the First Schedule.</p>
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