

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.

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.

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.

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 Clause (2) of article 229 lays down that an Act passed by Parliament as mentioned in clause (1) can be amended or repealed by an Act of Parliament but shall not be amended or repealed by an Act of the provincial legislature. My amendment seeks that any Act so passed by Parliament may be amended or repealed by Parliament and may also be amended or repealed by the provincial legislature concerned.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and the Government of India accordingly made an Act concerning that province and that Act or law could be amended or repealed under section 103 of the Government of India Act by the province concerned.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

the Provincial Legislature, the provinces should have power to amend that Act. I may be able to appreciate this point that in future this House wants that if any Act is passed concerning a province at the request of that province, that Act cannot be amended by that province and that it can only be amended by the Centre. I may appreciate, although I do not appreciate, but I would request Sir, that in regard to those Acts which were passed previously by the Central Assembly and the Council of State at the request of a particular province concerned, there should be some provision—I thought of it just now—that the provinces concerned may be allowed to amend or repeal that Act. I hope my honourable Friend, Dr. Ambedkar has listened to me and he will appreciate what I have said.

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

“That with reference to amendment Nos. 2781 and 2783 of the List of Amendments, for clause (1) of article 229, the following clause be substituted:—

- ‘(1) If it appears to the Legislatures of two or more States to be desirable that any of the matters with respect to which Parliament has no power to make laws for the States except as provided in article 226 and 227 of this Constitution should be regulated in such States by Parliament by law, and resolutions to that effect are passed by the House or, where there are two Houses, by both the Houses of the Legislature of each of the States, it shall be lawful for Parliament to pass an Act for regulating that matter accordingly and any Act so passed shall apply to such States and to any other State by which it is adopted afterwards by resolution passed in that behalf by the House or, where there are two Houses, by each of the Houses of the Legislature of that State.’ ”

I would like to explain this amendment in a few brief sentences. The original article as it stood said: “if it appears to the Legislature or Legislatures of one or more States to be desirable, etc.” The new amendment said “if it appears to the Legislatures of two or more States to be desirable etc.” Under the new amendment it would be open to invoke the aid of Parliament to make a law only if two or more States join, and send a resolution. The other changes in sub-clause (1) of article 229 are merely consequential to this principal amendment, namely, that the power can be invoked only if two or more States desire, but not by a single State.

Prof. Shibban Lal Saksena : I am very glad that this clause is put in the Constitution. I would give an example of sugar legislation in the two provinces of United Provinces and Bihar. These two provinces have got about 80 per cent. of the factories in the whole country and it was felt in 1937 when the industry was on the verge of collapse that unless the two provinces acted in co-ordination the industry might be ruined in both the places. What did they do? There was no such power in the Constitution by which the Centre could make laws for only two provinces and so what they did was that each province passed the same law and by mutual agreement and conventions they began to act together and they formed a joint Sugar Control Board and all that. But I think under this clause in the Constitution it is possible for several states to come together and act jointly. Similarly take another example, the Damodar Valley Authority. Parliament has made a law which is really applicable to the whole country but actually in this case the Provinces of Bihar and Bengal are concerned. There may be cases where three or four provinces are involved and if they pass resolutions, then the Parliament can pass that law. I think this article in the Constitution makes a very healthy provision by which several States can co-operate and carry out schemes which are for the benefit of all the provinces jointly and the Parliament is empowered to legislate according to the recommendations of the legislatures of those States. Sir, I support this wholeheartedly.

The Honourable Shri K. Santhanam : Sir, I merely wish to draw the attention of the House to clause (2) of this article. It makes an important variation from the original article in the Government of India Act. Section 103 in the Government of India Act, as adapted, in the later part, reads: "that the State Legislature or the Provincial Legislature shall be able to repeal or amend the Act passed according to clause (1)." Now the provision of clause (2) is: "any Act so passed by Parliament may be amended or repealed by an Act of Parliament passed or adapted in like manner, but shall not as respects any State to which it applies be amended or repealed by an Act of the Legislature of the State." This variation has been adopted deliberately, because when the rights and responsibilities have been incurred by two or more States in pursuance of any law made by one, it should obviously not be possible on the part of a single State to withdraw from such obligations and responsibilities. At the same time, I am afraid that the existence of clause (2) may prevent or discourage all States from making use of this section. I wish it had been possible to put it that if all the States concerned wanted the law to be amended or repealed, Parliament should do so accordingly. As things stand, the whole clause may become inoperative because no State would like to get into a noose from which it cannot get out at all. As things stand, they can hand over the power to Parliament; but once the Act is passed, then the State becomes practically powerless even though the matter is one with respect to which it has power. This is rather unsatisfactory. I think some opportunity must be taken to reconsider the implications of clause (2) as it stands.

The Honourable Dr. B. R. Ambedkar : Sir, I quite appreciate the point raised by my honourable Friend, Mr. Santhanam; but I think he has not carefully read sub-clause (2). The important words are: 'in like manner', so that if the State legislatures in whose interests this legislation is passed in like manner, that is to say by resolution, agree that such legislation be amended or repealed, Parliament would be bound to do so.

The Honourable Shri K. Santhanam : "May be amended".

The Honourable Dr. B. R. Ambedkar : 'May' means shall. There is no difficulty at all.

Mr. President : The question is:

"That with reference to amendment Nos. 2781 and 2783 of the List of Amendments, for clause (1) of article 229, the following clause be substituted :—

- '(1) If it appears to the Legislatures of two or more States to be desirable that any of the matters with respect to which Parliament has no power to make laws for the States except as provided in articles 226 and 227 of this Constitution should be regulated in such States by Parliament by law, and resolutions to that effect are passed by the House or, where there are two Houses, by both the Houses of the Legislatures of each of the States, it shall be lawful for Parliament to pass an Act for regulating that matter accordingly and any Act so passed shall apply to such States and to any other State by which it is adopted afterwards by resolution passed in that behalf by the House or, where there are two Houses, by each of the Houses of the Legislature of that State.' "

The amendment was adopted.

Mr. President : The question is:

"That article 229, as amended, stand part of the Constitution."

The motion was adopted.

Article 229, as amended, was added to the Constitution.