

DRAFT CONSTITUTION—(Contd.)

Article 92—(Contd.)

Mr. President : We shall proceed with article 92.

Prof K. T. Shah (Bihar: General): Sir, I beg to move:

“That at the end of clause (1), the following proviso be added:—

‘Provided that once the annual financial statement has been laid before Parliament, and Parliament has become seized of the statement, it shall not be competent for the President, or any Minister acting in his name, or any other person, to alter or modify any item in any particular, or withdraw the entire statement; and that the House of the People shall alone be competent to alter or amend or modify, accept or reject, in part or wholly, the financial statement thus placed before it; provided further that only the People’s House or Parliament shall be competent to make any modifications, addition or alteration in the financial statement or to accept or reject it, in part or in *toto*.’ ”

This, Sir, is intended to establish the principle of the supremacy of the House of the People in matters financial. Once the financial statement has been prepared and presented to Parliament, Parliament should be the sole authority for disposing of it; and no other person or authority can do so except, of course, by a vote of the House of the People.

By this amendment, I desire that the supremacy of Parliament, and in that the House of the People, in matters relating to Public Finance should be made absolutely clear beyond doubt. Hence the provision should be made that once the financial statement has been placed before the House, and the House has become seized of the matter, neither the President nor any Minister acting under his authority or in his name, would be competent to alter, or modify, or even withdraw any item in the statement in any way. If any change has to be made, that change can be made only by the House of the People by a definite vote of that body; and not by even Parliament in both Chambers.

This matter is so self-evident in any parliamentary democracy which wants that the Lower House should be the sole custodian, watch-dog of matters financial, that it seems to me that this proposition should be unchallengeable. It is in no way departing from the spirit or accepted convention of the model Constitution which we have been following in this Draft, I mean the British practice. There it is very clear by convention, because there is no written constitution in Britain, that the House of Commons is the sole supreme authority in matters of Public Finance. Those of us who follow that model, and provide a written Constitution, would be doing nothing more than giving effect to a well-known convention whereby the Parliament or the House of the People alone would be competent to make any alterations in such financial provisions, whether they relate to expenditure or revenue, or whether they relate to otherwise disposing of or altering the financial provisions for a given year. Only the vote of the House of the People should be supreme and final in these matters and no other authority should have a say in it. Once the Financial Statement is placed before the House of the People, no other authority should have or can have anything to do with it. I therefore commend this to the House.

May I move the next amendment also, Sir?

Mr. President : Yes.

Prof. K. T. Shah : Sir, the next amendment is:

“That after clause (1) of article 92, the following new clause be added:—

‘(1a) At the time the annual financial statement is presented to the People’s House of Parliament, the President may invite the members of the Council of States to be present in the People’s House of Parliament.’ ”

Sir, this is a practice which follows as a corollary from the principle I have just suggested: that the House of the People alone is competent to deal with,

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and has unchallenged supreme authority in regard to matters financial. The other House, whatever its powers and authority may be in regard to other legislation, should, in matters financial, be kept out altogether.

To give effect to this, not only would I suggest that the financial statement can be laid only before the House of the People, I would go further and say that, if any information is to be conveyed to the other House in this regard, it may be conveyed by inviting the other House to be present on the occasion of the presentation of the Budget. The formal presentment and dealing with the budget or financial statement should be and must be only by the House of the People.

This amendment is only making clear the general principle which I have been enunciating all this while, that the Council of States should have no say in matters financial.

I commend these amendments to the House.

(Amendments Nos. 1699 and 1700 were not moved.)

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

“That in sub-clause (b) of clause (3) of article 92, for the words ‘emoluments’ the words ‘salaries’ be substituted.”

That is the usual wording we are using.

SHRI H. V. Kamath (C.P. & Berar : General) : Sir, I move :

“That after sub-clause (b) of clause (3) of article 92, the following new sub-clause be added:—

‘(bb) the salaries and allowances of Ministers and Members of Parliament.’ ”

Sir, I do not wish to speak on this amendment at all. I would only like to know, when the emoluments of the President, the Chairman and Deputy Chairman of the Council of States, the Speaker and Deputy Speaker of the House of the People have been regarded as expenditure charged to the revenues of India, why the salaries and allowances of the Ministers and members of Parliament should not be so treated.

Mr. President : The salaries of the Ministers come for the vote of the House because the Ministers are responsible.

Shri H. V. Kamath : The Chairman and Deputy Chairman of the Council of States, the Speaker and Deputy Speaker.....

Mr. President : They are not responsible in the sense in which the Ministers are.

Shri H. V. Kamath : There is one difficulty, Sir. No article in this Constitution says that the salaries and allowances of the Chairman and Deputy Chairman of the Council of States and the Speaker and Deputy Speaker of the House of the People shall not be reduced during their term of office. But, there is such a provision with regard to the salaries and allowances of the President. So it appears that Parliament may alter the former.

Mr. President : I am afraid your amendment cuts across the whole principle of responsible Ministers.

Shri H. V. Kamath : Sir, I formally move the amendment.

(Amendments Nos. 1703, 1704 and 1705 were not moved.)

Prof. K. T. Shah: Mr. President, Sir, I beg to move:

“That is sub-clause (f) of clause (3) of article 92, the words ‘or by Parliament by law’ be deleted.”

The amended proposition would then read:

“any other expenditure declared by this Constitution to be so charged.”

Here I think is a matter of very basic importance in regard to the financial administration of the country, and its public economy at large. Under this article a number of items are specifically laid down by this Constitution as charged on the revenues of India,—now as being in the Consolidated Fund, and as such not likely to be voted upon in every year. The various items do not, in my opinion, all stand on a par. It the intention is to keep some of these items out of the vicissitudes of party politics, if the intention is to keep them fixed and unchangeable at least for some given period, such as for instance the salary and allowances of the President during the term of his office, or the salary and allowances of the presiding authorities in the two Chambers of the Legislature, or the salaries, pensions and allowances of the Supreme Court Judges, then it is but right that we should keep these items as limited or as few in number and as small in volume as we possibly can.

There should be in my opinion no room left for increasing the amounts, and widening the nature of the items that can be so kept out of the annual vote of the House. There are items actually mentioned here, which appear to me to be utterly unnecessary, and even unwise, to be so included in the charged list or the Consolidated Fund. Take for instance item (c) which relates to debt charge for which the Government of India is liable. That includes interest and sinking fund charges, redemption charges, other expenditure relating to the raising of loans, and the service of the debt, *i.e.* paying interest, registering transfers etc. Now here is an item the justice of which being included in the items charged on the revenues of India, or those put in the Consolidated Fund, may be open to question. I quite realise that, in the interest of the national credit and its stability, it is but proper that the ordinary debt charges may be not open to annual vote. At the same time it must be known to every student of Public Finance that frequently countries obliged again and again, the most highly credit-worthy countries have had recourse to altering or reducing the rate of interest on their permanent debt. All Conversion schemes that have been adopted in the past, and are being applied even today have changed the rate or interest and varied the contract unilaterally. If those items are left outside the voting power, then I am afraid the possibility of effecting economies and of adjusting our obligations to our resources from time to time might be very substantially curtailed.

I have, however, in view of the transition through which we are going, in view also of domestic as well as foreign complications that may arise in connection with this question of using our national credit and borrowing abroad, not given notice of any amendment regard to that particular item, though I confess that I feel very reluctant to see it included in this article.

Even if the interest and sinking fund charges are kept outside the annual vote, I do not see why the incidental charges, like brokerage or the management charges paid to Reserve Bank on the administration of the debt service should be included in this manner. I think it is really inappropriate to do so. But for the reason I just mentioned—that somewhat delicate financial situation of the present moment—I would have ventured to offer an amendment even on these matters.

But when you come to such a promiscuous on an omnibus provision as is included in sub-clause (f) which permits Parliament hereafter to add any

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other item of expenditure as being in the non-votable list, then I am afraid the Constitution leaves the door very wide open to the withdrawal of the powers—to the curtailment of the financial authority of the Lower House, which I think is highly inexpedient and unacceptable. If you trust to our people, and believe that the future Parliament is for all these purposes sovereign, it would be unnecessary for us to lay down in this article here, in the manner in which it has been done, the power of Parliament to make any alteration in the items that cannot be voted upon every year. You give no power to increase the votable list; why then do you give power to increase the non-votable list?

On the other hand, if you mean this Constitution to be a kind of restrictive instrument, if you design this Constitution to lay down specifically those items which and which alone can be excluded from the vote of the Parliament, as my amendment provides, then I suggest that the best course is to keep them as few in number, and as small in amount as possible. But by an omnibus provision of this kind that you are making, you propose to make parliamentary authority function ineffectively and restrictively in matter financial. For, once an expenditure is withdrawn from the annual vote, any amount of abuse may occur. Parliament, at least in a given year or until the Constitution is revised, may not be able to alter.

I suggest, therefore, that here is a matter of very grave consequence to which attention should be paid by those responsible for this Constitution. The amendment I have attempted to bring in does not affect any necessary safeguard for maintaining public credit. The article gives power to include in the Consolidated Fund or as charges upon the revenue, certain items necessary and proper to be kept outside the annual vote. It only prevents the future Parliament legislating, and thereby withdrawing, so to say, from the competence of its own successors, the right of voting upon certain other items in the financial statement. Remember it would be curtailing the power of a sovereign body, its successor, which no Parliament should really have as against its own successor by such device as this clause contains. It would only open the door to frequent alterations, and to party influences or other transitory factors of that kind, which is,—to say the least—most undesirable. I therefore commend this amendment to the House.

Mr. President : Dr. Ambedkar. No. 7 of the First List.

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

“That in sub-clauses (a) and (b) of clause (2) of article 92, for the words ‘revenues of India’ the word ‘Consolidated Fund of India’ be substituted.”

“That in clause (3) of article 92, for the words ‘revenues of India’ the words ‘Consolidated Fund of India’ be substituted.”

“That after sub-clause (d) of clause (3) of article 92, the following sub-clause be inserted:—

‘(dd) the salary, allowances and pension payable to or in respect of the Comptroller and Auditor-General of India.’ ”

With regard to 9, all I need say is that the House has already passed article 124, clause (5) which contains the present amendment. It is therefore here because it was felt that all items which are declared to be charges on the Consolidated Fund of India had better be brought in together, rather than be scattered in different parts of the Constitution.

Prof. Shibban Lal Saksena (United Provinces: General): Sir, my honourable Friend Mr. Kamath has moved an interesting amendment which says that the words “salaries and allowances of Ministers and Members of Parliament” should be added to the sub-clause so that they will be a charge on the revenues

of India. It means that they will not be votable with the result that the executive will become an irremovable one. I am rather perplexed at this. The charges which will be charged on the revenues of India are the salaries of the President, the Speaker, the Judges of the Supreme Court and now the Auditor-General. They will become non-votable under article 93. I do not know whether the sovereign Parliament of the nation should be denied the opportunity to vote upon the salaries of even these high dignitaries. Probably Mr. Kamath wants to reduce the provisions of this article to an absurdity; otherwise there is no meaning in his amendment. I agree that we are bringing in a dangerous thing in the Constitution by these provisions. I wholeheartedly support the amendment of Prof. Shah for deleting the last clause, which says that parliament can declare any expenditure to be non-votable. This, I think, is unprecedented in any constitution of the world and I would like Dr. Ambedkar to enlighten us how sub-clause (f) of article 93 is in consonance with democratic procedure. I feel that the sovereign Parliament of the nation should have the right vote on every item of expenditure. I can see some argument for making the salaries on the Judges of the Supreme Court, the Auditor-General and the Speaker to be charged to the revenues of the State. It is possible that a party in power by a majority might vote down the salaries of the judges of the Supreme Court so that the judges will try to humour the party in power and that will detract from their independence. But this is far-fetched and no party dare vote down salaries of Supreme Court Judges, etc. That the salaries of the other people should also be permitted to become non-votable is not fair. Clause (f) must go.

Mr. President : I shall put the amendment of Prof. Shah (1693) each item separately to the House.

The question is:

“That in clause (1) of article 92, after the word ‘President’ the following be added :—

‘or the Finance Minister acting under the authority of the President, specifically given for the purpose.’ ”

The amendment was negatived.

Mr. President : The question is :

“That in clause (1) of article 92 for the words ‘both the Houses’ the words ‘the People’s House’ be substituted.”

The amendment was negatived.

Mr. President : The question is:

“That in clause (1) of article 92 after the words ‘estimated receipts’ the following be inserted :—

‘on revenue account as well as from borrowed moneys, or transfer of sums from other accounts to Revenue Account.’ ”

The amendment was negatived.

Mr. President : The question is:

“That in clause (1) of article 92, after the word ‘expenditure’ the words ‘whether charged upon the revenues of India or on other ‘account’ be added.”

The amendment was negatived.

Mr. President : The question is:

“That at the end of clause (1) the following proviso be added :—

‘Provided that once the annual financial statement has been laid before Parliament, and Parliament has become seized of the statement, it shall not be competent for the President, or any Minister acting in his name,

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or any other persons, to alter or modify any item in any particular, or withdraw the entire statement; and that the House of the People shall alone be competent to alter or amend or modify, accept or reject, in part or wholly, the financial statement thus placed before; provided further that only the People's House or Parliament shall be competent to make any modifications, addition or alteration in the financial statement or to accept or reject it, in part or *in toto*.' "

The amendment was negatived.

Mr. President : The question is:

"That after clause (1) of article 92, the following new clause be added :—

'(a) At the time the annual financial statement is presented to the People's House of Parliament, the President may invite the members of the Council of States to be present in the People's House of Parliament.' "

The amendment was negatived.

Mr. President : The question is :

"That in sub-clause (b) of clause (3) of article 92, for the words 'emoluments' the word 'salaries' be substituted."

The amendment was adopted.

Shri H. V. Kamath : Sir, may I ask for leave of the House to withdraw my amendment No. 1702?

The amendment was, by leave of the Assembly, withdrawn.

Mr. President : The question is:

"That in sub-clause (f) of clause (3) of article 92, the words 'or by Parliament by law' be deleted.

The amendment was negatived.

Mr. President : The question is:

"That in sub-clauses (a) and (b) of clause (2) of article 92, for the words 'revenues of India' the words 'Consolidated Fund of India' be substituted."

The amendment was adopted.

Mr. President : The question is:

"That in clause (3) of article 92, for the words 'revenues of India' the words 'Consolidated Fund of India' be substituted."

The amendment was adopted.

Mr. President : The question is:

"That after sub-clause (d) of clause (3) of article 92, the following sub-clause be inserted :—

'(dd) the salary, allowances and pension payable to or in respect of the Comptroller and Auditor-General of India.' "

The amendment was adopted.

Mr. President : The question is:

"That Article 92, as amended, stand part of the Constitution."

The motion was adopted.

Article 92, as amended, was added to the Constitution.