

provisions were inserted stating in detail what are the incidence of responsibility. Now, if you just look at Canada, or Australia, or any other Constitution in which responsible government obtains or some semblance of responsible government obtains, there are no detailed provisions. The German pandits who framed the German Constitution attempted some kind of definition but that resulted in failure as we know as soon as a conflict between the powers of the President and of the Ministry arose, and that led to the collapse of the German Reich. Therefore, under those circumstances, I venture to submit that there is absolutely no necessity for setting out in detail what are the functions and the incidence of responsible government in an article of the Constitution.

Prof. Shibban Lal Saksena : Mr. President, Sir, we have framed a Constitution in which we have provided- for even very small details. Our Constitution differs from the Constitution of England in that the English Constitution is based on conventions. Here in a vital matter like this, we have not stated anywhere that the President is bound to call the Leader of the majority party to form the Cabinet and that he is bound to accept the advice of the Ministry. The Schedule providing for an Instrument of Instructions has also been taken away. Dr. Ambedkar has just now explained to us that conventions on this question have developed in other countries. I had hoped when Schedule IV was being deleted, provisions will be made in the Constitution to cover these points. In fact, at one time Dr. Ambedkar told me that we should frame all these details because we were just commencing a big experiment in democracy. Now that we are providing even for small details in the Constitution, I do feel that these fundamental things, that the President shall be bound to call the leader of the majority party to form the Cabinet, and that he will be bound to accept the advice of the Cabinet, should be incorporated in some instrument of instructions or in some articles of the Constitutional.

Mr. President : I think we have discussed this matter enough. Mr. Krishnamachari, do you want to say anything ?

Shri T. T. Krishnamachari : No. Sir, Dr. Ambedkar has replied.

Shri H. V. Kamath : What is your own reaction to the debate. Sir ? The issue was originally raised by you.

Mr. President : It is not a question of my reaction. It is for the House to decide.

Mr. Naziruddin Ahmad : Permission may be given to reopen the matter.

The Honourable Shri K. Santhanam : This is purely consequential.

Mr. President : I have to put this amendment to the vote. That is all my reaction.

The question is

“That clause (5a) of article 62 be omitted.”

The amendment was adopted.

Shri T. T. Krishnamachari : Sir, I move :

“That clause (6) of article 67 be omitted.”

This is a very important clause and I can appreciate the vigilance of my honourable Friend Mr. Shibban Lal Saksena in moving a negative amendment to this amendment. I would at once tell the House that this important clause

[Shri T. T. Krishnamachari]

which deals with election to the House of the People on the basis of adult franchise is not being omitted in any lighthearted manner. I would like to ask the House to refer to article 289-B which reads thus:—

“The elections to the House of the People and to the Legislative Assembly of every State shall be on the basis of adult franchise; that is to say, every citizen, who is not less than twenty one years of age on such date as may be fixed in this behalf by or under any law made by the appropriate Legislature and is not otherwise disqualified under this Constitution or any law made by the appropriate Legislature on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practice, shall be entitled, to be registered as a voter at any such election.”

Substantially the whole of clause (6) of article 67 has been produced in 289-B which the Drafting Committee felt was the proper place for putting in the qualifications of voters. Therefore, Sir, clause (6) of article 67 is no longer necessary and that is the provocation for my moving this amendment.

(Prof. Shibban Lal Saksena did not move his amendment.)

Mr. President : The question is :

“That clause (6) of article 67 be omitted.”

The amendment was adopted.

Shri T. T. Krishnamachari : Sir, I move :

“That for clause (7) of article 67, the following clause be substituted:—

‘(7) The representation in the House of the People of the territories comprised within the territory of India but not included within any State shall be such as Parliament may by law provide’.”

Sir, the original clause (7) reads thus:

“Parliament may, by law, provide for the representation in the House of the People of territories other than States.”

The House will remember that we passed yesterday a new article 67-A which is more or less an enabling article. It does not wholly take away the need for a clause like clause (7) and it was felt that this clause must be amplified in the manner suggested in my amendment.

Mr. President : There is no amendment to this. The question is:

“That for clause (7) of article 67, the following clause be substituted :—

‘(7) The representation in the House of the People of the territories comprised within the territory of India but not included within any State shall be such as Parliament may by law provide’.”

The amendment was adopted.

Shri T. T. Krishnamachari : Mr. President, I move

“That for the proviso to article 109 the following proviso be substituted:—

‘Provided that the said jurisdiction shall not extend to—

- (i) a dispute to which a State for the time being specified in Part III of the First Schedule is a party, if the dispute arises out of any provision of a treaty, agreement, covenant, engagement, *sanad* or other similar instrument which was entered into or executed before the date of commencement of this Constitution and has, or has been, continued in operation after that date,