

reduction of the period to fourteen days. If the House will permit me to make such an amendment I should like to move that the period of twenty-one days as mentioned in the amendment be further reduced to fourteen days. I shall give my reasons for this change. In the British Parliament the House of Lords merely concurs in the financial provisions passed by the House of Commons; it has completely abrogated itself so far as finance is concerned. We are here making a departure from that position and are allowing the upper chamber to have some voice in the formulation of the taxation and financial proposals which have been initiated by the Lower House. As I said, we are conferring a privilege which ordinarily the upper chamber does not possess. At the same time we must bear in mind that the budget is a very urgent matter. Even now, as Members know, we do not give the Lower House more than six or eight days for the Finance Bill. It seems to me that to allow such a long period of thirty or even twenty-one days would result in hanging up such an important matter for a considerable length of time. If the Upper House wants to express an opinion fourteen days is a more than enough period.

**Mr. President :** The original question was:

“That in article 89 for the words ‘thirty days’ wherever they occur the words ‘twenty-one days’ be substituted.”

To that a further amendment has been moved that for ‘twenty-one days’ the words ‘fourteen days’ be substituted.”

“That in the amendment for the words ‘twenty-one days’ the words ‘fourteen days’ be substituted.”

The question is:

“That the amendment to the amendment be adopted.”

The amendment was adopted.

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

“That the amended amendment be adopted.”

The amendment was adopted.

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

“That article 89, as amended, be adopted.”

The motion was adopted.

Article 89, as amended, was added to the Constitution.

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## Article 90

**Mr. President :** Article 90.

(Amendment No. 1668 was not moved.)

**The Honourable Shri Ghanshyam Singh Gupta (C.P. & Berar: General):** Sir, I beg to move:

“That in clause (1) of article 90, the word ‘only’ be deleted.”

This article is a prototype of Section 37 of the Government of India Act which says that a Bill or amendment providing for imposing or increasing a tax or borrowing money, etc. shall not be introduced or moved except on the recommendation of the Governor-General. This means that the whole Bill need not be a money Bill: it may contain other provisions, but if there is any provision about taxation or borrowing, etc. It will come under this Section 37, and the recommendation of the Governor General

[The Honourable Shri Ghanshyam Singh Gupta]

is necessary. Now article 90 says that a Bill shall be deemed to be a money Bill if it contains only provisions dealing with the imposition, regulation, etc., of any tax or the borrowing of money, etc. This can mean that if there is a Bill which has other provisions and also a provision about taxation or borrowing etc., it will not become a money Bill. If that is the intention I have nothing to say; but that if that is not the intention I must say the word “only” is dangerous, because if the Bill does all these things and at the same time does something else also it will not be a money Bill. I do not know what the intention of the Drafting Committee is but I think this aspect of the article should be borne in mind.

(Amendment Nos. 1670 and 1671 were not moved.)

**Prof. K. T. Shah :** Sir, I move:

“(a) That at the end of sub-clause (a) of clause (1) of article 90, the words ‘duty, charge, rate, levy or any other form of revenue, income or receipt by Governments or of expenditure by Government’ be inserted; and

(b) That in sub-clause (b) of clause (1) of article 90, after the words ‘or the amendment of law’ the words ‘or existing contract’ be inserted.”

This amendment is intended to amplify, in clause (a), the items mentioned as characterising or included in the definition of Money Bill, namely the imposition, abolition, remission, alternation or regulation of any tax, duty, charge, levy, rate, or any other form of revenue, receipt, or any other form of expenditure. This Draft Constitution has not yet included any article giving definition of important terms used in it, and hence this attempt to elucidate a crucial term in this article.

If it is intended that the word ‘tax’, as included in this clause, is to include all those other forms of public revenue or income, which I have particularised and separately included, then I am afraid, in the absence of clear definition clause, this is liable to mislead. It is quite possible that the ingenuity of lawyers may lead to the connotation of the word ‘tax’ to be so narrowed down, as to exclude many of the other items or categories of public revenues I have mentioned; and a Bill which would be substantially a Money Bill, but not include a “tax” by way of imposition, modification alteration, or regulation of “tax”, narrowly construed, may not be regarded as a Money Bill. I think that would seriously increase the powers of the Council of States; and so it is of the utmost necessity that these other forms, also, of public revenue, income or receipt should be included, so that there could be no room for dispute in this matter.

After all, any student of Constitutional history would be aware that the struggles for supremacy between the House of Commons and the House of Lords in England almost invariably centered round the definition or scope of a Money Bill. The powers of the House of Lords to deal with money bills have been successively curtailed by including many matters, which, perhaps, previously were not part of the budget. By that means the supreme power of the House of Commons on financial matters has been now made almost unchallengable.

The wording of this article as it is here leaves, according to me, considerable room for apprehension that the powers of the House of the People over matters financial will not be as wide and as complete as I had thought ought to be the correct position in representative democracy with responsible ministry.

It is for that purpose that I have inserted all those items which have in the past, in one way or another, cause some difference in other countries, and therefore should be clearly specified.

As regards the second part of my amendment, namely variation of any law or of any contract, that is still more important. The contracts of Government relate very often to borrowed money, and for the interest contracted to be

paid on such borrowed money, there may be variations and there have been variations. These variations are one-sided modification of a contract, which a sovereign Legislature is, of course, entitled to make; but that power should be in the House of the People, as part of its sole authority over money Bills and financial administration. For instance, the rate of interest on the Funded Public Debt has been frequently reduced in England. Now that is an act of sovereign authority, which no doubt belongs to the Legislature under the Constitution we are drafting. But it is part of a financial legislation; and, as such, should be within the competence only of the Lower House.

I also remember other instances. About fifteen years ago in the United States, contracts of even private individuals, in which the so-called “Gold Clause” had been inserted, were modified by an Act of the Congress. That is to say if a contract between an American citizen and his customer abroad required payment for goods or services to be made in gold, no matter in what currency the contract was expressed, that clause in the contract could be disregarded. If such contracts had remained unaffected, all measures taken by the Administration and the Congress touching the exchange value to the Dollar would have been of no effect, for no matter what happened to the local currency, the international contract was made in terms to be liquidated only in gold, or currency equivalent to gold, or bullion as the case may be. Now, the American legislature did enact that this kind of clause would be invalid. If it was allowed to stand, it would defeat the legislation that the administration had then got enacted. If you do not permit any such power to be included in the powers to the House of the People as analogous to a Money Bill, then I am afraid, in the age in which we are living you will leave out a very considerable margin of power to legislate to authorise attempt at modification of economic dealings, either between the State and the citizen or between citizen and citizen, which, in my opinion, ought to be included. If the principle is accepted very clearly that the supreme financial authority and control is in the Lower House only, there can be no objection to this suggestion.

It was with that view that I had suggested an earlier amendment, making in categorically clear that a Money Bill can only be introduced in the Lower House. The negative way, in which that clause has been framed, is open to some misconstruction and abuse. However, that amendment has not been moved. I am, therefore, now seeking to make clear what ought to be beyond doubt even in the basic Constitution, and should not be left to be elaborated either by rules of the House or standing orders or precedents. We have no precedents of our own, but have to create precedents. We cannot every time refer to the analogy to British Constitutional History. We need not leave room for legal ingenuity to be exercised at the expense of liberal institutions. On an earlier occasion it was stated in this House that this Constitution will provide a paradise for lawyers. I hope that would not be true. We must not leave our fundamental Constitution vague, uncertain, unclear by any words or phraseology, open to distortion by legal ingenuity. It is for this purpose that I have suggested this amendment, and I hope it will be acceptable to the House.

**Shri H. V. Kamath :** Sir, I move:

“That in sub-clause (e) of clause (1) of article 90, for the words ‘the increasing of the amount of’, the words ‘varying the amount of, abolishing’, be substituted.”

It is not necessary for me to expatiate upon the need for an amendment of this nature, because it is common knowledge that when items of expenditure are charged to the revenues of India circumstances may so change that the need for incurring that expenditure may not be felt and the expenditure may cease to be incurred or it may be decreased or even increased. I visualise the possibility of

[Shri H. V. Kamath]

increase. But here this sub-clause visualises only one possibility and that is increase. Why, I ask, was 'decrease or abolition of such expenditure' not visualised? The question will arise, what are the various items expenditure to be charged on the revenues of India? For an answer to that we turn to article 92(3) which lays down that the following shall be expenditure charged on the revenues of India. I shall not read out the whole list. I shall content myself with bringing it on the notice of the House. There are six items, (a) to (f). If you examine them closely you will find that where as the Constitution provides in the case of the salary and emoluments of the President,—let us turn to article 48(4) which provides that the emoluments and allowances of the President shall not be diminished during his term of office. Well and good. But if we turn to the provision for the emoluments and allowances of the Chairman and the Deputy Chairman of the Council of States, or the Speaker or the Deputy Speaker of the House of the People, the relevant article does not state explicitly that the emoluments of the Chairman of the Deputy Chairman, or the Speaker or the Deputy Speaker of the House of the People shall not be diminished during their term of office, as is laid down in the case of President. I do not suppose that they will be diminished, but the Parliament being sovereign can diminish the emoluments of the Speaker or the Deputy Speaker or the Chairman or the Deputy Chairman. Comprehending this possibility, I have suggested the use of the word "vary". The word "vary" connotes to my mind both reduction as well as enhancement, increase as well as decrease. Therefore I appeal to Dr. Ambedkar and the House to accept the word "vary" as being more comprehensive and as being able to embrace in its scope both an increase and a decrease.

As regards abolition, that too is not beyond the bounds of possibility. If we turn to clause (3) of article 92 to which I have just referred, we will find that it refers to various items of expenditure which shall be expenditure charged to the revenues of India. Sub-clause (f) of this clause provides that any other expenditure declared by this Constitution or by Parliament by law to be so charged shall be charged to the revenues of India. I need not point out all the various items of expenditure which Parliament might decide to be chargeable to the revenues of India. There may be grants to various institutions, educational, cultural or social or otherwise which Parliament by law may decide to be chargeable to the revenues of India and then it may subsequently decide by law to do away with these. Therefore, Sir, this article as it stands does not include or visualise the possibility of a decrease or abolition of the items of expenditure which are charged to the revenues of India. To rectify this position and to embrace in its scope the various contingencies that may arise, I am moving my amendment, No. 1674, and I commend it for the acceptance of the House.

**Mr. President :** Amendments Nos. 1675, 1676, 1677 and 1678 are all verbal. All the amendments to this article having been moved, anyone who wishes to speak on the amendments and the article may do so now.

**Shri M. Ananthasayanam Ayyangar :** I will confine my remarks to the amendment moved by my Friend, Mr. Kamath. He referred to article 90, clause (1) sub-clause (e) which says "the declaring of any expenditure to be expenditure charged on the revenues of India or the increasing of the amount of any such expenditure." Now, it is only in case an expenditure is increased, then it becomes a Money Bill. He wants the substitution of the word "varying" for the word "increasing". Now I would only ask him to refer to the scheme and then if after understanding what the scheme of the framers is, he still wants this

change, that is another matter, but let us understand what the scheme is. If we turn to article 97, it says, "Bill or amendment making provision for any of the matters specified in items (a) to (f) of clause (1) of article 90 of this Constitution shall not be introduced or moved except on the recommendation of the President.....". Even for a Money Bill, for increasing, the recommendation of the President is necessary. The proviso to this article says that "Provided that no recommendation shall be required under this clause for the moving of an amendment making provision for the reduction or abolition of any tax". Now it has been the usual procedure even under the existing law that when an amendment is moved to a Money Bill or a financial measure for the reduction or of any tax, the recommendation of the Governor-General is not necessary. Likewise, the same thing is copied here. But the imposition of a tax is a burden imposed upon the community. When you seek to reduce or abolish a tax, no such recommendation is necessary. It is left to the House, and the previous enquiry by the President whether it is in the interests of the community or not is not necessary. That is the scheme. The earlier part of article 97 refers both to a Bill and an amendment, whereas the proviso refers only to an amendment. Therefore a Bill for the purpose of reducing or abolishing a particular tax has to be recommended by the President Otherwise it cannot be introduced. A Bill which seeks to increase an existing tax or increasing the expenditure also requires the sanction of the President, but the difference between a Bill, seeking to increase the amount of expenditure and a Bill seeking to reduce or abolish it is this: In one case where increase is sought, it can be introduced in the lower House only, whereas in the case where a reduction or abolition is sought, it can be introduced in any House, both the Houses having jurisdiction. In the case of reduction or abolition, the Bill can be initiated in either House, whereas my Friend wants to confine that power to the Lower House only. Increase stands on a different footing because it has to be considered whether India is in a position to bear that. Whether any expenditure should be chargeable to the revenues of India is a matter which requires investigation, since any expenditure chargeable to the revenues of the country is not subject of the vote of the House, even though the House can generally debate on it or discuss it. But it is taken out from the purview of its vote. In that case, should we not restrict the limitation imposed upon the right of the House by confining it only to increase? You want to take away the jurisdiction of the House in the matter of decrease as in the case of increase. I would respectfully submit that he has misunderstood the scope of this clause and is trying to restrict unnecessarily the authority of the jurisdiction of both Houses in a matter where only in respect of money matters and in respect of increase only the jurisdiction is confined to the Lower House. I am therefore not in agreement with the amendment moved by Mr. Kamath.

**Shri H. V. Kamath :** On a point of clarification, may I ask my honourable Friend to point out the article which provides that any Bill which relates to reduction or abolition can be introduced in either House, because proviso to article 97 relates to reduction or abolition of any tax, and not to other items of revenue and expenditure. The whole scheme is not very clear and I do not know how it is clear to Mr. Ayyangar. If he convinces me, I shall certainly reconsider my amendment.

**Shri M. Ananthasayanam Ayyangar :** So far as the amendment is concerned, an amendment to a Bill can be moved even without the recommendation of the President in so far as it relates to the reduction or abolition of a tax, but if it is a Bill specifically for the purpose of reducing, then the recommendation is necessary, but in the case of increasing, it must be in the form of a Money Bill. Let us refer to article 97. It is not a Money Bill at all.

**Shri H. V. Kamath :** Where is the provision?

**Shri M. Ananthasayanam Ayyangar :** It is a Money Bill only when it relates to increase. It is not a Money Bill when it does not relate to increase, and, therefore, it may come under article 97 and then require a recommendation or may not require a recommendation at all. My honourable Friend wants that there should be a recommendation and in addition it must be a Money Bill. As it is, when it is a Money Bill, only one House has got jurisdiction.

**Shri H. V. Kamath :** May I interrupt? I am sorry, but I want to have it cleared up. May I invite my honourable Friend's attention to the proviso to article 97(1) to which he has referred, which says that no recommendation shall be required where reduction or abolition of the tax is contemplated. What about other expenditure, about reduction and abolition of other items of expenditure. There is nothing in the whole scheme.

**Shri M. Ananthasayanam Ayyangar :** Then it would not be either a Money Bill or a financial Bill. Money Bill is one which comes under clauses (a) to (f) of sub-section (1) of article 90. Now a Bill relating to increase of the amount of any expenditure alone is a Money Bill or a financial measure; if it does not relate to increase, that is, either reduction or abolition, it is not a Money Bill. That is why we want a recommendation. If this proviso relates only to a tax as I understood it, then tax means not all the matter provided for from (a) to (f). Now I find the word 'tax' has been used separately from the other provisions. Therefore that proviso does not necessarily mean a tax in any Bill or amendment relating to reduction or abolition of any of the expenditure provided in clause (1) (a). It is neither a Money Bill nor even a financial Bill. Therefore, it can be introduced freely in either House and without any recommendation whatsoever. Now the only question, therefore, is whether we should like to make it also in an exclusive category along with the measure for increasing. I would submit that we ought not to limit the scope or restrict the jurisdiction of either House even in a matter relating to reduction or abolition of any tax. A Bill to increase is given to the Lower House as an exclusive jurisdiction. The other Bills may be introduced freely without any restriction or limitation in either of these Houses. I am not in favour of this restriction, Sir.

**Prof. Shibban Lal Saksena :** Mr. President, in clause (2) of this article, it is said: "A Bill shall not be deemed to be a Money Bill by reason only that it provides for the imposition of fines or other pecuniary penalties or for the demand or payment of fees for licences or fees for services rendered or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes." Now, Sir, a Bill providing of the imposition, abolition, or alteration of any tax by any local authority would not be a Money Bill. I personally feel, as Mr. Ayyangar just now pointed out, that if a Bill provides for an increase of taxation, or of a new imposition, the Bill will be a Money Bill, but here in this clause it is intended that it shall not be a Money Bill.

**Mr. President :** I think you are under a misapprehension. It can only provide authority to a local body to impose a tax, not the tax itself, but only gives authority.

**Prof. Shibban Lal Saksena :** I know that, Sir. I feel when any Bill authorises any body to impose taxes, that should also be a Money Bill. In fact, I think Prof. Shah's amendment which wants to add at the end of sub-clause (a) of clause (1) of article 90 the words, namely: "duty, charge, rate, levy or may other form of revenue, income, or receipt by Governments or of expenditure by Government", would be a much better provision. Sub-clause (a) only says "the imposition, abolition, remission, alteration or regulation of

any tax.” It has not included “duty, charge, rate, levy or any other form of revenue, income or receipt.” I would request the Honourable Law Minister who is in charge of this Bill to see that this sub-clause (a) is suitable amended. I feel that clause (2) takes away some power from the Lower House and makes it obligatory on the Government to place such bills which are properly money Bills before the Upper House. I do not think that in regard to such matters this should be so. I personally feel that many of the local bodies are today starved of revenue. They are partially without any funds today to do the huge work that they have got to do. I myself am in one of the Boards of a big district and I feel that unless the local bodies have got more revenues, they cannot carry out their programmes at all. In our Parliament we pass expenditure of crores of rupees in two or three hours time, but these local bodies are not able to raise in the whole year even a few lakhs for their most essential needs such as school buildings which have to be built and village roads which have to be repaired and similar other amenities of every day life. But here is a provision that such Bills which authorise local bodies to impose taxation shall not be Money Bills. They may thus be delayed. I think there should be some amendment to this section so that at least local bodies should not be handicapped by this dilatory process.

**The Honourable Dr. B. R. Ambedkar :** Sir, while going over this article, I find that it requires further to be considered. I would therefore request you not to put this article to vote today.

**Mr. Naziruddin Ahmad :** I should also like to suggest that the position of the word “only”, in connection with amendment No. 1669 should be specially considered. It is a word which is absolutely misplaced.

**Mr. President :** There are four amendments moved to this article, and the first amendment is No. 1669 that in clause (1) of article 90, the word ‘only’ be deleted. Mr. Naziruddin Ahmad wishes to emphasise the importance of that amendment. That may be taken into consideration by the Drafting Committee. The whole article is going to be reconsidered.

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### Article 91

**Mr. President :** We shall take up the next article, 91

That motion is:

“That article 91 form of the Constitution.”

(Amendment No. 1679 was not moved.)

**Shri Lokanath Misra (Orissa: General):** Sir, I move:

“That in article 91, for the words ‘either that he assents to the Bill, or that he withholds assent therefrom’ the words ‘that he assents to the Bill’ be substituted, and the following words be added at the end of the proviso to the article:-

‘and if the Bill is passed again by the House with or without amendment and presented to the President, the President shall not withhold assent therefrom.’”

Sir, in moving this amendment, I am in the beat of company in so far as the Drafting Committee itself has suggested the same in a subsequent amendment. I beg to submit that when I move this amendment to take away the power from the President to dissent from any Bills passed by Parliament, I mean nothing more than saying that since our President is analogous to the King in England and as the King has no power of dissenting from any Bill passed by President this amendment is appropriate.

As regards the second amendment, without that amendment the proviso seems to be incomplete. Supposing the President sends back a certain Bill for