

Article 70

Mr. President : Then we come to article 70. There are two amendments of a drafting nature by Mr. Kamath, Nos. 1485 and 1486.

Shri H. V. Kamath : They are not of a drafting nature. If however you hold they are, I shall not insist on moving them.

Mr. President : There is no other amendment.

The question is :

“That article 70 stand part of the Constitution.”

The motion was adopted.

Article 70 was added to the Constitution.

Article 71

Mr. President : There is one amendment No. 1487 of which notice has been given. It is negative in character and so I do not allow it to be moved.

Amendment No. 1488 by Prof. Shah. This is covered by article 70 which we have already adopted.

Prof. K. T. Shah : I am not moving it, Sir.

(Amendment No. 1489 was not moved.)

Mr. President : Amendment No. 1490 by Prof. Shah.

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

“That in clause (1) of article 71, for the words ‘and inform Parliament of the cause of its summons’ the words ‘on the general state of the Union including financial proposals and other particular issues of policy he deems suitable for such address be substituted.’”

The amended article would read :

“At the commencement of every session the President shall address both Houses of Parliament assembled together on the general state of the Union, including financial proposals and other particular issues of policy he deems suitable for such address.”

There is a difference in the wording here and the way I have suggested. I should like the President’s address to concern itself mainly with the general issues of policy, or the prospects before the country, rather than with the specific causes of the summons. It is the practice in the British Parliament for the King, at the opening of the Parliament, to deliver the Address from the Throne. In that, generally, the issues are mentioned. The main proposals for legislation that the Government proposes to bring forward are mentioned, and specific mention is also made of the demands and the supplies that may be expected. Now, if you say merely the “causes of the summons”, it will mean the immediate necessity of the day; whereas if freedom is left to the President to review the general state of affairs, and also to indicate the broad lines of proposed legislation and the policy that may be placed before the House, I think the latitude would be much greater. The officials review, so to say, of the country’s situation would go a long way to help the people to realise the way their Government is functioning; and also to be aware from time to time of the tasks that their Government is undertaking, and how far these tasks are being discharged.

I think that, as a non-party head of the State, for the time at any rate, representing the Republic, the President should give a general review, and not merely confine himself to the causes for which the House is being summoned and hence this amendment. I place it before the House.

Mr. President : The other three amendment Nos. 1491, 1492 and 1493 are of a drafting nature and are disallowed. The article and the amendment moved are now open to discussion.

Dr. P. S. Deshmukh (C.P. & Berar : General) : You have ruled, Sir, that amendment No. 1487 is not admissible since it is purely a negation of the clause. I submit, Sir, that I do not feel convinced as to the necessity of the clause itself, much less of the amendment that has been moved by Professor K.T. Shah. Sir, we have already passed a clause by which it shall be open to the President to address either House of Parliament. Now by this clause we are trying to make it absolutely binding on the President that at the commencement of every session he shall address both the Houses of Parliament assembled together and the purpose also has been stated. We have also just had a lengthy debate on the necessity of calling Parliament frequently and some of the honourable Members were insistent that it would be desirable if the Parliament were to meet all the year round, excepting during certain recesses that it may enjoy. I feel, Sir, that nowhere, not even in the British Constitution, it is compulsory upon the King to send an address every time the Parliament meets. So I am really at pains to understand a deliberate provision for compelling our President, whose place and office is more akin to that of King of England. He is the Constitutional Head of India and to compel him that he must give an address and he must also inform the causes which have led him to call the Parliament does not appeal to me. I feel, Sir, that there is no necessity, nor any very useful purpose will be served by having this compelling clause passed by the House. Of course Prof. K.T. Shah's amendment goes much too far. He also wants that the clause should include the subject on which he will deliver his address. This will be binding the President's discretion too much. There is also no necessity for a provision in the Constitution by which time for discussion of the President's speech would have compulsorily to be allotted. I think, Sir, what we have provided for is more than enough and there is no necessity for compelling him that he must address every session and that he must address the session on a particular list of subjects. I think there is no necessity for this clause and I would be glad if Dr. Ambedkar could agree to the omission of it.

The Honourable Dr. B. R. Ambedkar : Prof. K. T. Shah simply wants, in the terms in which he has used, stated explicitly, what in my judgment is implicit in the phrase 'causes of its summons'. I think this phrase is wide enough to include everything that Prof. K.T. Shah wants and if I may say so, this phraseology, namely "shall address and inform Parliament of the causes of its summons" is a phrase which we find used in British Parliament. If Prof. Shah were to refer to Campion's book on the rules of the House of Commons, he will find that this phraseology is used there and after a long and great deal of search for a proper phraseology, we are fortunate enough in finding these words in Campion and I think it is a good phrase and ought to be retained since it covers all that Prof. K.T. Shah wants. Prof. K.T. Shah said that there ought to be a provision for the President also to send messages and to otherwise address the House. I thought that there was definite provision in article 70 which we just now passed, which enables the President to address both Houses of Parliament, also to send messages and the messages may be in relation to a particular Bill or may be any other proceedings before Parliament. I do not think that anything more is required than what is contained in Article 70 so far as the independent right of the President addressing the House is concerned and that is amply provided for in article 70. I therefore think that there is no necessity for this amendment at all.

Mr. President : The question is :

“That in clause (1) of article 71, for the words ‘and inform Parliament of the cause of its summons’ the words ‘on the general state of the Union including financial proposals, and other particular issues of policy he deems suitable for such address’ be substituted.”

The amendment was negatived.

Mr. President : The question is :

“That article 71 stand part of the Constitution.”

The motion was adopted.

Article 71 was added to the Constitution.

Article 72

Mr. President : The motion is :

“That Article 72 form part of the Constitution.”

(Amendment No. 1494 was not moved.)

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

“That in article 72, after the word ‘India’ the words ‘if elected member of Parliament’ be inserted.”

and the amended article would read as follows :—

“Every Minister and the Attorney-General of India, if elected member of Parliament, shall have the right to speak in, and otherwise to take part in the proceedings of, either House, any joint sitting of the Houses and any Committee of Parliament of which he may be named a member, but shall not by virtue of this article be entitled to vote.”

My amendment, Sir, seeks to make only such ministers as are elected members of Parliament to have this right. I think it is a part of the theory on which this Constitution seems to be based that ministers should be responsible to the legislature. That responsibility could be exercised only if they are able to answer for themselves, so to say, as members of Parliament and sitting in Parliament.

The right extended to those who are not members of Parliament, and yet are allowed to speak or take part in the proceedings in either Houses of Parliament, or of any committee thereof, of which such a person may be named a member, appears to me to be an anomaly, if after allowing the right to speak, you do not grant him the right to vote. It is at the same time true that a person who is not a member of a body can have no right to vote in that body. The idea is that the Minister or the Attorney-General, who is in possession of material information and reasoning that may very well influence the judgment of the House, necessitates that such a party should be in a position to place his point of view before the body of which he is a member and where he is speaking. But if he is not a member of that body, the position becomes very difficult, in as much as those who are there are also aware that he has no right to vote and has no place, therefore, as one of them in the House.

The doctrine of ministerial responsibility requires in my opinion that all the principal Ministers should also be members of the legislature; and if they are members of the Legislature, then, as a matter of right they will be entitled to speak as well as vote in the House of which they are members. If you wish to extend this facility to Ministers to ‘either House’, even if one is not a member of that ‘either House’, then I think it would be better to word this a little differently. I suggest that if you are an elected member of either House, you may nevertheless be entitled to speak in the other House, just to make known your point of view and explain any particular problem that may be before the other House of which you are not a member when that other House comes to discuss it. But the position in this article as I see is this: