

Article 97

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

“That in clause (1) of article 97, the words ‘and a Bill making such provision shall not be introduced in the Council of States:’ be deleted.”

This clause is another instance among several others of tautology or mere repetitious performance. If the House will turn to articles 89 and 90 and read them together, the House will see that there is no need for a clause like this here. Article 89 clause (1) provides that a Money Bill shall not be introduced in the Council of States. Article 90 defines what a Money Bill is for the purposes of this Chapter. Putting these two articles together it is clear and it needs no repetition whatever. There is absolutely no valid reason whatever for repeating this provision in this article. Sir, I move.

Prof. Shibban Lal Saksena : Then no Bill can be moved even in the House of People without President’s permission.

Shri H. V. Kamath : I do not think that that interpretation can be put on my amendment.

Mr. President : No. 1723.

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

“That in clause (3) of article 97, after the word ‘India’ the words ‘outside the frontiers of India in war-like operations’ and; before the word ‘passed’ the words ‘considered or’ be inserted; and the following proviso be added at the end of the clause :—

‘Provided that whenever the President makes any such recommendations he shall give his reasons for the same in writing.’ ”

The amended clause would read:

“A bill which, if enacted and brought into operation, would involve expenditure from the revenues of India outside the frontiers of India in war-like operations shall not be considered or passed by either House of Parliament unless the President has recommended to that House the consideration of the Bill.”

Sir, I have been induced to move this amendment in view of our past experience under British rule. The greatest waste of Indian money used to occur in connection with the war-like operations of the preceding Government, and those operations outside the frontiers of India, in support of the imperialist or aggressive wars of Britain. There had been a provision in the previous Government of India Act, 1915, which precluded the then Government from spending a single pie in war-like operations outside the frontiers, without the authority of Parliament which was then the trustee so to say, or had made itself the trustee, of the welfare of the Indian people. Not that it ever objected of Indian money being spent in this way; but still it was a healthy check.

In the present provision I would like to insert a corresponding safeguard against similar misuse or excessive use of Indian revenues in war-like operations outside the frontiers of India. This article relates to excess grants; and if such money is used outside the frontiers of India, then I would like to provide a safeguard of some kind. I do not mean that such funds shall not be used, nor that India will not be able to engage in defensive or even offensive wars outside the frontier of India, and spend money in connection therewith but that, if that necessity arises, then the President must bring the matter before the House, and give his reasons in writing. The House of the People will then have an opportunity to consider whether the expenditure now required is justified in the interest of India, and then, knowing the full position give its authority for the same.

I repeat that it is not my intention by this amendment to handicap in any way the executive in their necessary action on matters of national defence.

[Prof. K. T. Shah]

But it is necessary in my opinion-in view of past experience that some such safeguard be inserted, lest the tendency we all have to spend money freely be utilised to our own disadvantage.

Sir, I move.

Mr. President : Mr. Shibban Lal Saksena, No. 231 of the List of Amendments to Amendments.

Prof. Shibban Lal Saksena : Sir, I move only the last part of my amendment No. 231:

“That in article 97, clause (3) be deleted.”

Mr. President : You are not moving the other amendment?

Prof. Shibban Lal Saksena : No, Sir.

Sir, I have not seen the necessity of this clause in this article. It is already said that money Bills have to go through a particular procedure. After that I do not see the necessity for this clause. In fact if it is strictly interpreted, there is no Bill which any House may pass or Parliament may pass which will not involve the Government in some expenditure. Even if it is an ordinary Bill, there too if enforced and brought into operation, it will involve an expenditure from the revenues of India unless of course it is intended to mean that any such expenditure will be an expenditure which is non-votable as contemplated in article 92. Then of course it is a different matter but as it stands at present, I think it will mean that any Bill which involves any expenditure may not be moved in any House. Sir, I move.

Mr. President : All amendments have been moved and the clause and the amendments are open for discussion.

Shri T. T. Krishnamachari : I have only one word to say in regard to the last amendment moved by Professor Saksena. He wants to cut out the initiative of the executive which has been preserved right through in these articles dealing with the financial provisions so far as expenditure and taxation are concerned. Actually it is a tradition which we have been following in this country which we have also incorporated in this Draft Constitution from the British model which has all through the centuries made it a matter of pure executive responsibility to initiate motions which involve taxation or expenditure. If it happens that a private member of Parliament can initiate Bills which will involve taxation and expenditure then the responsibility of the executive will be blurred for one thing and then it will be difficult for them to devise the ways and means to cover the expenditure. It is a principle well accepted in all constitutions that this initiative must rest with the executive. Of course I see that Professor Shibban Lal Saksena has not moved his other amendments wherein he wanted to give power to the Legislature to move amendments which would have had the effect of permitting Parliament to raise the rates of taxes in Bills seeking to impose fresh taxation or alter the existing tax structure. Apparently he has seen the unreasonableness of an amendment of that nature and he has given it up. But I do feel that if he follows the same line of thought he will find that a provision of this nature which he seeks to amend is already in the Government of India Act today and is to be found in the standing orders of the British Parliament and in practically every other Legislature following this method of parliamentary system of Government, that the initiative must be kept absolutely without any dilution in hands of the executive. Therefore there has been no attempt in any of the Dominion Legislatures to take away this particular power that has been given to the executive. I think the amendment of Professor Shibban Lal Saksena cannot therefore be accepted and the clause must remain as it is.

So far as Professor Shah's amendment is concerned I do not know If I need anticipate Dr. Ambedkar. The reasons that he has adduced are fairly clear, namely, that he does not want to give the President or the executive any powers for initiating any Bill which will involve expenditure to be incurred outside India for the reason that he does not want the future Government of India to participate in any Imperial wars. It is quite possible that a future Government of India may have to take some steps to safeguard the frontiers of India the operations in respect of which might take it just a little beyond the frontiers, and the very purpose of his wanting to preserve the integrity of this Government in the future will be defeated if Professor Shah's amendment is accepted and the hands of the executive are tied by a provision of his nature. It might be very reasonable from a point of view which considers that all wars are Imperialistic. Sometimes countries have got to participate in wars for purely defensive purposes and even that purpose will be jeopardized by accepting the amendment moved by Prof. Shah. I therefore suggest to the House that these two amendments have no validity so far as the particular article is concerned and they have to be rejected.

The Honourable Dr. B.R. Ambedkar : I do not think any reply is called for, but I would like, Sir, with your permission to move one amendment myself. I move:

"That with reference to amendment No. 1723 of the list of Amendments, in clause (3) of article 97, for the words 'revenues of India' the words 'Consolidated Fund of India' be substituted."

Shri H. V. Kamath : The words at the end of the clause have been needlessly repeated.

The Honourable Dr. B. R. Ambedkar : I do not think so.

Mr. President : The question is:

"That in clause (1) of article 97, the words 'and a Bill making such provision shall not be introduced in the Council of States:' be deleted."

The amendment was negatived.

Mr. President : The question is:

"That for amendments Nos. 1722 or 1723 of the List of Amendments, the following be substituted:—

'That in article 97, clause (3) be deleted.' "

The amendment was negatived.

Mr. President : I shall put Prof. Shah's amendment which is in three parts. The question is:

"That in clause (3) of article 97, after the word 'India' the words 'outside the frontiers of India in war-like operations' be inserted."

The amendment was negatived.

Mr. President : The question is:

"That in clause (3) of article 97, before the word 'passed' the words 'considered or' be inserted."

The amendment was negatived.

Mr. President : The question is:

"That the following proviso be added at the end of clause (3) of article 97:—

'Provided that whenever the President makes any such recommendations he shall give his reasons for the same in writing'."

The amendment was negatived.

Mr. President : I shall now put Dr. Ambedkar's amendment.

The question is:

"That with reference to amendment No. 1723 of the List of Amendments, in clause (3) of article 97 for the words 'revenues of India' the words 'Consolidated Fund of India' be substituted."

The amendment was adopted.

Mr. President : The question is:

"That article 97, as amended, stand part of the Constitution."

The motion was adopted.

Article 97, as amended, was added to the Constitution.

Article 98

Shri H.V. Kamath : Mr. President, Sir, I move:

"That in clause (1) of article 98, for the words 'Each House of Parliament may make rules for regulating, subject to the provisions of this Constitution' the words 'Subject to the provisions of this Constitution, either House of Parliament may make rules for regulating, be substituted.'"

There are two separate amendments in this: one is the transposition of a phrase in one clause and other is substitution of the word 'each' by the word 'either'. These are amendments of a drafting nature but in my humble judgment I believe that this is better English and it conforms more to the rules of syntax. I do not think there will be any objection or difficulty in the way of accepting this amendment and I hope the House will endorse my suggestion. Sir, I move.

(Amendments Nos. 1725 and 1726 were not moved).

Mr. Naziruddin Ahmad : Sir, I have to move my amendment No. 1727 not because I want to move it but because on this hangs the amendment of another honourable Member. I move it to accommodate the honourable Member. I beg to move:

"That clause (4) of article 98 be omitted."

Shri Jaspat Roy Kapoor (United Provinces: General): Before moving my amendment, I would like to thank my Honourable Friend, Mr. Naziruddin Ahmad, for having moved his amendment No. 1727, for that enables me to move my amendment to this amendment.

Sir, I am not moving amendment No. 14. I am moving amendment No. 15 only.

I move:

"That with reference to amendment No. 1727 of the List of Amendments, in clause (4) of article 98, after the word 'absence' the words 'the Chairman of the Council of States, or in the absence of both' be inserted."

Thereafter clause (4) would read:

"At a sitting of two Houses the Speaker of the House of the People, or in his absence the Chairman of the Council of States or in the absence of both such person as may be determined by rules of procedure made under clause (3) of this article, shall preside."