

Mr. President : The question is :

“That article 267, as amended, stand part of the Constitution.”

The motion was adopted.

Article 267, as amended, was added to the Constitution.

Article 268

Mr. President : We go to article 268. There is a formal amendment in the name of Dr. Ambedkar. I take it the House accepts it.

The amendment is :

“That in article 268, for the words ‘revenues of India’ the words ‘Consolidated Fund of India be substituted.’”

Shri M. Ananthasayanam Ayyangar : Mr. President, I wish to draw the attention of the House to what an important matter this Chapter relates—borrowing. Though the entire borrowing both of the Centre as well as of, the provinces and loans may be granted by the Union Government to States are put compendiously in two articles 268 and 269, they are more important and require greater scrutiny than the powers to impose taxation, with respect to which and for the distribution of which—the revenues of both the Union and the States—we have devoted a long Chapter. My intention in speaking on this matter is to draw the attention of the House now, and later on to make sure that the Parliament will devote greater attention to this matter. We have been seeing from time to time that the revenues are being collected for the year by Finance Bills. So far as borrowing is concerned—they may be short or long term, imposing heavy obligations upon not only the present generation but future generation also—sufficient attention is not being given to the manner in which borrowing can take place. Many of the loans which have been raised recently by provincial Governments have not been fully subscribed, some had to be withdrawn, and even we have been very chary of borrowing in the open market. I would suggest that a Commission of the kind of Finance Commission might be constituted for all time.

We do not want any other Commission. The Reserve Bank in the State Bank and it is competent to give us advice as to what ought or ought not to be done in this matter. Development schemes generally are to be undertaken by borrowings. They ought not to be legitimately borne on the current revenues because the benefits of these schemes will be shared not only by the existing people by the mass of the people now present, but also all the succeeding generations. From our recent budgets, it will be clear that the borrowing programmes are as wide as are the programmes for the revenues of the year. Under these circumstances, the matter of borrowing, the question of what loans are to be floated, is not being placed before Parliament. There is a similar provision in the existing Government of India Act. It is open to the Dominion Parliament to give directions as to the methods of borrowing, the amount of borrowing and so on. But all the same, all these matters have not been placed before us except as an appendix, as the tail-end of the budget, indicating what the capital outlay will be, and how in very brief outline, that money is to be made up. Parliament, when it makes provisions, should be very chary in granting permission to all and sundry loans being floated, irrespective of the capacity of the people to subscribe, etc. These and the purposes for which the borrowings take place will all be regulated by Parliament under article 268.

I find that both in articles 268 and 269, as regards loans that have to be borrowed by provinces, the consent of the Central Government is necessary in certain cases. In the present Government of India Act, there is a clause

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that this consent ought not to be delayed or unreasonably delayed. There is no such provision in this article, because it is thought such a provision is not necessary. Under the Government of India Act, it was thought there will be a different agency who will not be, a national of this country, in charge of the administration. But now with national governments in the provinces and a national government at the Centre, it is felt that such a provision is not necessary. I hope articles 268 and 269 will meet the situation. They will be taken full advantage of and will help to keep even a closer scrutiny upon the revenues of the Union and of the Provinces. I support the articles as they stand. But in the matter of working, the matter will be placed before Parliament and the Executive will not take the entire responsibility on itself, of raising loans before coming to Parliament, in the future.

Prof. Shibban Lal Sakesna : Mr. President, Sir, in this article I again want to voice my feeling against arming the executive with powers to borrow upon the security of the revenues of India etc. Of course, the limits are to be prescribed Parliament by law. But beyond that, Parliament does nothing. Sir, I think in such important matters where the entire security of the State may be pawned, there must be some voice for Parliament. It must not merely be that Parliament shall fix the limit, but that in other matters the Executive shall have all the power. At least, after taking a decision, the executive must take the Parliament into confidence. After all the Ministry will have always the majority in the Legislature and whatever they may do, they will be able to carry through the House. That being so, I do not know why they should feel shy to bring these things to Parliament. I therefore, think that such sweeping powers as are proposed in this article, should not be given to the Executive. Sir, this is my only objection and I hope the House will consider it. I am sorry I did not give notice of any amendment.

Shri H. V. Kamath : Mr. President, I earnestly hope that the House will bestow very serious consideration upon this chapter, Chapter II, which refers to borrowing by the Union, or giving guarantees to loans made by other units of the union. Borrowings can easily be one of those rocks upon which the ship of State may founder; and in modern times, and in the modern world, when economics has assumed such tremendous importance, and when loans are floated and subscribed very frequently by every State, by every country in the world, I feel that the executive of the Indian Union-to-be, should not be vested with the power to decide upon borrowing, within the limits, of course, fixed by Parliament, no matter what the purpose of the borrowing may be. I feel that the purpose for which the loan is raised, under this article must be laid before Parliament and the approval of Parliament must be sought and obtained for the purpose of that loan. But under this article 268, Parliament is empowered merely to fix the limits—I suppose it means the pecuniary limits, the monetary limits, within the limits of so many crores, and that sort of thing. Also the second part of the article relates to similar safeguards—not very important, in my estimation—regarding monetary limits of the guarantees to be given by the Union for loans. Nowhere does the article envisage the purpose for which the loan is raised or borrowed or guarantee given. In recent months, as the House is very well aware, various proposals have been made for loans from the World Bank or loans from America or from some other country as is willing to finance and promote our economic and industrial development. The House will also recollect that this House sitting as Parliament, during the last budget session and even in earlier sessions, pointedly asked the Prime Minister and perhaps the Finance Minister too whether loans borrowed from foreign countries, from America, or may be from U.S.S.R. if Government will consider such a proposal, will be subject to any political economic or military strings. After all, I am sure that Parliament

will ultimately decide our international relations. It is neither the executive nor the President but Parliament which will have the final word on what our foreign relations are going to be, what our international policy is going to be. But the executive may be at variance with Parliament in certain matters and if the executive takes it into its head to pursue a foreign policy which Parliament later on may not approve or which be quite in consonance with the decisions of Parliament in this regard, a very unfortunate situation pregnant with dire consequences may arise when a commitment will have been made by the government of the day—by the President and the executive—with regard to borrowing or the raising of loans from foreign countries. Of course they will not transgress the limits prescribed by Parliament. They will not borrow more than one, ten or twenty crores—whatever the limit may be. But the real purpose of that loan may be kept a guarded secret, and the purpose of the loan is an essential matter which will ultimately help or hinder us, and save or destroy us. I hope the House will consider this aspect of the matter which is far more vital in my judgment than the financial limits to be fixed by Parliament. The purpose of the loan goes to the root of the matter. If the President or the executive borrows a loan from America and either in a secret pact or in some secret terms of the agreement there is some military commitment or a political commitment, to be effective in future if there be war,—that we will assist it against certain other countries,—do we wish to face such a dangerous situation as that? I therefore want that this article should be so amended as to enable Parliament not merely to fix the limits of borrowing and the giving of guarantees but also to see on every occasion that the purpose of the loan or the purpose of giving a guarantee is justified by circumstances and that it is in absolute and complete consonance with the policy adopted by Parliament in our internal as well as international relations—the more so in our foreign and international relations. If the executive raises a loan on terms contrary to the policy which has been approved of by Parliament or which may be subsequently enunciated by Parliament, a conflict may arise between Parliament and the executive and it will be too late in the day to undo the disastrous effect of a loan that might have been borrowed by the executive with certain commitments made without reference to Parliament. We must be on our guard against this situation arising in future. I plead, with the House that this is no small matter at all, to be dismissed with just a flippant consideration or just because Dr. Ambedkar or the Drafting Committee is not going to consider the matter. I plead in the name of the future of India, of the peace, liberty and progress that we all have at heart—of the peace of India as well as of the world—that this article, and this Chapter as a whole, should receive more consideration than most articles usually do at the hands of this House. I hope that not merely the financial limits but also the purpose of every loan will come before Parliament for its approval, and action is taken by the President in accordance with the policy laid down by Parliament with particular regard to our international relations or our internal policies.

Prof. K. T. Shah : Mr. President, Sir, I agree that every act of borrowing is an executive act. But the *power to borrow* need not necessarily be regarded as an Executive power exclusively, subject to such limits, if any, as Parliament may from time to time place. From this point of view I would like to suggest that the borrowing power, or the use of the national credit, is a very delicate matter. Under the Conditions under which we are now living, it cannot be treated too scrupulously or too carefully if we would bear in mind the interests not only of the present generation, but of generations to come. As we know, the security of the revenues of India—as the clause speaks here—is at the present time any rate and judged strictly from purely economic considerations, a very thin security. That is to say, we have been, in the last ten years or

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so, habitually living in a deficit economy, and that deficit, considered in its budget aspect as well as in the aspect of the aggregate national economy, shows so far no sign of abatement. The various projects we have undertaken promise to remedy these deficits within ten or fifteen years. At the present moment, at any rate, and for some years to come it seems to me that our economy being a deficit economy, borrowing would be a necessity for years to come, and, as such, we cannot too carefully regulate, limit or restrict this power.

Taking this view I think that if the Constitution categorically assigns this power to the Executive, the Constitution would be doing injustice, not only to the Legislature, but also to the interests of, as I said before, generations to come. And for this reason. Parliament should not only regulate the borrowing by the Executive in the sense of fixing limits up to which borrowing can take place or lay down conditions for offering securities or guarantee, but Parliament should in my opinion say every year, in what may be called the Ways and Means Act, or the Finance Act, how much, shall be borrowed, so that from time to time—from year to year—the Parliament is aware of the state of the national credit and husbands it accordingly. The question is still more fearful as I conceive it, because it is very likely that borrowing within the home market may not suffice and that you may have to resort to borrowing outside the limits of the country. At that point, the danger would be much more acute than perhaps we are inclined to envisage it today. It has been the unfortunate experience of many countries which have been chronically indebted that the lender has time and again exercised influence, demanded security or guarantee, which is beyond the capacity of the country to afford. I will not quote, any remote examples, but even that country which was once regarded as the banker of the world—I mean Britain—whose credit is now being questioned is in a similar position, and the principal lender today is suggesting or inclined to interfere even in its domestic affairs. It is being alleged that the course which the present Government in England is following of all-round nationalisation bit by bit, makes the lender very nervous about the stability or security of that country. Suggestions, therefore, are not wanting that the accord between England and America may suffer.

I mention this illustration just to point out the danger inherent in a provision like this, wherein the power to borrow is left almost unconditionally to the executive, the only condition being that Parliament may impose limits as to the amount and nature of guarantees from time to time that may be given. The wording of the article suggests that even the imposition of such limits is a very doubtful proposition. The limits, “if any—that means limits may not be there at all, and the Executive may be entitled to borrow without limit, either of the charge it may create upon the consolidated fund which will be then outside the annual votes of Parliament, or which may be so excessive that the country’s entire future may be mortgaged to the lender.

Now, that is a consideration which fills me, for one, with great apprehension for the future. I am not prepared to say that there should be an utterly unconditional or unlimited power even under the Constitution to the executive to borrow up to what limits and in what manner it likes whether at home or abroad. As you know, in the past I have pleaded for more power to the Parliament as against the executive. In this instance, I am even prepared to go so far as to say that, by express provision of the Constitution, even the power of the Parliament should be restricted in the matter of the use of the national credit. Not only should the power of the executive be restricted: the executive should only confine itself to administering the law,—the Act,—under which borrowing should be authorised every year, so that every year

Parliament is in a position to take stock. I go further and say that even the power of Parliament should be restricted in the nature of assurances and guarantees that it is in a position to give. Parliament should not, for instance, I suggest—be able to guarantee or mortgage the primary productive resources, nor mineral wealth nor rivers nor any of the primary sources of production on which the future happiness of the country may depend. And if such a thing as this can be done the people as a whole, I would suggest, should be in a position to know it, and a revision of the Constitution may be necessary before even Parliament could mortgage the resources of the country.

As I have said before, while I have always suggested that the supreme power should be vested in Parliament here is an instance in which, by the Constitution, I would limit the power even of Parliament to allow any borrowing within and much more so outside the country. This article, therefore, cannot be viewed too seriously, and I would appeal to the Draftsman to reconsider this matter if he takes into account as I hope he will take, the seriousness of the stakes involved in this article.

The Honourable Dr. B. R. Ambedkar : Sir, except for the last oration of my Friend Prof. K. T. Shah in which he suggested that we should introduce a clause putting limitation upon the authority of Parliament to sanction loans, I was really quite unable to understand the dissent which has been expressed by other speakers with regard to the provision contained in article 268. It is admitted that it is the executive alone which can pledge the credit of the country for borrowing purposes, for borrowing is an executive act in one aspect of the case, but in this article it is not proposed that the power of the executive to borrow is to be unfettered by any law that is to be made by Parliament. This article specifically says that the borrowing power of the executive shall be subject to such limitations as Parliament may by law prescribe. If Parliament does not make a law, it is certainly the fault of Parliament and I should have thought it very difficult to imagine any future Parliament which will not pay sufficient or serious attention to this matter and enact a law. Under the article 268, I even concede that there might be an Annual Debt Act made by Parliament prescribing or limiting the power of the executive as to how much they can borrow within that year. I therefore do not see what more is wanted by those who expressed their dissent from the provisions of article 268. It is of course a different matter for consideration whether we should have a further provision limiting the power of the Parliament to pledge the credit of the country. It seems to me that even that matter may be left to Parliament because it will be free for Parliament to say that borrowing shall not be done on the pledging of certain resources of the country. I do not see how this article prevents Parliament from putting upon itself the limitations with regard to the guarantees that may be given by Parliament for the ensurement of these loans or borrowings. I therefore think that from all points of view this article 268 as it stands is sufficient to cover all contingencies and I have no doubt about it that, as my friend Mr. Ananthasayanam Ayyangar said, we hope that Parliament will take this matter seriously and keep on enacting laws so as to limit the borrowing authority of the Union,—I go further and say that I not only hope but I expect that Parliament will discharge its duties under this article.

Shri H. V. Kamath : Would not Dr. Ambedkar agree to the deletion of the words “if any” ?

The Honourable Dr. B. R. Ambedkar : I have been considering that, but do not think that will improve matters, because the words are “as may from time to time”.

Mr. President : I take it the amendment to substitute the words “Consolidated Fund of India” is accepted.

The question is :

“That in article 268, 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 268, as amended, stand part of the Constitution.”

The motion was adopted.

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Article 269

Mr. President : There are some amendments which are printed in the II Volume of the printed amendments on page 313.

(Amendment Nos. 2971 and 2972 were not moved.)

Then we shall take up amendment No. 107 by Dr. Ambedkar.

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

“That in clause (1) of article 269, the Words and figures ‘for the time being specified in Part I of the First Schedule, be omitted.”

“That in clause (1) of article 269, for the words ‘revenues of the State’ the words ‘Consolidated Fund of the State’ be substituted.”

“That with reference to amendment No. 2972 of the List of Amendments for clause (2) of article 269, the following clause be substituted :—

- ‘(2) The Government of India may, subject to such conditions as may be laid down by or under any law made by Parliament, make loans to any State or, so long as any limits fixed under article 268 of this Constitution are not exceeded, give guarantees in respect of loans raised by any State, and any sums required for the purpose of making such loans shall be charged on the Consolidated Fund of India.’ ”

The important change by my amendment No. 107 is that originally the Government of India was given a free hand in this matter; now the action of the Government of India is subject to such conditions as may be laid down by or under any law made by Parliament.

Sir, I move :

“That in clause (3) of article 269, the words and figures ‘for the time being specified in Part I or Part III of the First Schedule’ be omitted.”

Shri Brajeshwar Prasad: I am not moving amendment No. 108.

Shri H. V. Kamath : No. 146, I believe, is a verbal amendment and I leave it to the wisdom of the Drafting Committee.

Shri B. Das : (Orissa: General) : Sir, article 268 empowers, Parliament to fix by law the amount that could be borrowed by Provincial Governments. Article 269 was originally drafted differently. Now, the amendments that have been moved by Dr. Ambedkar shows that article 269, as sought to be amended by him, imposes further burden on the Finance Minister of Union Government. It also imposes additional burden on the Auditor-General of the Government of India without whose advice the Parliament will not be able to decide.

Today the Union Government is charged with additional responsibility of the borrowings of the States. Of course, it is qualified that such loans, such borrowings will be within the territory of India and also will be upon the