

[Prof. K. T. Shah]

It may quite possibly be, that for instance, in the item of public debt, which is charged upon the revenue, or in the charge of the service of that debt which also may amount to a considerable figure, there may be room hereafter for Parliament to demand scrutiny and voting instead of being merely content with discussion of it. In a case like this, while I am not suggesting that the basic Constitution should be varied by Parliament, the national Legislature should, under the Constitution, have the right to make its own law in any previous year, and say that in a subsequent year, it would be entitled to discuss as well as vote upon specified items previously in the charged or non-voted list.

In asking this, therefore, I am not making any really fundamental variation from the scheme of this article. I am only suggesting that the power of Parliament should not for ever be mortgaged to the executive, as this Constitution tends to do; and that it should be left open to it by legislation to withdraw any item, now charged upon the revenues, from such charged list, and make it open to the vote of the House. I commend the proposal to the House.

(Amendments Nos. 1709 and 1710 were not moved.)

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

“That in clause (1) of article 93, for the words ‘revenues of India’ the words ‘Consolidated Fund of India’ be substituted.”

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

“That in clause (1) of article 93, after the word ‘Parliament’ the words ‘unless Parliament has by law previously passed in any year for that purpose enacted that any expenditure under article 92(3) shall be deemed not to be charged on the revenues of India’ be added.”

The amendment was negatived.

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

“That in clause (1) of article 93, 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 93, as amended, stand part of the Constitution.”

The motion was adopted.

Article 93, as amended, was added to the Constitution.

#### Article 94

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

“That for article 94, the following article be substituted :—

‘94. (1) As soon as may be after the grants under the last preceding article have been made by the House of the People there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of India all moneys required to meet—

- (a) The grants so made by the House of the People; and
- (b) the expenditure charged on the Consolidated Fund of India but not exceeding in any case the amount shown in the statement previously laid before Parliament.

- (2) No amendment shall be proposed to any such Bill in either House of Parliament which will have the effect of varying the amount or altering the destination of any grant so made or of varying the amount of any expenditure charged on the Consolidated Fund of India, and the decision of the person presiding as to the amendments which are admissible under this clause shall be final.
- (3) Subject to the provisions of the next two succeeding articles no money shall be withdrawn from the Consolidated Fund of India except under appropriation made by law passed in accordance with the provisions of this article’.”

As I explained yesterday the object of this new article 94 is to replace the provisions contained in the old article relating to the certification of a Schedule by the Governor-General.

(Amendment Nos. 1711 to 1716 were not moved.)

**Mr. President** : Does any Member wish to say anything on the new article moved?

**The Honourable Shri K. Santhanam** (Madras: General): Sir, while there may be no material objection to the substitution of the original article by this new article, I cannot help feeling that this is a wholly unnecessary formality inflicted on our procedure. Dr. Ambedkar no doubt explained that we are trying to adapt our procedure to the procedure of the House of Commons, but there is one material difference which he has not touched upon. In the House of Commons, votes on estimates are taken in committee, the whole House going into committee. The votes taken there have no legal validity. Therefore they have to put in a special Appropriation Act to give legal validity to the votes taken. But our procedure is that the votes on demands for grants are taken in the full House with the Speaker in the Chair. Therefore the votes are as valid as the Appropriation Act itself. When once votes are taken in the House it is not possible for anyone to change them. Therefore I do not see why we should again have the procedure of a Bill and a vote taken. After all it is provided that you cannot make any change whatsoever in the Bill. When the House has legally done something I do not see any particular purpose in again bringing it as a Bill and providing for further speeches wasting two or three days of the time of the Legislature.

Dr. Ambedkar said that it was constitutionally objectionable to invest the President with the power of authenticate. If that is the objection, I submit that the Speaker may be asked to authenticate whatever is passed. Thus the entire formality could be avoided.

My purpose in coming to the forum is not so much to speak about it as about clause (3)—I want to draw the attention of the House to clause (3) of this article. I want them to vote on it knowing fully the implications. It says: “Subject to the provisions of the next two succeeding articles, no money shall be drawn from out of the Consolidated Fund of India except under appropriation made by law passed in accordance with the provisions of this article.” Article 95 provides for supplementary or excess grants. Therefore clause (3) means that for the purpose of supplementary and excess grants money can be drawn without the vote of Parliament. Is that the purpose? I can understand expenditure being incurred by the Government at their own risk, but payment should be deferred till vote is given by Parliament. But as the clause stands payments can be made by someone or other out of the Consolidated Fund without a vote of Parliament. I think that more or less nullifies the entire effort to see that no money is paid without a vote. Therefore I suggest that clause (3) must go and necessary provision should be made in article 95. I suggest that this is essential to make the law effective.

I agree that Parliament’s power over the finances should be effective. I am as emphatic as Mr. Sidhva himself that this should be effective. But let us not

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pretend to be effective and nullify it by a provision which makes it ineffective. If clause (3) stands, a hundred crores of rupees can be spent as supplementary or excess grants and then the whole thing will come before Parliament for mere ratification. Therefore clause (3) of the new article must go.

**Shri R. K. Sidhwa** (C. P. & Berar: General): Mr. President, Sir, my Friend Mr. Santhanam has suggested the deletion of clause (3) from the amendment moved by Dr. Ambedkar.

**The Honourable Shri K. Santhanam** : Not the whole of clause (3). I want the deletion of the words "Subject to the provisions of the next two succeeding articles". It must be article 95. I object only to the "two succeeding articles". I do not object to article 96 being there in this clause (3).

**Shri R. K. Sidhwa** : I have followed you correctly. You know very well how the House applauded article 92 for the new provisions inserted there in so as to make the question of Money Bills more liable to scrutiny. My Friend Mr. Santhanam also desires it. He too wants to make it more effective. But his argument is, why do you bring in another Bill and waste the time of the House giving it the opportunity to repeat the arguments and making speeches for two or three days more? His feeling is that the time of the House will be taken by such an unnecessary procedure being followed. I do not share his views in this matter. On the contrary this provision provides for a second check upon what has been done on an earlier occasion. Therefore there is nothing wrong. Under article 92 which we have passed we want that our whole financial procedure should be effective. As that is so, this clause is absolutely necessary. As I said the other day, question of time is no consideration in matters like finance. Only a provision of this kind will enable a complete and thorough check being made upon the expenditure that will be made from time to time by the executive. If you delete this I feel that the very object on which we have concentrated our attention will be frustrated. I therefore feel that the amendment as it stands should be accepted. If you take away anything from it, it will detract from the importance we attach to it. I do not think that Mr. Santhanam has made out a case for his proposition. I am sure he would have supported this article if he were not a Minister. He now feels that the discussions on the Budget and Money Bills should be disposed of as early as possible. I have noticed that feeling of his. I ask him, however, to have consideration for the feelings of Members who have also some things to discharge. He should not stand in the way of Members desiring to keep a check upon what is being done by the executive who are responsible to the Ministers. The actions of the Ministers can only be questioned in Parliament by the Members. Therefore this amendment which has been moved after mature consideration to satisfy the desire of the House should be adopted.

**Mr. Naziruddin Ahmad** (West Bengal: Muslim): Sir, I do not desire to say anything on the merits of this amendment. Experienced experts have differed from certain provisions of this amendment. I however desire to draw the attention of the House to a growing and alarming tendency to introduce new amendments to the Constitution itself.

You have already ruled that amendments to amendments may be given but new amendments of the Constitution itself should not be submitted. Amendment No. 11 on the First List totally replaces article 94; amendment No. 12 replaces article 95 and amendment No. 13 replaces article 96. These amendments are new and are amendments to the Constitution itself. I am not raising a mere technical objection, but these embody very serious changes. I have no doubt whatsoever that the way we are proceeding with the consideration of the Draft

Constitution, the way we are proceeding backwards and forwards, considering one article here and then switching over to another article there, I think this is certain to lead to anomalies and inconsistencies which cannot be detected on the spur of the moment. It is for this reason that I had suggested that we should have a final production from the Drafting Committee. The House should have a complete picture of what is really intended. Instead of this, we are showered daily with absolutely new amendments, new ideas and new thoughts. This, to say the least, is extremely difficult and inconvenient, if not utterly confusing. I submit, Sir, that the suggestion that I made a few days ago that there should be a little adjournment was made so that the Drafting Committee may have time to give us a final picture of their own mind to enable us to come thoroughly prepared. Unfortunately that suggestion of mine was taken to be a dilatory move. I had nothing like that whatsoever in my mind. I have already detected serious inconsistencies in the Draft Constitution as we have accepted and I do not know how many more inconsistencies are lurking behind these innocent looking new amendments. I ask you, Sir, to consider whether it would be easy or convenient for the Members to consider these new amendments to the Constitution itself if they are sent in from day to day. I do not, I confess, possess the mental dexterity of some of the Members. I am a little slow to understand these things and I therefore desire that things should proceed in such a way that the slowest Member like myself may be easily to follow them. I suggest that something should be done to relieve this difficult situation. At present what happens is that when Honourable Dr. Ambedkar gets up, and proposes a new clause, it has a paralysing effect on the House. The majority are not in a position to understand it, and it is passed as a matter of course. Sometimes after general discussions has begun, Dr. Ambedkar has proposed an amendment and even that has been accepted. If it is the desire that the Members should only hear what he says and must agree as a matter of courtesy, then it is all right. But I contend that every Member has a duty to follow what is happening.

**Mr. President :** I am afraid this complaint of the honourable Member is not justified. Notice of this particular amendment was given as long ago as the 28th May which is nearly a fortnight ago, and this has been taken up after the pretty long discussion which we had day before yesterday about the nature of these amendments. I do not think any Member has been taken by surprise particularly with regard to these articles where there is a fundamental change of procedure suggested.

**Mr. Naziruddin Ahmad :** I cited these articles by way of illustration only. We are given every day absolutely new ideas. We are faced with amendments which are nothing other than new ideas. I protest against this tendency, which is not a little confusing and inconvenient to Members. It is not easy for all the Members to follow these changes. This is not by way of complaining against these present amendments only, but everyday new ideas are given and they are changed from day to day, and at the last minute something is proposed and we have automatically to agree to it. I contend that what I say is not to delay matters but to facilitate matters. These are inconveniences felt by some Members and I have ventured to come here and place them before you.

**Mr. President :** When we are considering the Constitution, we cannot altogether rule out new ideas. Changes are bound to occur from time to time and whenever they do occur, we have to take note of them. Therefore the Chair has reserved to itself the right to allow amendments even at a later stage, if it thinks that an amendment is such that it requires consideration. If there is any complaint from any Member that time should be allowed to consider any particular amendment, it shall always be considered. So far as these particular amendments are concerned, I think we have had enough time to consider them.

**Mr. Naziruddin Ahmad :** I simply submit that something should be done to stop this tendency or at least to allow Members time to follow them. This is only by way of a general complaint. There is now-a-days a tendency to submit new amendments which are in the nature of changing the Constitution itself. This tendency is rather confusing and very inconvenient to Members. I never suggested anything about your ruling. That is a recognition of the need for changes, but I am really feeling myself hopeless about the way these amendments are coming in. If they were one or two isolated cases, it would have been different, but new amendments to the Constitution itself has become the rule.

**Shri T. T. Krishnamachari** (Madras: General): Mr. President, Sir, this amendment to substitute a new article for article 94 has been fully dealt with by Dr. Ambedkar in his speech day before yesterday while outlining the nature and scope of the changes that the Drafting Committee have sought to make in the scheme of financial control. He made it very plain that this suggestion of an Appropriation Bill is to substitute the authentication of the President, a practice which has been followed all along for reasons totally different from what we have in mind about the new set up of the Constitution of this country. Sir, it must also be understood that there has been no vital change in the procedure. Dr. Ambedkar was at great pains to explain to the House that the changes made are such that they are only enabling provisions, to give power, to the Parliament if it so desires, to make changes in the scheme of financial control and in the discussion of the budget and the procedure to be followed thereon, and very rightly he has drawn attention to the new article that is proposed, viz., 98-A, whereby Parliament would have the complete right and freedom to do what it likes in regard to the laying down of any procedure if it so wishes. The article before the House involves merely a change in the nomenclature rather than one of substance. Instead of the President authenticating the decisions arrived at when the voting on demands is carried on in the House, the House will take upon itself the duty by making the executive present the whole set of decisions in a concrete form which it will then approve, and the rules with regard to the discussion on such an Appropriation Bill will be made by Parliament or by the Speaker of the House until Parliament itself makes the rules. Sir, I fail to appreciate the basis, the validity of the complaint made by my honorable Friend, Mr. Santhanam, who, as the other speakers before him have stated, is one of the most well-informed critics of the Constitution as well as of procedure in the House and who had been taking a lot of interest in the budget activities in the Parliament before his elevation to the Ministry. His objection apparently was not fundamental, though he failed to see the necessity for an amendment of this nature. He did not raise any fundamental objection to the changes sought to be made by the Drafting Committee. Sir, the objection that he raised to clause (3) of article 94, which enables the operation of articles 95 and 96 that follow hereafter arises, in my view, from an imperfect understanding of the scheme.

Article 95, Sir, if the House will permit me to explain briefly and anticipate Dr. Ambedkar when he moves his amendment thereon, combines two functions allowed to the executive, one of which the Parliament would approve of later, that is, after the event. Actually, either in approving of supplementary or in approving of excess grants made, the Parliament or any Legislature always dealt with a situation after the fact. It was definitely an *ex-post facto* decision. My honourable Friend, Mr. Santhanam says: "you want to tighten up the procedure. Why do you allow the executive to incur expenditure and then come to the Parliament for approval, to make a deviation in the estimates, in the demands passed and the estimates approved of by the House and then come to the Parliament for approval thereafter?"

**The Honourable Shri K. Santhanam :** I was not objecting to expenditure, but to the demand out of the Consolidated Fund.

**Shri T. T. Krishnamachari :** I am coming to that point. In fact it is an extremely pedantic way of looking at a simple fact. The sanction of the expenditure, the entering into a commitment and the payment of money in discharge of the commitment are all one and the same action. You cannot ask the Government to enter into a commitment and say, well, the Parliament will not pay, after the Government had entered into a commitment. It means a Government which cannot persuade a Parliament to honour a commitment that they had made by paying the moneys due under that commitment will have to go out of office as it has thereby ceased to command the confidence of Parliament. I am rather surprised that a Minister of Government who will be a daily faced perhaps when he rises to a position of greater responsibility than the one that he now occupies and would find himself in a peculiar position when he makes a commitment for an expenditure which the Parliament may or may not permit him to fulfill, should say that he should not be permitted to incur the expenditure until Parliament approves of the Scheme and thereafter allows him to put out the money for the purpose. It really means that a commitment made by a member of Government is absolutely worthless and if the Parliament really refuses to pay, it means, he ceases to have the confidence of the Parliament. But apart from that, the idea really in this new scheme is not to make a radical alteration from the existing scheme that Dr. Ambedkar already made mention of and I repeated it the day before yesterday. We do not want to put the Government into a straitjacket; we have assured the House more than once that the idea is not to make a serious departure from what obtains now and thereby embarrass the Government, but at the same time make enough provision so that if the Parliament of the future wants to exercise greater control, they can do so. There is one aspect in regard to the new articles, both 95 and 96 that are to be moved by Dr. Ambedkar hereafter, which is covered by clause (3), and that is a certain amount of initiative is to be left to the executive in this matter. That initiative might however, be curtailed by frequent meetings of Parliament, by the executive realising their responsibility and placing demand for large amounts of expenditure, if they have the reason to incur it, before the Parliament in the form of a supplementary budget. Sir, the Members of this House spoke of supplementary demands covering a large amount of over Rs. 100 crores having been passed by this House acting in the other Chamber during the last Budget session. I quite agree that it is something which is not correct. In proportion to our total Governmental expenditure, Rs. 100 crores is something very big. The only way in which the House could have made the Government come before them before the bulk of the expenditure was incurred was by compelling Government to present a supplementary budget,—if things had happened in a way that it had exceeded the best anticipations of Government in regard to expenditure. Even here, the procedure outlined in article 96, namely a Vote of Credit might partially serve as a means of obtaining approval of Parliament in the future. If the Government feel that they have to incur expenditure of a character which they did not anticipate, a new war or an increased expenditure in a war they are carrying on, they might always go to the House and ask for a Vote of Credit. That is the procedure that has been made possible by the new set of amendments that are to be moved and that is the only type of control that the Parliament can exercise. The provision envisaged by clause (3), namely articles 95 and 96, is put in any scheme of Financial provisions if the intention is that the Government is to carry on the Government of the day and the control that the Parliament might ultimately exercise is only by an understanding with the executive that the executive limits its expenditure up to a particular amount and for increased

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expenditure the convention has to be established that the Government will go before the Parliament with a supplementary budget. If clause (3) is taken away, then article 95 becomes inoperative and I would at once point out to my honourable Friend Mr. Santhanam that it would make it impossible for the Government to be carried on without the Parliament sitting practically every day, so that Government can go to Parliament as and when occasion arises and say; "We have made this excess expenditure; this is unforeseen expenditure, please grant it, or else we will go out of office." The Honourable Mr. Santhanam's objection might be due to his dislike of the corollary to this scheme, namely, that Parliament will have to sit for a longer duration, probably three or four or six months, which he does not like. I am afraid, Sir, that though it is not my intention to disprove the validity of anything that Mr. Santhanam has said, I think it is my duty being *particeps criminis* in making the suggestions that have been put before the House in regard to the changes in the financial structure that this House.....

**The Honourable Shri K. Santhanam :** On a point of personal explanation; I made no such speech.

**Shri T. T. Krishnamachari :** And the public at large will have to be assured that the idea of these amendments is not to embarrass the Government, the idea is not to make the Government impossible, but merely to allow Parliament both by convention and rules of procedure to tighten up their control on expenditure generally. Sir, I trust there will be no need for any further explanation and the House will pass the amendment of Dr. Ambedkar without further discussion.

**Prof. Shibban Lal Saksena :** Mr. President, Sir, I only wish to draw the attention of the House to clause (2) of the new article 94 and I would request Dr. Ambedkar to explain the need of this clause in this article. This clause (2) says: "No amendment shall be proposed to any such Bill in either House of Parliament which will have the effect of varying the amount or altering the destination of any grant so made or of varying the amount of any expenditure charged on the Consolidated Fund of India, and the decision of the person presiding as to the amendments which are admissible under this clause shall be final." Such a clause does not find a place in the constitution of England; of course, their constitution is unwritten. I feel that this could have been left to the conventions of the House or to the rules to be made by Parliament for itself. But, if it is put in the Constitution, it puts a limitation on the sovereignty of Parliament. Although what is contemplated is that the Estimates will be scrutinised in the Committee of Supplies and the Committee of Ways and Means and an Appropriation Bill will be framed on the decisions of the Committee of Supplies and Committee of Ways and Means, actually, there will not be any necessity for varying the items in the Appropriation Bill. But, suppose some Government does not frame the Appropriation Bill in accordance with the recommendations of the Committee of Supplies and the Committee of Ways and Means, then, there is no provision left for the members of the House to bring forward amendments to bring it in conformity with the decisions of these committees. I therefore think that this should not be a provision in the Constitution, but should be left to the rules or the conventions of the House so that on such occasions, the House may bring to the notice of the Government that they have not carried out the proposals agreed upon by the Committee of Supplies and the Committee of Ways and Means. That, I hope, would be much healthier. I would request Dr. Ambedkar to explain what is the real need of putting this clause in the Constitution.

**Mr. Mahboob Ali Baig Sahib :** (Madras: Muslim): Sir, I will confine myself to article 94 and the amendment moved by Dr. Ambedkar, to the new article.

The difference between the proposed amendment and the original article is this: whereas in the original article the grants made by the House of the People will have to be authenticated by the President, according to this amendment, an Appropriation Bill will be moved before the House of the People and passed. That is the only difference that I find. In his introductory speech, Dr. Ambedkar said that in the past the Governor-General used to authenticate the expenditure granted by the Assembly for several reasons. He had to act in his discretion and in his individual judgment and therefore it was necessary that this table of expenditure approved by the Assembly should go before him so that he may make any changes if he pleases. These circumstances do not exist now; although the President is there as the executive head, it is more appropriate and more democratic that the House of the People should approve the table of expenditure which it has granted. That is the argument advanced by him. I entirely agree with him that the President or any executive head should not authenticate the expenditure, but it is the House of the People only that should do it. The question is whether an Appropriation Bill is necessary and what is the purpose of this Appropriation Bill. If it is merely to authenticate the several grants that have been made by the House of the People, why should there be an Appropriation Bill? As stated in clause (2) of this amendment, no amendment shall be proposed to the Bill, and no changes could be proposed in the matter of the expenditure charged on the Consolidated Fund. What is the purpose, then, I ask, of having an Appropriation Bill brought before the House of the People? If you want that after the grants have been made by the House, a table of the grants should be placed before the House, I agree. This Schedule of expenditure will be approved by the House automatically. It is a mere formality. Whereas in the case of the Governor-General, he had the right to interfere in his discretion and in his individual judgment, now there is no scope for that at all. It is merely a formality to place the Schedule of grants that are made by the House from day to day; and get it sanctioned. The House passes that Schedule automatically. Therefore, I do not see any reason why this Appropriation Bill should be brought before the House at all. If you want to call it an Appropriation Bill, because some other Governments have called it an Appropriation Bill, it is just an unnecessary thing. That can be done by stating that instead of the President, the House of the People will authenticate the schedule of expenditure granted by a certain date; that would be enough. Therefore, Sir, my submission is that it serves no useful purpose at all, as Mr. Santhanam put it. It will serve no useful purpose because, when this Appropriation Bill is brought before the House the House cannot move any amendment to that and cannot change the expenditure charged to the Consolidated Fund. Therefore, I say, why go through this process of placing an Appropriation Bill before the House? It is just enough to say that the Schedule of expenditure granted by the House of the People will be laid before the House of the People, which must be considered to have been authenticated. If necessary, the signature of the Speaker of the House of the People authenticating that these items have been passed by the House of the People is enough. Therefore, my submission is that the manner in which the article has been re-drafted is unnecessary and that appropriate changes should be made with regard to this matter and that it is quite enough to say that the schedule of expenditure granted by the House should be placed before the House of the People and it should be deemed to have been authenticated. Sir, I am not now referring to any matters that are going to be moved under article 95 and 96. I reserve my remarks thereon.

**Shri L. Krishnaswami Bharathi :** Mr. President, Sir, my Friend Mr. Santhanam's point, in my opinion, certainly requires clarification. Clause (3) reads :—

“Subject to the provisions of the next two succeeding articles no money shall be withdrawn from the Consolidated Fund of India except under appropriation made by law passed in accordance with the provisions of this article.”



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Article 96 relates to three categories of votes, votes on account, votes on credit and exceptional grants. In these three cases Parliament authorises such expenditure; and therefore so far article 96 goes, I think we can have no objection to that being mentioned in this. As for article 95, it allows for what are known as supplementary grant and excess grants. The whole point of his contention and the whole matter is that we do not want to give the executive power to spend money over and above what Parliament has granted. Clause (a) of 95 says :—

“if at any time the executive finds that a sum granted is found to be insufficient that is No. 1—and also if there is any new service not contemplated at the time of the passing of the Budget—then in such a contingency the President shall cause to be laid before both the Houses of Parliament another statement showing the estimated amount of that expenditure, etc.”

The words ‘estimated expenditure’ show that the expenditure may not be actually incurred but they are able to foresee the possibility of an expenditure and it is likely that they will come forward to Parliament and say “The amount granted by you is not sufficient and we want a little or more or there is a new service which was not contemplated at the time of passing the Budget and therefore we want more money”. That is a supplementary grant which may be allowed. It is clause (b) of No. 95 which Mr. Santhanam takes exception to viz., if money has been spent on any services during the financial year in excess of the amount granted for that service and for that year. In fact last year there was a great argument in the Legislative Assembly that a sum of over 100 crores without any authorisation had been spent. I want to ask Dr. Ambedkar if it is not possible for the executive to spend any amount as they did last year without any specific grant by Parliament and therefore is it not giving a free latitude to the executive to spend any money in that year in excess of the grant made by Parliament during that year? Is it not against the democratic principles to allow the executive such a power? I understand in England that is not the procedure followed. Whenever the executive wants to spend an amount over and above, the officer-in-charge of disbursements informs the executive. “Well you are nearing the end of your grant and you must make provision.” They are not allowed to spend a pie more than what Parliament has authorised. I see no reason why we should have any departure. It is just possible that Parliament may not meet and they may have to incur the expenditure. It is equally possible they may spend crores—hundred of crores—and therefore it seems to me rather going against the fundamental principles that every amount spent must have the sanction of Parliament; and we seem to be going against that principle in allowing clause (b) of No. 95 as it stands at present. Therefore so far as 96 goes, Parliament exercises its judgment and mind and is to vote on grant but this is something in which the executive has unbridled power and I would like Dr. Ambedkar to explain this aspect of the matter.

**The Honourable Dr. B. R. Ambedkar :** Mr. President, Sir, I thought that the observations made by my Friend Mr. T. T. Krishnamachari would have been regarded as sufficient to meet the objections raised by my Friend Mr. Santhanam, but since my Friend Mr. Bharathi by his speech has indicated that at any rate his doubts have not been cleared, I find it necessary to rise and to make a few observations. My Friend Mr. Santhanam said that we were unnecessarily borrowing the procedure of an Appropriation Bill and that the existing procedure of an authenticated schedule should have been sufficient for our purposes. His argument if I understood him correctly was this: that an Appropriation Bill is necessary in the House of Commons because the supply estimates are dealt with by a committee of the whole House and not by the House itself. Consequently the Appropriation Bill is, in his opinion,

a necessary concomitant of a procedure of estimates being dealt with by a sort of Committee of the House. Personally, I think there is no connection between the Committee procedure of the House of Commons and the necessity of an Appropriation Bill. I might tell the House as to how this procedure of the House of Commons going into a Committee of Supply to deal with the estimates came into being. The House will remember that there was a time in English political history when the King and the House of Commons were at loggerheads. There was not such pleasant feeling of trust and confidence which exists now today between the House of Commons and the King. The King was regarded as a tyrant, as an oppressor, as a person interested in levying taxes and spending them in the way in which he wanted. It was also regarded that the Speaker of the House of Commons instead of being a person chosen by the House of Commons enjoying the confidence of the House of Commons was regarded as a spy of the King. Consequently, the members of the House of Commons always feared that if the whole House discussed the estimates the Speaker who had a right to preside when the House as a whole met in session would in all probability, to secure the favour of the King, report the names of the members of the House to the King who criticised the King's conduct, his wastefulness, his acts of tyranny. In order therefore to get rid of the Speaker who was, as I said in the beginning, regarded as a spy of the King carrying tales of what happened in the House of Commons to the King, they devised this procedure of going into a committee; because when the House met in Committee the Speaker had no right to preside. That was the main object why the House of Commons met in Committee of Supply. As I said, even if the House did not meet in Committee of Supply, it would have been necessary for the House to pass an Appropriation Bill. As my friend—at least the lawyer friends—will remember, there was a time when the House of Commons merely passed resolutions in committee of Ways and Means to determine the taxes that may be levied, and consequently the taxes were levied for a long time—I think up to 1913 on the basis of mere resolutions passed by the House of Commons Committee of Ways and Means. In 1913 this question was taken to a Court of law whether taxes could be levied merely on the basis of resolutions passed by the House of Commons in the Committee of Ways and Means, and the High Court declared that the House of Commons had no right to levy taxes on the basis of mere resolutions. Parliament must pass a law in order to enable Parliament to levy taxes. Consequently, the British Parliament passed what is called a Provincial Collection of Taxes Act. I have no doubt about it that if the expenditure was voted in Committee of Supply and the resolutions of the House of Commons were to be treated as final authority, they would have also been condemned by Courts of law, because it is an established proposition that what operates is law and not resolution. Therefore my first submission is this: that the point made by my Friend Mr. Santhanam, that the Appropriation Bill procedure is somehow an integral part of the Committee procedure of the House of Commons has no foundation whatsoever. I have already submitted why the procedure of an authenticated schedule by the Governor-General is both uncalled for, having regard to the altered provision of the President who has no function in his discretion or in his individual judgment, and how in matters of finance the authority of Parliament should be supreme, and not the authority of the executive as represented by the President. I therefore need say nothing more on this point.

Then my Friend, Mr. Santhanam, said, if I understood him correctly, that article 95—I do not know whether he referred to article 96; but he certainly referred to article 95—would nullify clause (3) of the new article 94. Clause (3) stated that no money could be spent except under an appropriation made by law. He seemed to be under the impression that supplementary, additional or excess grants which are mentioned in new article 95, and votes on account, or

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votes on credit or exceptional grants mentioned in the new article 96 would be voted without an Appropriation law. I think he has not completely read the article. If he were to read sub-clause (2) of the new article 95 as well as the last part of new article 96 and also a further article which will be moved at a later stage—which is article 248A—he will see that there is a provision made that no moneys can be drawn, whether for supplementary or additional grants or for votes on account or for any purpose, without a provision made by law for drawing moneys on Consolidated Fund. I can quite understand the confusion which probably has arisen in the minds of many Members by reason of the fact that in some place we speak of a Consolidated Fund Act while in another place we speak of an Appropriation Act. The point is this: fundamentally, there is no difference between a Consolidated Fund Act and an Appropriation Act. Both have the same purpose, namely, the purpose of authorising an authority duly constituted to draw money from the Consolidated Fund. The difference between a Consolidated Fund Act and the Appropriation Act is just this. In the Consolidated Fund Act a lump sum is mentioned while in the Appropriation Act what is mentioned is all the details—the main head, the sub-heads and the items. Obviously, the procedure of an Appropriation Bill cannot be brought into operation at the stage of a Consolidated Fund Bill because Parliament has not gone through the whole process of appropriating money for heads, for sub-heads and for items included under the sub-heads. Consequently when money is voted under a Consolidated Fund Act, it means that the executive may draw so much lump sum out of the Consolidated Fund which will at a subsequent stage be shown in what is called the final Appropriation Act. If honourable Friends will remember that there is no authority given to the executive to draw money except under a Consolidated Fund Act or under an Appropriation Act, they will realize that so far as possible an attempt is made to make these provisions as fool-proof and knave-proof as one can possibly do.

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

“That for article 94, the following article be substituted:

‘94. (1) As soon as may be after the grants under the last preceding article have been made by the House of the People there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of India all moneys required to meet—

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- (a) the grants so made by the House of the People; and
- (b) the expenditure charged on the Consolidated Fund of India but not exceeding in any case the amount shown in the statement previously laid before Parliament,
- (2) No amendment shall be proposed to any such Bill in either House of Parliament which will have the effect of varying the amount or altering the destination of any grant so made or of varying the amount of any expenditure charged on the Consolidated Fund of India, and the decision of the person presiding as to the amendments which are admissible under this clause shall be final.
- (3) Subject to the provisions of the next two succeeding articles no money shall be withdrawn from the Consolidated Fund of India except under appropriation made by law passed in accordance with the provisions of this article.’ ”

The amendment was adopted.

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

“That article 94, as amended, stand part of the Constitution.”

The motion was adopted.

Article 94, as amended, was added to the Constitution.