

the entire administration. From that point of view I think the House will readily concede that the view taken by Professor Shah, however plausible, is extremely narrow. A person who has got the qualification of only Registered Accountant and nothing else, which will probably be the case if you rule out administrative experience, will not suit as an Auditor-General. Having some experience of Registered Accountants myself I do not think it is a type of work that is impossible for anybody else who has got a comprehensive knowledge of administration and accounting to get to know. All the knowledge of a Registered Accountant is certainly known to a person who holds the position of an Auditor-General in the Government of India or Accountant-General and I see no reason why I should support Mr. Shah's view and ask the House to accept his amendment which if anything will upset the arrangement that now exists and will make it very difficult for the future Government to choose an appropriate person to function as Auditor-General. Sir, I oppose the amendment.

Shri Lakshmi Narain Sahu (Orissa : General) :* [Mr. President, I support the amendment moved by Prof. K. T. Shah on this ground that if a man working as an Auditor-General does not know the work of auditing how can he be appointed as an Auditor-General. We have passed the Chartered Accountants Bill. According to it, only that man shall be a registered Accountant who has carried out audit work for at least ten years, otherwise not. And those who have been doing the Government audit work for ten years or more (*sic*) will perhaps be left out; but those who are G.D.A.'s will have to work for one year to become registered accountant. We have placed so many limitations over them only with a view that our audit work may be carried out efficiently. Hence the man, who would be our topmost auditor, must have some degree and standard of auditing. I cannot understand how he can be appointed if he does not possess any degree. I, therefore, support the amendment of Prof. K.T. Shah and feel that it should be accepted.]

Mr. President : I do not think there is anybody else wishing to speak on the motion. I shall now put it to vote.

The question is :

“That the following new article be added :—

‘124-A. The Auditor General shall be appointed from among persons qualified as Registered Accountants or holding any other equivalent qualifications recognised as such, and having not less than ten years’ practice as such Auditors.’ ”

The amendment was negatived.

Article 125

Mr. President : Then we come to article 125, to which there is amendment No, 1984, standing in the name of Pandit Hirday Nath Kunzru.

Pandit Hirday Nath Kunzru (United Provinces : General) : Mr. President, I ask for your permission to omit all reference to local authorities in my amendment. If you permit me to do so, my amendment will read as follows :—

“That in article 125, for the words ‘and of the Government of any State’, the words ‘the Government of any State or any other authority’ be substituted.”

The object of my amendment is to provide that Parliament should have the power to confer additional duties on the Comptroller and Auditor-General. We are creating corporations now, and we have already created the Damodar Valley Corporation. We shall, doubtless, create more such corporations in future. So far as I remember, the Damodar Valley Corporation Act, while it allows the

*[] Translation of Hindustani speech.

[Pandit Hriday Nath Kunzru]

Corporation to get its accounts audited by auditors appointed by it, also permits Government to impose any duties on the Auditor-General in that connection that it likes. I want, Sir, that this position should be maintained, particularly as the number of such corporations is going to increase. The Indian Railway Enquiry Committee have recommended the establishment of a Railway Authority for the management of the Railways. If it comes into existence, this Authority will control property worth six or seven hundred crores, and expenditure running into about two hundred crores. Since all the property under the autonomous corporations will belong to the Government, it is necessary that Parliament should have the power, should it so desire, to assure itself of the soundness of the financial position of the authorities created by it, by asking the Auditor-General to perform such duties in connection with the examination of their accounts, as it thinks proper. It may not be necessary for Parliament to do so. But it should have the power to direct the Auditor-General to examine the accounts of the corporations created by it. The State has invested, or will invest crores upon crores of rupees in these corporations; and it should not, therefore, be compelled by law to depend upon the reports submitted by auditors appointed by these corporations. Now, this does not mean any distrust of these corporations. I do not wish to cast any reflection on the honesty of the members of these corporations or the auditors appointed by them; but as a general principle, I want that the power of the Auditor-General should be capable of expansion so that Parliament may have an independent authority at its disposal in order to satisfy itself of the soundness of the management of the authorities created by it.

I hope, Sir, that this amendment, which is in accordance with what has been done already in connection with the Damodar Valley Corporation Act, will be accepted by the House.

(Amendments No. 25-D and No. 1985 were not moved.)

Mr. President : Amendment No. 1986, by Dr. Ambedkar.

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

“That for the Explanation to article 125, the following Explanation be substituted :—

‘Explanation.—In this article, the expression ‘law made by Parliament’ includes any law, ordinance, order, bye-law, rule or regulation’ passed or made before the commencement of this Constitution and for the time being in force in the territory of India.’ ”

The House probably will remember that the functions of the Auditor-General are regulated not by law made by Parliament, but by Ordinance, order, bye-law, rule or regulation, etc., made by the Governor-General, under the powers conferred upon him by the Government of India Act, 1935. Consequently, in order to keep alive the ordinances, orders, by-laws, rules and regulations made by the Governor-General, it is necessary to amplify the explanation so as to include these orders also.

Shri R. K. Sidhwa : Mr. President, Sir, this article relates to the duties and powers which will be prescribed by Parliament for the Auditor-General. Now, Sir, we have just passed an article conferring independent powers, to a great extent, on the Auditor-General. Now, this article leaves it to Parliament to make laws in connection with many other matters. While I welcome the independence of the Auditor-General—and I entirely agree with what Dr. Ambedkar said, and I give him credit for adding the word “Comptroller” to the Auditor-General, so that he may have all the powers as far as audits are concerned,—I fail to understand why for certain other important powers, Parliament has been asked to make laws. To give one illustration at present, the Auditor-General has no right to pass a bill beyond the Budget grant. There

is a law to that effect made by the Executive. Despite that, if a Ministry exceeds the budget grant and the Auditor-General brings it to the notice of the Minister concerned, the latter asks the Auditor-General to pass the bill, because the Minister believes that he enjoys the confidence of the House and if the item is brought as a supplementary grant before the Assembly it would be granted. At present despite the rule the Auditor-General is helpless. He simply puts the rubber stamp of audit objection and at the instance of the Minister concerned passes the bill. So the object of the rule made by the executive is frustrated by the Auditor-General over-riding the rule, because he also feels that the Minister enjoys the confidence of the House and therefore he feels why should he object to the item. Sir, if the Minister feels that because he enjoys the confidence of the House he could make the Auditor-General pass the bill, it would be a mockery of democracy. It will not be a government of the people, for the people and by the people. Because the Minister enjoys the confidence of the people it does not mean that he should flout the decision of Parliament. That is a very important point and I want it to be put into the Constitution that the Auditor-General shall not pass any amount which is beyond the budget grant. As I said the other day, from my experience, 130 crores of rupees, not a small amount, was passed as a supplementary grant on the 31st day of March and the House passed it helplessly; though every Member was opposed to it, they did not want to embarrass the Ministry. If such a provision was in the Constitution nobody would have dared, nor the Auditor-General, nor the Minister, nor the House to flout the Constitution. Laws may be flouted, rules or regulations may be flouted but the Constitution cannot be flouted. I therefore expect my Friend Dr. Ambedkar to consider this matter and give the Auditor-General the fullest power and not allow anybody to interfere with him. If you allow 130 crores to be passed on the ground of emergency (Rs. 130 crores is one third of the total amount of the budget). It would be very regrettable and undesirable.

I entirely agree with the amendment of my Friend Mr. Kunzru. I would go further and state not only local authorities but local bodies should also be included. From my experience of twenty-seven years I can state that the control over the accounts of local bodies is absolutely a failure. If any local body wants the assistance of the Auditor-General and his staff, it should be allowed. The local bodies are in a rotten state, and the loan of a staff by the Auditor-General, would improve matters.

With these words I hope that Dr. Ambedkar will consider the first point I have suggested.

Dr. P. S. Deshmukh (C.P. & Berar : General) : Sir, the amendment move by Mr. Kunzru wants to provide for the Auditor-General's powers to cover not only the accounts of the Governments but also of several independent corporations and other bodies. So far as the article is concerned there is a provision by way of an explanation which makes it possible for the Parliament to give authority to the Auditor-General over any particular organisation or body and make suitable provisions in the laws of Parliament promulgated from time to time. This Explanation has now been amended by an amendment proposed by Dr. Ambedkar and by this amended explanation not only any existing laws but also ordinances, bye-laws, rules and regulations passed before the commencement and for the time being in force are included.

Besides this we have the following words "as are or may be prescribed by or under any law made by Parliament", and they occur in the main body of the article. In view of this I do not think the amendment that has been proposed is necessary. After all the purpose is that not only the Government's accounts but the accounts of all these important bodies that will come into being from time to time shall be under proper audit and that aim will be fulfilled by the laws and unless any regulations that may be passed by the Parliament. It would

[Dr. P. S. Deshmukh]

be set up to the Parliament to see whether the authority of the Auditor-General is necessary and to make adequate provision for the same. Therefore it is not necessary to include in this article local bodies and all other miscellaneous corporations and organisations. I therefore submit that since the article has adequate provision for this purpose there is no need to accept the amendment moved by Pandit Kunzru.

My Friend Mr. Sidhva drew the attention of the House to the importance of the office of the Auditor-General and wanted a provision that at any time the Auditor-General shall not permit any expenditure over and above the budget provisions. I think that provision is also unnecessary. We have had the experience of last year when the budget estimates were not respected to the extent they should be. That was however an exceptional happening and I do not think any democratic Parliament will permit its recurrence. In any case the rule that no government or organisation or executive shall exceed the amount of expenditure provided in the budget is a well-understood one and it is not necessary to make provision regarding it in the Constitution. It is a most fundamental rule that the budget provision shall be respected and no expenditure in excess of the budget provision shall be made. I do not think it is necessary to include it in the Constitution. If at any time this salutary and fundamental principle is disregarded or violated by the executive the Parliament should be alert enough to punish it adequately.

The Honourable Dr. B. R. Ambedkar : Sir, with regard to the amendment of my friend Mr. Kunzru I am prepared to accept it provided he is prepared to drop the words “or any local”.....

Pandit Hirday Nath Kunzru : I have dropped them.

The Honourable Dr. B. R. Ambedkar : Because local audit is a matter which is within the control of the Provincial Governments. But the addition of the words “other authority” I think may be necessary or even useful. As he has himself said the policy of the Government of India today is to create a great many corporations to manage undertakings which it is not possible to manage departmentally and consequently it is necessary that the Government of India should make some provision for the audit of these corporations. That being so I think it is desirable to vest the Central Government with power to allow the Auditor-General to audit even the accounts of all such authorities. Subject to the modification I have suggested I am prepared to accept the amendment.

With regard to the point made by my Friend Mr. Sidhva that many of these rules with regard to the duties of the Auditor-General are made by the executive and therefore, since by the amendment which I have suggested we are continuing to give these powers the same operation which they had before, we are practically investing the Executive with the authority to prescribe the duties of the Auditor-General. Obviously, there is an incongruity in the position, in that an officer who is supposed to control the Executive Government with regard to the administration of the finance should have his duties prescribed by rules laid by the Executive. Now, the only reply that I can give to my honourable Friend, Mr. Sidhva, is this that these provisions have been taken bodily to a large extent from the provisions contained in section 151 of the present Government of India Act, 1935, which deal with the custody of public money, and section 166 which deals with the rules made by the Governor-General with regard to the duties of the Auditor-General. Under the scheme of that Act the rules were required to be made by the Governor-General in the exercise of what is called his individual

judgment, that is to say, he would not be required to take the advice of his Ministry in making these rules. To that extent the rules made by the Governor-General prescribing the duties of the Auditor-General would undoubtedly be independent of the Executive. Today we are not vesting the President with any such power of independent judgment so that if any modification in these rules were to be made by the President he would undoubtedly be acting on the advice of the Ministry of the day, that is to say, the Executive. I admit that to that extent there is a certain amount of anomaly, but I do hope that my honourable Friend, Mr. Sidhva, who, I hope, will continue to function as a Member when the new Parliament is constituted, will take on himself the earliest opportunity of urging Parliament to change the position and to convert the rules into laws made by Parliament.

Mr. President : The question is :

“That in clause (1) of article 130, after the word ‘may’ the words ‘on behalf of the people of the State’ be inserted.”

The motion was adopted.

Mr. President : The question is :

“That for the Explanation to article 125, the following Explanation be substituted :—

‘*Explanation.*—In this article, the expression ‘law made by Parliament’ includes any law, ordinance, order, by-law, rule or regulation passed or made before the commencement of this Constitution and for the time being in force in the territory of India.’”

The amendment was adopted.

Mr. President : The question is :

“That article 125, as amended, stand part of the Constitution.”

The motion was adopted.

Article 125, as amended, was added to the Constitution.

Article 126

Mr. President : Article 126.

(Amendment No. 1987 was not moved.)

Mr. President : The question is :

“That article 126 stand part of the Constitution.”

The motion was adopted.

Article 126 was added to the Constitution.

Article 127

Mr. President : Article 127.

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

“That in article 127, for the word ‘Parliament’ the words ‘each House of Parliament’ be substituted.”

It is only a formal amendment.

Mr. President : The question is :

“That in article 127, for the word ‘Parliament’ the words ‘each House of Parliament’ be substituted.”

The amendment was adopted.