

any tax.” It has not included “duty, charge, rate, levy or any other form of revenue, income or receipt.” I would request the Honourable Law Minister who is in charge of this Bill to see that this sub-clause (a) is suitable amended. I feel that clause (2) takes away some power from the Lower House and makes it obligatory on the Government to place such bills which are properly money Bills before the Upper House. I do not think that in regard to such matters this should be so. I personally feel that many of the local bodies are today starved of revenue. They are partially without any funds today to do the huge work that they have got to do. I myself am in one of the Boards of a big district and I feel that unless the local bodies have got more revenues, they cannot carry out their programmes at all. In our Parliament we pass expenditure of crores of rupees in two or three hours time, but these local bodies are not able to raise in the whole year even a few lakhs for their most essential needs such as school buildings which have to be built and village roads which have to be repaired and similar other amenities of every day life. But here is a provision that such Bills which authorise local bodies to impose taxation shall not be Money Bills. They may thus be delayed. I think there should be some amendment to this section so that at least local bodies should not be handicapped by this dilatory process.

The Honourable Dr. B. R. Ambedkar : Sir, while going over this article, I find that it requires further to be considered. I would therefore request you not to put this article to vote today.

Mr. Naziruddin Ahmad : I should also like to suggest that the position of the word “only”, in connection with amendment No. 1669 should be specially considered. It is a word which is absolutely misplaced.

Mr. President : There are four amendments moved to this article, and the first amendment is No. 1669 that in clause (1) of article 90, the word ‘only’ be deleted. Mr. Naziruddin Ahmad wishes to emphasise the importance of that amendment. That may be taken into consideration by the Drafting Committee. The whole article is going to be reconsidered.

Article 91

Mr. President : We shall take up the next article, 91

That motion is:

“That article 91 form of the Constitution.”

(Amendment No. 1679 was not moved.)

Shri Lokanath Misra (Orissa: General): Sir, I move:

“That in article 91, for the words ‘either that he assents to the Bill, or that he withholds assent therefrom’ the words ‘that he assents to the Bill’ be substituted, and the following words be added at the end of the proviso to the article:-

‘and if the Bill is passed again by the House with or without amendment and presented to the President, the President shall not withhold assent therefrom.’”

Sir, in moving this amendment, I am in the beat of company in so far as the Drafting Committee itself has suggested the same in a subsequent amendment. I beg to submit that when I move this amendment to take away the power from the President to dissent from any Bills passed by Parliament, I mean nothing more than saying that since our President is analogous to the King in England and as the King has no power of dissenting from any Bill passed by President this amendment is appropriate.

As regards the second amendment, without that amendment the proviso seems to be incomplete. Supposing the President sends back a certain Bill for

[Shri Lok Nath Misra]

reconsideration and Parliament comes to a certain decision, without this amendment, the whole action becomes incomplete and inconclusive and since this is also the view taken by the Drafting Committee, this amendment too should be accepted.

(Amendments Nos. 1681, 1682, 1683 and 1684, were not moved.)

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

“That in the proviso to article 91, for the words ‘not later than six weeks’ the words ‘as soon as possible’ be substituted.”

Mr. Naziruddin Ahmad : I have an amendment to this amendment, No. 94.

Mr. President : I think that is of a drafting nature.

Mr. Naziruddin Ahmad : There would be a difference in actual practice.

Mr. President : So, you consider it to be substantial?

Mr. Naziruddin Ahmad : Yes, Sir, I beg to move:

“That in amendment No. 1685 of the List of Amendments, in the proviso to article 91, for the proposed word ‘possible’, the words ‘may be’ be substituted.”

I beg to submit that this amendment will make some substantial change. The Proviso is to the effect that “the President may, as soon as possible, after the presentation of the Bill, return the Bill,” and so on. I want to make it “as soon as *may be*”. If we leave it exactly as Dr. Ambedkar would have it, it leaves no margin. ‘As soon as possible’ means immediately. Possibility which means physical possibility is the only test. It may leave on breathing time to the President. The words ‘may be’ give him a reasonable latitude. It would mean, “reasonably practicable”. This is the obvious implication. That is the only reason why I have suggested amendment.

(Amendment No. 1686 was not moved.)

Mr. President : Amendment No. 1687, I think, is merely verbal. Amendment No. 1688, I think, is the same as the amendment already moved by Mr. Lok Nath Misra.

Shri T. T. Krishnamachari : There is a slight difference in language. I think Dr. Ambedkar’s proposal will be the better one.

Mr. President : I shall put this to the vote. It need not be moved.

Amendment No. 1689: this is also the same as amendment No. 1688 of Dr. Ambedkar, We have taken it as having been moved. Is it necessary to move this? You can move it if there is some slight difference.

Begum Aizaz Rasul (United Provinces: Muslim): Sir, I beg to move.

“That in article 91, after the first proviso the following second proviso be added:-

‘Provided further that if after the President has declared that he withholds assent from the Bill or has returned the Bill with a request for reconsideration of the Bill or of a specified provision thereof, or of any amendment by him, the Houses of Parliament should, after reconsideration of his recommendations pass the Bill again with or without an amendment and return it to him for his assent, he shall not withhold his assent therefrom.’ ”

Sir, the present provision in article 91 provides for the action that the President has to take presumably on the first presentation of a Bill. But it does not make it clear what should be the procedure if a Bill is returned to the President without accepting any of the amendments suggested by him. Does it mean that he can again return the Bill to Parliament for reconsideration of his amendments? This will mean unnecessary delay and will mean that the Bill can be returned to Parliament more than once. My object in moving this amendment is to do away with this ambiguity and to make it clear that the President can return the Bill to Parliament with his suggestions once only, but if Parliament does not agree to the amendments that are suggested by him and returns the

Bill to him, he should not in that case return the Bill a second time for the re-consideration of Parliament. In the House of Commons any Bill which has been passed twice by the House of Commons automatically becomes law even if the House of Lords disagrees. In the same manner in the U.S.A. a Bill becomes an Act even if the President vetoes it, provided it is passed by two-thirds majority of the Congress. Some such provision should be made here in this article also so that unnecessary delay may not take place. With these words I move my amendment.

(Amendment No. 1690 was not moved.)

Mr. President : Amendment No. 1691 is covered by other amendments already moved Amendment No. 1692.

Mr. Tajamul Husain : Sir, I beg to move:

“That the following new clause be added to article 91:—

‘(2) If the Houses do not accept the recommendations of the President, the Bill shall again be presented to the President, and the President shall declare either that he assents to the Bill or that he does not assent to the Bill. If the President does not assent to the Bill, the House of the People shall automatically dissolve itself, and a fresh election shall be held immediately. If the Party that was in power at the time of the dissolution is returned in majority, the President shall vacate office and the Bill becomes an Act of Parliament.’ ”

Now, Sir, with your permission I will first, before I begin my submissions, read article 91 and the proviso to it. The article reads:

“When a Bill has been passed by the Houses of Parliament, it shall be presented to the President, and the President, shall declare either that he assents to the Bill, or that he withholds assent therefrom:

Provided that the President may, not later than six weeks after the presentation to him of a Bill for assent, return the Bill if it is not a Money Bill to the House with a message requesting that they will reconsider the Bill or any specified provision thereof, and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message, and the Houses shall reconsider the Bill accordingly.”

Article 91 says that when a Bill is passed, it is presented to the President, and the President’s power is that he either assents or does not give his assent. The proviso says that if the President does not give the assent, he returns the Bill for reconsideration. Then the House shall reconsider the Bill. My point is suppose the House does not reconsider the Bill or does not accept the suggestion made by the President, what will happen? no provision has been made in this article as regards this. Therefore I have moved this amendment. My amendment amounts to this. If the House does not reconsider or accept his amendment, then the Bill shall go back to the President. Then the President shall accept what has been sent by the houses and if he does not accept, then according to the English Constitution as I understand it, the House should dissolve itself. There should be re-election and if the party that is in power is returned again—according to the English Constitution the King must abdicate—then I want the President either to accept or he must be considered to have resigned his office and the Bill will become law by itself. This is my amendment. I think I am moving this in accordance with the English Constitution which we have been following in this House to a great extent. I commend to the House that my amendment may be accepted.

Mr. President : All the amendments have been moved. The original article and the amendments are now open for discussion.

Dr. P. S. Deshmukh : Mr. President, Sir, Obviously the article it was worded in the beginning was found to be defective in at least two particulars, as is clear from the fact that Dr. Ambedkar himself has moved one amendment

[Dr. P. S. Deshmukh]

suggesting the substitution of the words 'not later than six weeks' by the words 'as soon as possible'. The second difficulty which has been visualized and which is tried to be removed is by making a provision in case the President withholds the assent. The Provision intended is that when a Bill is presented for a second time, it shall be incumbent upon him *i.e.*, the President to give his assent and he shall not have the option to withhold the assent. So far as the first amendment of Dr. Ambedkar is concerned, I do not know if it is very necessary that the amendment should be accepted. The question for consideration is whether we should merely say that the President should give his assent as soon as possible or whether we should state any period within which he should do it. I think if the words 'not later than six weeks' are to be left as they are, then it is the duty of the President to indicate his decision as early as possible and in no case later than six weeks. So I am not fully convinced of the propriety of changing the wording as proposed.

So far as the other amendment is concerned, I think it is very necessary that there should be a proper provision in cases where the President withholds his assent. It is to be presumed that the President will always act according to the advice tendered to him by Prime Minister and unless any Bill passed in the House has the support of the Party in power, there is no possibility of any Bill being passed. So that question of withholding assent is not likely to arise unless the President finds himself under circumstances where he actually differs from and disagrees with the recommendations of the party and the Government in power. Under those circumstances, it is correct to presume that there is a conflict between the views taken by the Prime Minister of the Government of the day and the President, and when such a conflict arises there must be some solution of which the present House must think of and must make a clear provision with regard to this question so as to solve the difficulty of disagreement between the President and the Prime Minister. I think that so far as this question is concerned, the amendment that has been suggested does meet the contingency that is likely to arise, and I therefore, support it.

Shri H. V. Kamath : Mr. President, Sir, I rise to support the amendment moved by my Friend Mr. Misra, No. 1680, and to oppose the amendment moved by my learned Friend Dr. Ambedkar, No. 1685. My friend Dr. Deshmukh has ably supported the amendment of Mr. Misra and I do not propose to dilate further upon that. As regards the amendment moved by my learned Friend Dr. Ambedkar, I venture to state that he has not acted wisely in bringing this amendment before this House, and I am reminded of the saying that even Homer nods. And I think Dr. Ambedkar has tripped on this occasion. That such an experienced man, not only an experienced public man, but an experienced Minister of the State cannot recognise the distinction between a definite period of time and the word "as soon as possible" rather appears to me strange, to say the least. In human nature, if you will permit me to say so, unless there is a compelling sense of duty or service, there is always a tendency to procrastinate. Our wisemen have recognised this by saying:

आलस्यम् हि मनुष्याणाम्।
शरीरस्यो महा रिपुः॥

*Alasyam hi manushyanam,
Sharirasyo maharipuh.*

This tendency to inertia, this inclination to procrastinate has to be rooted out, by infusing the ideal of duty or service. We cannot be sure that every President

of the Union of India will always be guided by this ideal, by this compelling ideal of duty and service. Of course we hope and pray that it may be so, but there is no guarantee. Therefore, it is very necessary, to my mind, that the Constitution should provide specifically a time limit for a contingency of this nature. As a minister, Dr. Ambedkar, I am sure, must be aware that in the Secretariat various files are knocking about with tags or labels attached to them, some being "Immediate", "some urgent," some "early" and so on. Files marked "Immediate" reach the honourable Minister in a day, those marked "urgent" reach him in a couple of days and those marked "early" have been known to sleep in the Secretariat for two or three months. Further latterly, Government has devised new forms such as "consideration" and "active consideration". I therefore wish to obviate any difficulty arising from substitution of the words "as soon as possible". Nobody knows what they mean, what "as soon as" means. We know in the Legislative Assembly Ministers are in the habit of answering questions by saying "as soon as possible". When we ask, "When will this thing be done?" the answer is "As soon as possibly or very soon." But six months later, the same question is put, and the answer is again, "As soon as possible," or "very soon". This phrase is vague, purposeless and meaningless and it should not find a place in the Constitution, especially in an article of this nature where we specify that the President must do a thing within a certain period of time. Why do we do it? We do it in order to see that Bills are not left hanging fire in the President's Secretariat—and I know his secretariat is not going to be different in any way from other secretariats. And so I request Dr. Ambedkar to withdraw his amendment. It serves no purpose whatsoever, and I request that the article which is quite clear as it stands may be passed. I oppose the amendment of Dr. Ambedkar and support that moved by Mr. Misra.

Mr. President : I would now put the amendments to vote. Do you want to say anything, Dr. Ambedkar?

The Honourable Dr. B. R. Ambedkar : No, Sir. I do not think any reply is necessary.

Mr. President : Amendments Nos. 1680 and 1688, the substance is the same, but the wording of 1688 is slightly better, and I first put No. 1688 to vote.

The question is:

"That to the proviso to article 91, the following be added at the end:

'and if the Bill is passed again by the Houses with or without amendment and presented to the President for assent, the President shall not withhold assent therefrom.' "

The amendment was adopted.

Mr. President : I think that blocks amendment No. 1698 which has the same substance and so need not be put.

Then I come to No. 1692, that of Mr. Tajamul Husain.

The question is:

"That the following new clause added to article 91:—

'(2) If the Houses do not accept the recommendations of the President, the Bill shall again be presented to the President, and the President shall declare either that he assents to the Bill or that he does not assent to the Bill. If the President does not assent to the Bill, the House of the People shall automatically dissolve itself, and a fresh election shall be held immediately. If the party that was in power at the time of the dissolution is again returned in majority, the President shall vacate office and the Bill becomes an Act of Parliament.' "

The amendment was negatived.

Mr. President : There is one amendment left over, i.e., No. 1685 moved by Dr. Ambedkar. There is an amendment to it, moved by Mr. Naziruddin Ahmad. I would first put Mr. Naziruddin Ahmad's amendment to vote.

[Mr. President]

The question is:

“That in amendment No. 1685 of the List of Amendments, in the proviso to article 91, for the proposed word ‘possible’, the words ‘may be’ be substitution.”

The amendment was negatived.

Mr. President : Now I put Amendment No. 1685.

The question is:

“That in the proviso to article 91, for the words ‘not later than six weeks’ the words ‘as soon as possible’ be substituted.”

The amendment was adopted.

Mr. President : Then I put the article as amended by these two amendments namely, Nos. 1685 and 1688.

The question is:

“That article 91, as amended, stand part of the Constitution.”

The motion was adopted.

Article 91, as amended, was added, to the Constitution.

Mr. President : We shall adjourn now, and meet on Monday at 5 P.M.

The Assembly then adjourned till Five P.M. on Monday, the 23rd May, 1949.
