

Friday, 10th June, 1949

**Volume VIII**

**16-5-1949**

**to**

**16-6-1949**



# **CONSTITUENT ASSEMBLY DEBATES**

## **OFFICIAL REPORT**

REPRINTED BY LOK SABHA SECRETARIAT, NEW DELHI  
SIXTH REPRINT 2014

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Printed by JAINCO ART INDIA, NEW DELHI-110 005

THE CONSTITUENT ASSEMBLY OF INDIA

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## CONTENTS

### VOLUME VIII—16th May to 16th June 1949

	PAGES		PAGES
<b>Monday, 16th May, 1949—</b>		<b>Thursday, 26th May 1949—</b>	
Taking the Pledge and Signing the Register .....	1	Report of Advisory Committee on Minorities—(Contd.) .....	317—355
Condolenc on the Death of Shrimati Sarojini Nadiu .....	1	<b>Friday, 27th May 1949—</b>	
Programme of Business .....	1—2	Addition of para 4-A to Constituent Assembly Rules (Schedule) .....	357—375
Resolution <i>re</i> Ratification of Commonwealth Decision .....	2—30	Draft Constitution—(Contd.) .....	375—399 [Articles 104 to 123 considered]
<b>Tuesday, 17th May 1949—</b>		<b>Monday, 30th May 1949—</b>	
Resolution <i>re</i> Ratification of Commonwealth Decision—(Contd.) .....	31—72	India Act, 1946 (Amendment) Bill ...	401—402
<b>Wednesday, 18th May 1949—</b>		Draft Constitution—(Contd.) .....	403—441 [Articles 124 to 131 considered]
Government of India Act (Amendment) Bill .....	73—77	<b>Tuesday, 31st May 1949—</b>	
Additions to Constituent Assembly Rules-38-A(3) and 61-A .....	77—80	Taking the Pledge and Signing the Register .....	443
Draft Constitution—(Contd.) .....	81—114 [New article 67-A, article 68, New Article 68A, article 69, New article 69-A, articles 70, 71 and 72 considered.]	Draft Constitution—(Contd.) .....	443—485 [Articles 131 to 136 considered]
<b>Thursday, 19th May 1949—</b>		<b>Wednesday, 1st June 1949—</b>	
Draft Constitution—(Contd.) .....	115—156 [New article 72-A, B & C, articles 73, 74, 75, New article 75-A, articles 76, 77, 78, New article 78-A, article 79, New article 79-A, articles 80, 81, 82, New article 82-A, articles 83, 84 and 85 considered]	Draft Constitution—(Contd.) .....	487—528 [Articles 137 to 145 considered]
<b>Friday, 20th May 1949—</b>		<b>Thursday, 2nd June 1949—</b>	
Draft Constitution—(Contd.) .....	157—196 [Articles 86, 87, 88, 89, 90, and 91 considered.]	Adjournment of the House .....	529—531
<b>Monday, 23rd May 1949—</b>		Draft Constitution—(Contd.) .....	531—575 [Articles 146 to 167 considered]
Draft Constitution—(Contd.) .....	197—227 [New article 67-A, articles 100, 101, 102 and New article 103-A considered]	<b>Friday, 3rd June 1949—</b>	
<b>Tuesday, 24th May 1949—</b>		Draft Constitution—(Contd.) .....	577—617 [Articles 168 to 171 and 109 to 111 considered]
Draft Constitution—(Contd.) .....	229—267 [Article 103 and New article 103-A considered]	<b>Monday, 6th June 1949—</b>	
<b>Wednesday, 25th May 1949—</b>		Draft Constitution—(Contd.) .....	619—659 [Articles 111 to 114, 119, 121 to 123 and 191 to 193 considered]
India (Central Government and Legislature) (Amendment) Bill .....	269	<b>Tuesday, 7th June 1949—</b>	
Report of Advisory Committee on Minorities etc. ....	269—315	Draft Constitution—(Contd.) .....	661—701 [Articles 193 to 204 considered]
		<b>Wednesday, 8th June 1949—</b>	
		Draft Constitution—(Contd.) .....	703—744 [Articles 204 to 206, 90 and 92 considered]

PAGES	PAGES
<b>Friday, 10th June 1949—</b>	
Hindi Numerals on Car Number Plates .....	745—746
Flying of Union Jack over Council House .....	746
Draft Constitution—( <i>Contd.</i> ) .....	747—791
[Articles 92 to 98 and 173 to 186 considered]	
<b>Monday, 13th June 1949—</b>	
Draft Constitution—( <i>Contd.</i> ) .....	793—836
[Articles 216 to 247 and New articles 111-A and 111-B considered]	
<b>Tuesday, 14th June 1949—</b>	
Draft Constitution—( <i>Contd.</i> ) .....	837—873
[New articles 111-A, 103A, article 164, New article 167-A, articles 171, 175, 187, 196, 203, 208, 209 and New article 209-A considered]	
<b>Wednesday, 15th June 1949—</b>	
Draft Constitution—( <i>Contd.</i> ) .....	875—913
[Articles 203, 270 to 274 and 289 considered]	
<b>Thursday, 16th June 1949—</b>	
Taking the Pledge and Signing the Register .....	915
Draft Constitution—( <i>Contd.</i> ) .....	915—960
[Articles 289 to 301 considered]	
Adjournment of the House .....	960—961

## CONSTITUENT ASSEMBLY OF INDIA

Friday, the 10th June 1949

The Constituent Assembly of India met in the Constitution Hall, New Delhi, at Eight of the Clock, Mr President (The Honourable Dr. Rajendra Prasad) in the Chair.

### HINDI NUMERALS ON CAR NUMBER PLATES

**Seth Govind Das** (C.P. & Berar: General): \*[Mr. President, before you proceed to take up the business of the House fixed for today; I would like to draw your attention to a news item appearing in the *Hindustan Times* dated 9th instant which relates to the explanation submitted by the Delhi Police to the Home Department regarding the question of number plates on motor cars which had been raised by me here. It is stated therein that:

“It is understood that the attention of the Home Ministry has been drawn to the Indian Motor Vehicles Act of 1949, according to which the number plates must bear the number of the vehicle in English letters and numerals. The letter further points out that the Indian Motor Vehicles Act applies to the whole country and the Delhi administration have no power to amend it.”

I would like to say that the same law is followed in United Provinces as well as in the province of Central Provinces to which I belong. In spite of that the number plates on cars, even those, which belong to Ministers, are in Hindi. Sir, you are aware of this fact too that according to the rules of the Parliament speeches may be delivered there in English, but the Speaker of our Parliament Shri Mavalankar has declared it again and again that under the changed circumstances of today there can be no justification for enforcing this rule. Speeches are continually being made in the Parliament in Hindi. I would like to submit it to you that the argument advanced by the Delhi Police administration is devoid of commonsense and is in contradiction to the existing circumstances. It is a most absurd argument. I request you to kindly do something in this matter so that an untoward situation may not arise.]

**Shri L. Krishnaswami Bharathi** (Madras: General): Sir, ordinary there must be some motion on which we being speaking and I want to know how Seth Govind Das is in order in springing on us something which is not before the House. If there is any grievance, it is much better he goes and meets the Honourable the President and not mention all these matters here. There must be a motion for any Member to speak on; and what is the motion, may I know, on which he is speaking? Is there any motion before the House, Sir?

**Mr. President** : There is no motion before the House. The honourable Member the other day drew my attention to the fact that one honourable Member had been interfered with because the number plate of his car was in Hindi. As I said, I would look into the matter. The honourable Member has drawn my attention to something which has appeared in the *Hindustan Times* relating to the same matter. That is what he was reading out.

**Shri L. Krishnaswami Bharathi** : Sir, the usual practice is for him to contact you in your chamber and I think he should not bring all these matters before the House. It may not be a good precedent, Sir.

**Pandit Balkrishna Sharma** (United Provinces: General): It is a question of the privilege of the Members.

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\*[ ] Translation of Hindustani speech.

**Shri L. Krishnaswami Bharathi** : I do not minimise the importance of the subject.

**Pandit Balkrishna Sharma** : I want to submit for your kind consideration that my honourable Friend seems to be a little ticklish about the whole thing for the simple reason that it concerns the privilege of the Members and he seems to attach little importance to it. An honourable Member has every right to bring the matter before the House with or without notice. The point of order raised by my honourable Friend is that there was no motion. There have been so many instances and I myself was in such a position and you were kind enough to permit me to raise the question regarding the coins that are in contemplation to be issued, and naturally, we being the Parliament, we have got to raise the subject here even though there may not be any notice.

**Mr. President** : I have looked into the matter because it was raised the other day and I would not give a ruling about the question of privilege and I would refer the matter to the Government.

**Pandit Balkrishna Sharma** : I am also one of those who have suffered at the hands of the Delhi Administration in this respect. My car was *challaned* from the 1st of April and I did not rush to the Press. I wrote to the Deputy Commissioner, and if I am not betraying a confidence—I hope I am not—I had the pleasure of meeting the Deputy Commissioner in the At Home which the Honourable the Prime Minister gave the other day and brought to his notice the matter of the number plates being in Hindi language and the Deputy Commissioner said that the Motor Vehicles Act contains a clause under which all the cars should bear the number plates in English characters. He further said that in view of the Act as it stands today, he cannot instruct the Delhi Administration otherwise and that the Delhi Administration takes notice of such of the cars as do not bear number plates in English characters. My submission to him has always been that Delhi as a Province is surrounded on all sides by provinces which have declared Hindi as their Government language and Devanagari as the Government script.

**Mr. President** : Order, order. I have got the information which you wanted to give me. As I said, honourable Members will not insist upon my giving a ruling on the question of privilege. It may not be in their interest. As I have said, the matter will be taken up with the Government.

**The Honourable Dr. B. R. Ambedkar** : (Bombay: General): There is no privilege to break the law.

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#### FLYING OF UNION JACK OVER COUNCIL HOUSE

**Shri B. Das** (Orissa: General): Sir, I wish to draw your attention to the fact that Union Jacks were flying aloft in this Council House building yesterday, though not, over this august sovereign Chamber. I wish you will order that as long as the Constituent Assembly sits in this place no Union Jack is to be unfurled in this Council building.

**Mr. President** : The honourable Member may not like it, but there is no help, at any rate, at present.

**Maulana Hasrat Mohani** (United Provinces: Muslim): May I bring to your notice as well as to this Assembly a very serious matter? The Indian Government is taking a sort of police action inside the Sikkim State; it has not acceded to the Indian Union and the Government appear now to be compelling them to accede.

**Mr. President** : Order, order. I am afraid I cannot take notice of such things. These are not matters for the Constituent Assembly, but for the Legislative Assembly when it sits.

**Honourable Members** : Hear, Hear.

## DRAFT CONSTITUTION—(Contd.)

**Article 92—(Contd.)**

**Mr. President** : We shall proceed with article 92.

**Prof K. T. Shah** (Bihar: General): Sir, I beg to move:

“That at the end of clause (1), the following proviso be added:—

‘Provided that once the annual financial statement has been laid before Parliament, and Parliament has become seized of the statement, it shall not be competent for the President, or any Minister acting in his name, or any other person, to alter or modify any item in any particular, or withdraw the entire statement; and that the House of the People shall alone be competent to alter or amend or modify, accept or reject, in part or wholly, the financial statement thus placed before it; provided further that only the People’s House or Parliament shall be competent to make any modifications, addition or alteration in the financial statement or to accept or reject it, in part or in *toto*.’ ”

This, Sir, is intended to establish the principle of the supremacy of the House of the People in matters financial. Once the financial statement has been prepared and presented to Parliament, Parliament should be the sole authority for disposing of it; and no other person or authority can do so except, of course, by a vote of the House of the People.

By this amendment, I desire that the supremacy of Parliament, and in that the House of the People, in matters relating to Public Finance should be made absolutely clear beyond doubt. Hence the provision should be made that once the financial statement has been placed before the House, and the House has become seized of the matter, neither the President nor any Minister acting under his authority or in his name, would be competent to alter, or modify, or even withdraw any item in the statement in any way. If any change has to be made, that change can be made only by the House of the People by a definite vote of that body; and not by even Parliament in both Chambers.

This matter is so self-evident in any parliamentary democracy which wants that the Lower House should be the sole custodian, watch-dog of matters financial, that it seems to me that this proposition should be unchallengeable. It is in no way departing from the spirit or accepted convention of the model Constitution which we have been following in this Draft, I mean the British practice. There it is very clear by convention, because there is no written constitution in Britain, that the House of Commons is the sole supreme authority in matters of Public Finance. Those of us who follow that model, and provide a written Constitution, would be doing nothing more than giving effect to a well-known convention whereby the Parliament or the House of the People alone would be competent to make any alterations in such financial provisions, whether they relate to expenditure or revenue, or whether they relate to otherwise disposing of or altering the financial provisions for a given year. Only the vote of the House of the People should be supreme and final in these matters and no other authority should have a say in it. Once the Financial Statement is placed before the House of the People, no other authority should have or can have anything to do with it. I therefore commend this to the House.

May I move the next amendment also, Sir?

**Mr. President** : Yes.

**Prof. K. T. Shah** : Sir, the next amendment is:

“That after clause (1) of article 92, the following new clause be added:—

‘(1a) At the time the annual financial statement is presented to the People’s House of Parliament, the President may invite the members of the Council of States to be present in the People’s House of Parliament.’ ”

Sir, this is a practice which follows as a corollary from the principle I have just suggested: that the House of the People alone is competent to deal with,

[Prof. K. T. Shah]

and has unchallenged supreme authority in regard to matters financial. The other House, whatever its powers and authority may be in regard to other legislation, should, in matters financial, be kept out altogether.

To give effect to this, not only would I suggest that the financial statement can be laid only before the House of the People, I would go further and say that, if any information is to be conveyed to the other House in this regard, it may be conveyed by inviting the other House to be present on the occasion of the presentation of the Budget. The formal presentment and dealing with the budget or financial statement should be and must be only by the House of the People.

This amendment is only making clear the general principle which I have been enunciating all this while, that the Council of States should have no say in matters financial.

I commend these amendments to the House.

(Amendments Nos. 1699 and 1700 were not moved.)

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

“That in sub-clause (b) of clause (3) of article 92, for the words ‘emoluments’ the words ‘salaries’ be substituted.”

That is the usual wording we are using.

**SHRI H. V. Kamath** (C.P. & Berar : General) : Sir, I move :

“That after sub-clause (b) of clause (3) of article 92, the following new sub-clause be added:—

‘(bb) the salaries and allowances of Ministers and Members of Parliament.’ ”

Sir, I do not wish to speak on this amendment at all. I would only like to know, when the emoluments of the President, the Chairman and Deputy Chairman of the Council of States, the Speaker and Deputy Speaker of the House of the People have been regarded as expenditure charged to the revenues of India, why the salaries and allowances of the Ministers and members of Parliament should not be so treated.

**Mr. President :** The salaries of the Ministers come for the vote of the House because the Ministers are responsible.

**Shri H. V. Kamath :** The Chairman and Deputy Chairman of the Council of States, the Speaker and Deputy Speaker.....

**Mr. President :** They are not responsible in the sense in which the Ministers are.

**Shri H. V. Kamath :** There is one difficulty, Sir. No article in this Constitution says that the salaries and allowances of the Chairman and Deputy Chairman of the Council of States and the Speaker and Deputy Speaker of the House of the People shall not be reduced during their term of office. But, there is such a provision with regard to the salaries and allowances of the President. So it appears that Parliament may alter the former.

**Mr. President :** I am afraid your amendment cuts across the whole principle of responsible Ministers.

**Shri H. V. Kamath :** Sir, I formally move the amendment.

(Amendments Nos. 1703, 1704 and 1705 were not moved.)



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

“That is sub-clause (f) of clause (3) of article 92, the words ‘or by Parliament by law’ be deleted.”

The amended proposition would then read:

“any other expenditure declared by this Constitution to be so charged.”

Here I think is a matter of very basic importance in regard to the financial administration of the country, and its public economy at large. Under this article a number of items are specifically laid down by this Constitution as charged on the revenues of India,—now as being in the Consolidated Fund, and as such not likely to be voted upon in every year. The various items do not, in my opinion, all stand on a par. It the intention is to keep some of these items out of the vicissitudes of party politics, if the intention is to keep them fixed and unchangeable at least for some given period, such as for instance the salary and allowances of the President during the term of his office, or the salary and allowances of the presiding authorities in the two Chambers of the Legislature, or the salaries, pensions and allowances of the Supreme Court Judges, then it is but right that we should keep these items as limited or as few in number and as small in volume as we possibly can.

There should be in my opinion no room left for increasing the amounts, and widening the nature of the items that can be so kept out of the annual vote of the House. There are items actually mentioned here, which appear to me to be utterly unnecessary, and even unwise, to be so included in the charged list or the Consolidated Fund. Take for instance item (c) which relates to debt charge for which the Government of India is liable. That includes interest and sinking fund charges, redemption charges, other expenditure relating to the raising of loans, and the service of the debt, *i.e.* paying interest, registering transfers etc. Now here is an item the justice of which being included in the items charged on the revenues of India, or those put in the Consolidated Fund, may be open to question. I quite realise that, in the interest of the national credit and its stability, it is but proper that the ordinary debt charges may be not open to annual vote. At the same time it must be known to every student of Public Finance that frequently countries obliged again and again, the most highly credit-worthy countries have had recourse to altering or reducing the rate of interest on their permanent debt. All Conversion schemes that have been adopted in the past, and are being applied even today have changed the rate or interest and varied the contract unilaterally. If those items are left outside the voting power, then I am afraid the possibility of effecting economies and of adjusting our obligations to our resources from time to time might be very substantially curtailed.

I have, however, in view of the transition through which we are going, in view also of domestic as well as foreign complications that may arise in connection with this question of using our national credit and borrowing abroad, not given notice of any amendment regard to that particular item, though I confess that I feel very reluctant to see it included in this article.

Even if the interest and sinking fund charges are kept outside the annual vote, I do not see why the incidental charges, like brokerage or the management charges paid to Reserve Bank on the administration of the debt service should be included in this manner. I think it is really inappropriate to do so. But for the reason I just mentioned—that somewhat delicate financial situation of the present moment—I would have ventured to offer an amendment even on these matters.

But when you come to such a promiscuous on an omnibus provision as is included in sub-clause (f) which permits Parliament hereafter to add any

[Prof. K. T. Shah]

other item of expenditure as being in the non-votable list, then I am afraid the Constitution leaves the door very wide open to the withdrawal of the powers—to the curtailment of the financial authority of the Lower House, which I think is highly inexpedient and unacceptable. If you trust to our people, and believe that the future Parliament is for all these purposes sovereign, it would be unnecessary for us to lay down in this article here, in the manner in which it has been done, the power of Parliament to make any alteration in the items that cannot be voted upon every year. You give no power to increase the votable list; why then do you give power to increase the non-votable list?

On the other hand, if you mean this Constitution to be a kind of restrictive instrument, if you design this Constitution to lay down specifically those items which and which alone can be excluded from the vote of the Parliament, as my amendment provides, then I suggest that the best course is to keep them as few in number, and as small in amount as possible. But by an omnibus provision of this kind that you are making, you propose to make parliamentary authority function ineffectively and restrictively in matter financial. For, once an expenditure is withdrawn from the annual vote, any amount of abuse may occur. Parliament, at least in a given year or until the Constitution is revised, may not be able to alter.

I suggest, therefore, that here is a matter of very grave consequence to which attention should be paid by those responsible for this Constitution. The amendment I have attempted to bring in does not affect any necessary safeguard for maintaining public credit. The article gives power to include in the Consolidated Fund or as charges upon the revenue, certain items necessary and proper to be kept outside the annual vote. It only prevents the future Parliament legislating, and thereby withdrawing, so to say, from the competence of its own successors, the right of voting upon certain other items in the financial statement. Remember it would be curtailing the power of a sovereign body, its successor, which no Parliament should really have as against its own successor by such device as this clause contains. It would only open the door to frequent alterations, and to party influences or other transitory factors of that kind, which is,—to say the least—most undesirable. I therefore commend this amendment to the House.

**Mr. President** : Dr. Ambedkar. No. 7 of the First List.

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

“That in sub-clauses (a) and (b) of clause (2) of article 92, for the words ‘revenues of India’ the word ‘Consolidated Fund of India’ be substituted.”

“That in clause (3) of article 92, for the words ‘revenues of India’ the words ‘Consolidated Fund of India’ be substituted.”

“That after sub-clause (d) of clause (3) of article 92, the following sub-clause be inserted:—

‘(dd) the salary, allowances and pension payable to or in respect of the Comptroller and Auditor-General of India.’ ”

With regard to 9, all I need say is that the House has already passed article 124, clause (5) which contains the present amendment. It is therefore here because it was felt that all items which are declared to be charges on the Consolidated Fund of India had better be brought in together, rather than be scattered in different parts of the Constitution.

**Prof. Shibban Lal Saksena** (United Provinces: General): Sir, my honourable Friend Mr. Kamath has moved an interesting amendment which says that the words “salaries and allowances of Ministers and Members of Parliament” should be added to the sub-clause so that they will be a charge on the revenues

of India. It means that they will not be votable with the result that the executive will become an irremovable one. I am rather perplexed at this. The charges which will be charged on the revenues of India are the salaries of the President, the Speaker, the Judges of the Supreme Court and now the Auditor-General. They will become non-votable under article 93. I do not know whether the sovereign Parliament of the nation should be denied the opportunity to vote upon the salaries of even these high dignitaries. Probably Mr. Kamath wants to reduce the provisions of this article to an absurdity; otherwise there is no meaning in his amendment. I agree that we are bringing in a dangerous thing in the Constitution by these provisions. I wholeheartedly support the amendment of Prof. Shah for deleting the last clause, which says that parliament can declare any expenditure to be non-votable. This, I think, is unprecedented in any constitution of the world and I would like Dr. Ambedkar to enlighten us how sub-clause (f) of article 93 is in consonance with democratic procedure. I feel that the sovereign Parliament of the nation should have the right vote on every item of expenditure. I can see some argument for making the salaries on the Judges of the Supreme Court, the Auditor-General and the Speaker to be charged to the revenues of the State. It is possible that a party in power by a majority might vote down the salaries of the judges of the Supreme Court so that the judges will try to humour the party in power and that will detract from their independence. But this is far-fetched and no party dare vote down salaries of Supreme Court Judges, etc. That the salaries of the other people should also be permitted to become non-votable is not fair. Clause (f) must go.

**Mr. President :** I shall put the amendment of Prof. Shah (1693) each item separately to the House.

The question is:

“That in clause (1) of article 92, after the word ‘President’ the following be added :—

‘or the Finance Minister acting under the authority of the President, specifically given for the purpose.’ ”

The amendment was negatived.

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

“That in clause (1) of article 92 for the words ‘both the Houses’ the words ‘the People’s House’ be substituted.”

The amendment was negatived.

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

“That in clause (1) of article 92 after the words ‘estimated receipts’ the following be inserted :—

‘on revenue account as well as from borrowed moneys, or transfer of sums from other accounts to Revenue Account.’ ”

The amendment was negatived.

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

“That in clause (1) of article 92, after the word ‘expenditure’ the words ‘whether charged upon the revenues of India or on other ‘account’ be added.”

The amendment was negatived.

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

“That at the end of clause (1) the following proviso be added :—

‘Provided that once the annual financial statement has been laid before Parliament, and Parliament has become seized of the statement, it shall not be competent for the President, or any Minister acting in his name,

[Mr. President]

or any other persons, to alter or modify any item in any particular, or withdraw the entire statement; and that the House of the People shall alone be competent to alter or amend or modify, accept or reject, in part or wholly, the financial statement thus placed before; provided further that only the People's House or Parliament shall be competent to make any modifications, addition or alteration in the financial statement or to accept or reject it, in part or *in toto*.' "

The amendment was negatived.

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

"That after clause (1) of article 92, the following new clause be added :—

'(a) At the time the annual financial statement is presented to the People's House of Parliament, the President may invite the members of the Council of States to be present in the People's House of Parliament.' "

The amendment was negatived.

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

"That in sub-clause (b) of clause (3) of article 92, for the words 'emoluments' the word 'salaries' be substituted."

The amendment was adopted.

**Shri H. V. Kamath :** Sir, may I ask for leave of the House to withdraw my amendment No. 1702?

The amendment was, by leave of the Assembly, withdrawn.

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

"That in sub-clause (f) of clause (3) of article 92, the words 'or by Parliament by law' be deleted.

The amendment was negatived.

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

"That in sub-clauses (a) and (b) of clause (2) of article 92, for the words 'revenues of India' the words 'Consolidated Fund of India' be substituted."

The amendment was adopted.

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

"That in clause (3) of article 92, for the words 'revenues of India' the words 'Consolidated Fund of India' be substituted."

The amendment was adopted.

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

"That after sub-clause (d) of clause (3) of article 92, the following sub-clause be inserted :—

'(dd) the salary, allowances and pension payable to or in respect of the Comptroller and Auditor-General of India.' "

The amendment was adopted.

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

"That Article 92, as amended, stand part of the Constitution."

The motion was adopted.

Article 92, as amended, was added to the Constitution.

**Article 93**

(Amendment No. 1707 was not moved.)

**Prof. K. T. Shah :** Sir, I move:

“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.”

Here again I attempt to bring out the governing principle of the supremacy of Parliament, and particularly the House of the people, in matters financial. While the entire system of grouping of public expenditure is considerable chunks in the Consolidated Fund, and making it outside the vote of Parliament is in itself, at least to me, objectionable, as reducing the extent of parliamentary control over expenditure, even granting that these amounts are necessary to be in the Consolidated Fund, as under the peculiar circumstances of today such practice may be necessary, I would not like Parliament to be utterly deprived of any right under the Constitution to withdraw from these non-votable items anything that it by law desires should not be so included.

I would therefore, like power to be left to Parliament hereafter to legislate—such legislation must be in the previous year—and say that, in the subsequent year, a given item shall not be deemed to be charged upon the revenues of India, or to be in the Consolidated Fund from that time onwards, so that it would be open to the vote of the House. What under the peculiar circumstances of India may be included in the Consolidated Fund, should be open to Parliament to withdraw from that Fund by a law.

This practice of distinguishing between votable and non-votable items, or those open to the annual vote of Parliament and those withdrawn from that vote, but permitted to be discussed, is a legacy of the preceding regime, which, I think, was open, and is today still more open, to strong objection. For that regime, no doubt, it can be understood that there were many items of expenditure which it did not care, would not dare, to bring before the representatives of the Indian people. For instance, its huge defence expenditure, or its Home charges, and so on, if open to Parliamentary vote, would never allow the Budget to be passed. But that cannot be an excuse which the authorities of today could hold out for following the same practice. The present Parliament, or the Parliament under this Constitution, would be the supreme financial authority. It would be a sovereign legislative body which *ipso facto*, should have the right to discuss every item of expenditure and also to vote upon it. In this case, the present article provides that discussion may be allowed; but that on certain items described in the preceding article, which are said to be charged upon the revenues, or are in the Consolidated Fund, there shall be no voting.

In my opinion this is adding insult to injury. You say to the Legislature: “you are entitled to discuss, but you have no right to vote upon such items”. What is the use of a discussion of this futile character, which is self-frustrating, and which, if anything, can only result in irresponsible, destructive negative criticism which our leaders seem so utterly to dislike?

I, therefore, do not see any justification for this article, except in the plea, commonly urged now-a-days, of extraordinary circumstances, or the delicate position today of our credit and finance. Hence, even if you may be persuaded to accept what in my opinion is fundamentally objectionable, for special extra-ordinary reasons of today, I think for the future of any rate room must be left for Parliament to legislate,—and by legislation—that is to say, after a solemn discussion of the principle as well as the provision of that particular law—that any item be withdrawn from the charged list, or the non-votable list, and made open for the vote of the House.

[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.

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#### 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 of the Consolidated Fund of India all moneys required to meet—

- Appropriation Bills
- (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

[The Honourable Shri K. Santhanam]

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

[Shri T. T. Krishnamachari]

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.”

[Shri L. Krishna Swami Bharathi]

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

[The Honourable Dr. B. R. Ambedkar]

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—

- Appropriation Bill
- (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.



**Article 95**

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

“That for article 95, the following article be substituted:

Supplementary, additional or excess grants. ‘95. (1) The President shall—

- (a) if the amount authorised by any law made in accordance with the provisions of article 94 of this Constitution to be expended for a particular service for the current financial year is found to be insufficient for the purposes of that year or when a need has arisen during the current financial year for supplementary or additional expenditure upon some new service not contemplated in the annual financial statement for that year; or
  - (b) if any money has been spent on any service during a financial year in excess of the amount granted for that service and for that year, cause to be laid before both the Houses of Parliament another statement showing the estimated amount of that expenditure or cause to be presented to the House of the People a demand for such excess, as the case may be.
- (2) The provision of the last three preceding articles shall have effect in relation to any such statement and expenditure or demand and also to any law to be made authorising the appropriation of moneys out of the Consolidated Fund of India to meet such expenditure or the grant in respect of such demand as they have effect in relation to the annual financial statement and the expenditure mentioned therein or to a demand for a grant and the law to be made for the authorization of Appropriation of moneys out of the Consolidated Fund of India to meet such expenditure or grant.’”

**Shri R. K. Sidhwa :** Sir, I move:

“That in amendment No. 12 of List I (Fourth Week), in clause (1) of the proposed article 95—

- (i) in sub-clause (a), the word ‘or’, occurring at the end, be deleted;
- (ii) sub-clause (b) be deleted; and
- (iii) at the end of clause (1), the following words be added :

‘and until both the Houses of Parliament pass such a demand, the expenditure shall not be incurred, and if incurred payment shall not be made.’”

Sir, the amendment moved by Dr. Ambedkar is in consequence of the previous articles passed. I welcome the amendment but I feel there is a flaw which requires to be remedied. The amended article would then read:

“The President shall..... cause to be laid before both the Houses of Parliament another statement showing the estimated amount of that expenditure or cause to be presented to the House of the People a demand for such excess, as the case may be and until both the Houses of Parliament pass such a demand, the expenditure shall not be incurred, and if incurred payment shall not be made.’”

We are all unanimous on the point that under the new set-up a new system should be introduced, so that as regards the finances there should be a thorough check by the Parliament. At present the procedure in the Parliament is most objectionable inasmuch as supplementary grants exceeding 100 crores are brought in, which are equal to one-third of the budget amount. It is most extraordinary and because of that power which the executive have got they have been most reckless in preparing the budget.

I will give you an illustration. In the last budget estimates of income the estimates of income increased by nearly fifty crores over the estimated amount and the expenditure increased by eighty crores. All that sixty crores over and above the estimated budget amount was spent by the executive and yet there was a deficit and new taxation was proposed. This is nothing short of hoodwinking the House by presenting misleading budget statements. I am sorry I cannot use less strong language. These inflationary budgets are intentionally brought before the House so as to show lesser revenue so that when the actuals are prepared they would show a deficit and if the budget is not balanced, they might propose new taxation. As I said sixty crores more were derived from revenue last year, yet eighty crores were spent over it and the budget was deficit and new taxes were proposed. There is no check on it. The executive feels

[Shri R.K. Sidhwa]

that they have a long rope, and that they can do what they like. Even today the Auditor-General has no right to pass a single item more than what the House has sanctioned in the budget. Yet when excess expenditure is incurred the Auditor-General goes before the Minister who tells him to pass the items and the Auditor-General puts his rubber stamp "No objection" and payments are made. This is very objectionable. There is no respect shown to the House by the executive. Is it fair? The budget has no sanctity. The budget statement is brought before the House, the House scrutinises it and tells the executive that they shall not spend more than what the House has sanctioned and yet the executive disregard the decision of the House and go on spending money.....

**Mr. President :** The honourable Member seems to think that he is delivering a speech before the Legislative Assembly when the budget is under discussion. He is on the amendment and I would like him to confine himself to it, that is to the principle underlying the amendment and not to expatiate on something that happened at the time of the last budget discussion.

**Shri R. K. Sidhwa :** I am giving only an illustration....

**Mr. President :** The same illustration has been given by the honourable Member more than once.

**Shri R. K. Sidhwa :** This amendment is so important that unless our responsibility is realised I can assure you, Sir, that our whole object will be frustrated by the Constitution we are framing.

**Mr. President :** If the amendment is incorporated in the Constitution that will be a sufficient safeguard and the honourable Member's speech will not be remembered.

**Shri R. K. Sidhwa :** I was making a case as to the justification for this amendment being incorporated in the Constitution. If the matter is left to the executive there is no chance of any likely improvement.

I was referring to the constitution of the free city of Danzig. There I found almost similar provisions. No supplementary amount is to be spent unless the House authorises it. It may be argued that in the event of an emergency what would happen? I want the executive to take stock of the whole year. The emergency does not happen for the purpose of spending money to the tune of hundreds of crores. It may involve a few lakhs but I object strongly to supplementary demands to the tune of hundreds of crores. Unless my amendment is accepted the very good object with which we are providing this article will be to that extent frustrated. These articles have been healthy and sound and they will be there for our future guidance. But as regards supplementary demands unless an amendment like the one proposed by me is incorporated in the Constitution the flaw will remain there and I can assure you (I repeat it again knowing the mind of the executive) there is not going to be any improvement as far as supplementary demands are concerned.

**Prof. Shibban Lal Saksena :** Sir, I beg to move:

"That in amendment No. 12 of List I (Fourth Week), after clause (2) of the new article 95, the following new clause be added:

- (3) After the first Parliament elected under this Constitution comes into being, the financial year, shall commence on the first November and end with the 31st of October."

Sir, the new procedure which is contemplated by this new amendment intends to give Parliament more time for the scrutiny of the estimates on the model of the British Parliament. In the British Parliament an Appropriation Act must be passed by the end of August. That means, five months after 31st

March. In England the months of April, May, June, July and August are some of the best months of the year. If our Parliament is to sit always during the three months of May, June, and July in Delhi, it will be very difficult. I therefore want that the consideration of the Budget should be taken up in the best months of the year in our country. Just as five months are allowed, after 31st March, for the Parliament to pass the Appropriation Act, I want that after the commencement of the financial year we should also get at least five months for passing the Appropriation Act. That means November, December, January, February and March. This will bring our procedure exactly in line with the procedure in British Parliament, Sir, in our country also, the financial year generally begins with Deepavali about the beginning of November, so that the fixing of the new financial year will be in consonance with our ancient traditions. I think therefore that in order that the purpose laying behind the amendment, which is to give the House more time and full facility to scrutinise all the estimates, may be achieved, it is necessary that the Budget should be discussed from the Deepavali to Holi, *i.e.*, from November 1st to March 31st. I think that if these days are fixed, we shall have the best portion of the year for the discussion of the Budget and passing the Appropriation Act. I hope Dr. Ambedkar will accept the amendment and spare the members of the new Parliament from having to sit in Delhi during the months of May and June as we are now doing.

**Shri B. M. Gupte** (Bombay: General): Sir, even after listening to the explanation given by Dr. Ambedkar I am inclined to oppose the provision in this article as far as the excess grants are concerned. I do not see how an occasion can arise for such a grant after the innovations we have made in the preceding article. It seems to me rather anomalous that after laying down a mandatory provision in one article we should provide in the next article for the regularisation of the breach of that mandatory provision. That is what it amounts to here. Perhaps the Mover of this amendment has overlooked the circumstances that have changed. I understand that this provision for excess grant was made on the recommendation of the Expert Committee that was appointed to consider the financial provisions. It has been said so in the footnote. So it is the Expert Committee that has proposed that such a provision should be made. I submit that the entire basis of the recommendation of the Expert Committee has been changed now by the proposals we have already adopted. I will invite attention to paragraph 79 of the report.

“It is usual in democratic constitutions to provide that no money can be drawn from the Treasury except on the authority of the legislature granted by an Act of Appropriation, but in this country the practice has been to authorise expenditure by resolutions of Government after the payments have been made and not by law. As the existing practice has been working well in this country appropriation by law does not appear to be necessary.”

So they definitely rejected the idea of an Appropriation Act which we have now adopted. That is one fundamental change that we have made. Formerly the Auditor-General could withdraw the amount in spite of the fact that it was not sanctioned by Parliament, because it was the executive that authenticated the Schedule. Now we have made a stringent provision by saying that it shall be done by an Act of Parliament. So, what the Auditor-General will now have to do is to defy an act of Parliament.

Another fundamental change we have made is this: The Expert Committee contemplated that the old system will continue. They took it for granted that the wording that is in the Government of India Act will also be maintained. I shall invite the attention of the House to the corresponding provision in the Government of India Act, 1935, as adapted. Section 35 says:

“Provided that, subject to the next succeeding section, no expenditure from the revenues of the Dominion shall be deemed to be duly authorised unless it is specified in the schedule so authenticated.”

[Shri B. M. Gupte]

So the present wording is that only that expenditure shall not be considered as authorised—not that ‘no money shall be withdrawn’. We have made the wording especially stringent in article 94. So, under the Government of India Act as long as the Auditor-General was confident that the executive would get the sanction of Parliament later on, there was no objection for him to withdraw the amount. But here under article 94 (3) he will have no power to do this unless he infringes the Appropriation Act of Parliament. I submit that it is not only that this provision about excess grant is inconsistent with clause (3) of article 94, but that it is hostile to the spirit of stricter control by Parliament of the finances of the country. I therefore submit that the point may be reconsidered whether the excess grant provision should be retained.

**The Honourable Dr. B. R. Ambedkar:** Mr. President, Sir, I find that the financial provisions which are placed before this House have given considerable worry to the Members. I can appreciate that, for I remember that when, Mr. Churchill’s father became the Lord Chancellor, a budget was placed before him showing figures in decimals and dots thereon. Evidently he was not a student of mathematics and could not understand what the figures meant with a dot in it. So he wrote on the file, “What do these damned dots mean?” asking for an explanation from the Secretary of the Finance Department. Having regard to such difficulty of understanding from persons so highly placed as Mr. Churchill’s father. I am not at all surprised if the Members of this House also find similar difficulty in understanding these provisions. I should therefore like to go somewhat into elementary propositions in order to place the House in a right frame of mind.

Sir, I should like to tell the House the effect of the Provisions contained in article 92, article 93 (2) and article 94. Article 92 places upon the President the obligation to lay before Parliament a financial statement for the year—I would like to emphasize the words “for the year” showing the expenditure in certain categories, those charged on the revenues of India and those not charged on the revenues of India. After that is done, then comes into operation article 93 (2), which states how the estimates are to be dealt with. It says that the estimates shall be presented to the House in the form of demands and shall be voted upon by the House of the People. After that work is done, article 94 comes into operation, the new article 94 which says that all these grants made by the House of the People shall be put and regularised in the form of an Appropriation Act. Now, I would like to ask the Members to consider what the effect is of articles, 92, 93 (2) and 94. Suppose we did not enact any other article, what would be the effect? The effect of the provisions contained in articles 92, 93 (2) and 94 in my judgment would be that the President would not be in a position constitutionally to present before Parliament any other estimates during the course of the year. Those are the only estimates which the President could present according to law. That would mean that there would be no provision for submitting supplementary grants, supplementary demands, excess grants or the other grants which have been referred to such as votes on credit and things of that sort. If no provision was made for the presentation of supplementary grants and the other grants to which I have referred, the whole business of the executive would be held up. Therefore, while enacting the general provision that the President shall be bound to present the estimates of expenditure for that particular year before Parliament, he is also authorised by law to submit other estimates if the necessity for those estimates arises. Unless therefore we make an express provision in the Constitution for the presentation of supplementary and excess grants, articles 92, 93 (2) and 94 would debar any such presentation. The House will now understand why it is necessary to make that provision for the presentation of these supplementary demands.

The question has been raised as to excess grants. The difficulty, I think, is natural. Members have said that when it is stated that no moneys can be spent by the executive beyond the limits fixed by the Appropriation Act, how is it that a case for excess grants can arise? That, I think, is the point. The reply to that is this: We are making provisions in the terms of an amendment moved by my Friend, Pandit Kunzru, which is new article 248-B on page 27 of List I, where there is a provision for the establishment of a Contingency Fund out of the Consolidated Fund of India. Personally myself, I do not think that such a provision is necessary because this question had arisen in Australia, in a litigation between the State of New South Wales and the Commonwealth of Australia, and the question there was whether the Commonwealth was entitled to establish a Contingency Fund when the law stated that all the revenues should be collected together into a Consolidated Fund, and the answer given by the Australian Commonwealth High Court was that the establishment of a Consolidated Fund would not prevent the legislature of the Parliament from establishing out of the Consolidated Fund any other Fund, although that particular fund may not be spent during that year, because it is merely an appropriation although in a different form. However, to leave no doubt on this point that it would be open to Parliament, notwithstanding the provision of a Consolidated Fund to create a Contingency Fund, I am going to accept the amendment of my Friend, Pandit Kunzru, for the incorporation of a new article 248-B. It is, therefore, possible that apart from the fund that is issued on the basis of an Appropriation Act to the executive, the executive would still be in possession of the Consolidated Fund and such other fund as may be created by law from time to time. It would be perfectly possible for the executive without actually having any intention to break the Appropriation Act to incur expenditure in excess of what is voted by Parliament and draw upon the Contingency Fund or the other fund. Therefore a breach of the Act has been committed and it is possible to commit such an act because the executive in an emergency thinks it ought to be done and there is provision of fund for them to do so. The question, therefore, is this: when an act like this is done, are you not going to make a provision for the regularisation of that act? In fact, if I may say so, the passing of an excess grant is nothing else but an indemnity Act passed by Parliament to exonerate certain officers of Government who have in good faith done something which is contrary to the law for the time being. There is nothing else in the ideas of an excess grant and I would like to read to the Members of the House paragraph 230 from the House of Commons—Manual of Procedure for the Public business. This is what paragraph 230 says:—

“An excess grant is needed when a department has by means of advances from the Civil Contingencies Fund or the Treasury Chest Fund or out of funds derived from extra receipts or otherwise spent the money on any service during any financial year in excess of the amount granted for that service and for that year.”

Therefore, there is nothing very strange about it. The only thing is that when there is a supplementary estimate the sanction is obtained without excess expenditure being incurred. In the case of excess grant the excess expenditure has already been incurred and the executive comes before Parliament for sanctioning what has already been spent. Therefore, I think there is no difficulty; not only there is no difficulty but there is a necessity, unless you go to the length of providing that when any executive officer spends any money beyond what is sanctioned by the Appropriation Act, he shall be deemed to be a criminal and prosecuted, you shall have to adopt this procedure of excess grant.

**The Honourable Shri K. Santhanam :** May I ask if under the provisions of the law as stated in the new article 95 (2) the three preceding articles will have effect? Does it mean that every supplementary demand should be followed by a supplementary Appropriation Act?

**The Honourable Dr. B. R. Ambedkar :** Yes; that would be the intention.

**The Honourable Shri K. Santhanam :** The appropriation will not be for the whole year?

**The Honourable Dr. B. R. Ambedkar :** There may be supplementary appropriation. That always happens in the House of Commons.

**Prof. Shibban Lal Saksena :** What about my amendment, Sir?

**The Honourable Dr. B. R. Ambedkar :** I am very sorry. Prof. Shibban Lal Saksena says that the financial year should be changed. Well, I have nothing to say except that I suspect that his motives are not very pure. He perhaps wants a winter session so that he can spin as long as he wants. If he wants longer sessions, he must sit during summer months as we are now doing.

**Prof. Shibban Lal Saksena :** You will then long for a holiday in the hills, not I. Summer will not influence my speeches at all.

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

“That in amendment No. 12 of List I (Fourth Week), in clause (1) of the proposed article 95—

- (i) in sub-clause (a), the word ‘or’ occurring at the end, be deleted
- (ii) sub-clause (b) be deleted; and
- (iii) at the end of clause (1), the following words be added:

‘and until both the Houses of Parliament pass such a demand, the expenditure shall not be incurred, and if incurred payment shall not be made.’ ”

The amendment was negatived.

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

“That for article 95, the following article be substituted:—

Supplementary additional or excess grants.

‘95. (1) The President shall—

- (a) if the amount authorised by any law made in accordance with the provisions of article 94 of this Constitution to be expended for a particular service for the current financial year is found to be insufficient for the purposes of that year or when a need has arisen during the current financial year for supplementary or additional expenditure upon some new service not contemplated in the annual financial statement for that year, or
- (b) if any money has been spent on any service during a financial year in excess of the amount granted for that service and for that year, cause to be laid before both the Houses of Parliament another statement showing the estimated amount of that expenditure or cause to be presented to the House of the People a demand for such excess, as the case may be.
- (2) The provisions of the last three preceding articles shall have effect in relation to any such statement and expenditure or demand and also to any law to be made authorising the appropriation of moneys out of the Consolidated Fund of India to meet such expenditure or the grant in respect of such demand as they have effect in relation to the annual financial statement and the expenditure mentioned therein or to a demand for a grant and the law to be made for the authorization of appropriation of moneys out of the Consolidated Fund of India to meet such expenditure or grant.’ ”

The amendment was adopted.

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

“That in amendment No. 12 of List I (Fourth Week), after clause (2) of the proposed new article 95, the following new clause be added:—

- (3) After the first Parliament elected under this Constitution comes into being, the financial year, shall commence on the first November and end with the 31st of October.’ ”

The amendment was negatived.

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

“That article 95, as amended, stand part of the Constitution.”

The motion was adopted.

Article 95, as amended, was added to the Constitution.

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### Article 96

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

“That for article 96, the following article be substituted:—

‘96. (1) Notwithstanding anything contained in the foregoing provisions of this Chapter, the House of the Votes on account, Votes on People shall have power—  
credit and exceptional grants.

- (a) to make any grant in advance in respect of the estimated expenditure for a part of any financial year pending the completion of the procedure prescribed in article 93 of this Constitution for the voting of such grant and the passing of the law in accordance with the provisions of article 94 of this Constitution in relation to that expenditure;
  - (b) to make a grant for meeting an unexpected demand upon the resources of India when on account of the magnitude or the indefinite character of the service the demand cannot be stated with the details ordinarily given in an annual financial statement;
  - (c) to make an exceptional grant which forms no part of the current service of any financial year; and to authorise by law the withdrawal of moneys from the Consolidated Fund of India for the purpose for which the said grants are made.
- (2) The provisions of articles 93 and 94 of this Constitution shall have effect in relation to the making of any grant under clause (1) of this article and to any law to be made under that clause as they have effect in relation to the making of a grant with regard to any expenditure mentioned in the annual financial statement and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet such expenditure.’ ”

(Amendment No. 1720 was not moved.)

**The Honourable Shri K. Santhanam**: Sir, I do not want to reopen the general principle which has been accepted; but I wish to say that the drafting of this article is rather defective.

For instance, in clause (1) it says, “ the House of the People shall have power”, and this is followed by, after sub-clause (c), “and to authorise by law.....” I think according to the Constitution, the House of the People cannot authorise by law.

**The Honourable Dr. B. R. Ambedkar** : I should say, Sir, that the Drafting Committee reserves to itself the liberty to re-draft the last three lines following sub-clause (c).

**The Honourable Shri K. Santhanam** : Sir, I am unable to understand this. In the House here we pass something which is obviously wrong and unconstitutional and then leave it to the Drafting Committee. I do not think we can leave it to the Drafting Committee to temper with the provisions we are making unless there is some lacuna or a mistake. We do not want to be faced with a new Constitution altogether and subjected to the trouble of looking at it article by article again. I do not think it is right for this House to pass a clause which is obviously wrong. Either he must say Parliament shall have power.....

**The Honourable Dr. B. R. Ambedkar :** I am prepared to accept the amendment right now. You may suggest it. "Parliament shall have power to authorise by law....."

**The Honourable Shri K. Santhanam :** Sir, the amendment may be, "and Parliament shall have power to authorise by law the withdrawal of moneys from the Consolidated Fund of India for the purposes for which the said grants are made."

Coming to clause (2), it says "that the provisions of articles 93 and 94 of this Constitution shall have effect in relation to the making of any grant....." I want to know if this means that there will have to be an Appropriation Act for this and that Appropriation Act will also show all the divisions, charged and non-charged, votable and non-votable as stated in the previous article. If that is the implication.....

**The Honourable Dr. B. R. Ambedkar :** That cannot be.

**The Honourable Shri K. Santhanam :** Article 93 says.....

**Shri T. T. Krishnamachari :** If it will help honourable Member, we can say, there will be a Consolidated Fund Bill No. I before an Appropriation Act. Which will give the main skeleton.

**The Honourable Shri K. Santhanam :** What I want to know is whether the Consolidated Fund Bill No. I will also consist of the charged and non-charged amount and voted and non-voted amounts, or will give only the votable portion.

**The Honourable Dr. B. R. Ambedkar :** The charged portion occurs only in the final Appropriation Act. This voting account gives what in the technical language of the House of Commons are called Supply services as distinct from services charged on the revenues.

**The Honourable Shri K. Santhanam :** This article says that the provisions of articles 93 and 94 will have to be compiled with.

**The Honourable Dr. B. R. Ambedkar :** Articles 93 and 94 mean the voting of Appropriation Act.

**The Honourable Shri K. Santhanam :** Article 93, first part, says that the charged portion would be shown and the second part says that such portion as is votable shall be presented to the vote. I want to know whether both these portions will be applicable to the voting account.

**The Honourable Dr. B. R. Ambedkar :** Article 93 says that the vote of the House is not necessary for services charged on the revenues of India.

**The Honourable Shri K. Santhanam :** But, they will have to be shown in the Appropriation Act.

**The Honourable Dr. B. R. Ambedkar :** When passed. This is what is called Consolidated Fund Act I.

**The Honourable Shri K. Santhanam :** Article 94 does not deal with Consolidated Fund Act.

**The Honourable Dr. B. R. Ambedkar :** That is also the Appropriation Act. As I stated before, there is no distinction. The Appropriation Act shows the details while the Consolidated Fund Act does not show details.

**The Honourable Shri K. Santhanam :** I do not think Dr. Ambedkar's explanations can override the precise provisions of an article. As the article stands,



all the provisions of articles 93 and 94 will apply to this Consolidated Fund as to the other. Therefore, the entire budget procedure will have to be duplicated.

**The Honourable Dr. B. R. Ambedkar :** If the honourable Member will read carefully sub-clause (2), he will see what sub-clause it deals with. It says, "The Provisions of articles 93 and 94 of this Constitution shall have effect in relation to the making of any grant under clause (1).

**The Honourable Shri K. Santhanam :** Please read on.

**The Honourable Dr. B. R. Ambedkar :** As I stated, there is no question of grant will regard to services charged on the revenues.

**The Honourable Shri K. Santhanam :** .....“and to any law to be made under that clause as they have effect in relation to the making of a grant with regard to any expenditure.....” Therefore the Consolidated Fund Act I will be a duplicate—of course it may be of smaller dimensions—of the Final Consolidated Fund Act. It must contain the charged and non-charged, the voted and non-voted and everything. That to my mind, is what we are going in for if we adopt the provision as it is.

**Shri T. T. Krishnamachari :** Mr. President, Sir I quite realise that the wording has given room for some misconception, but I may assure my honourable Friend Mr. Santhanam that the whole budget procedure would have to be gone through though in a very cursory manner. For instance, the convention so far as the Consolidated Fund Bill No. I in Parliament is concerned is that the executive does not demand payment for supply services which is in considerable variance with what was obtained in the previous year. After all, that is only for a period of three or four months that Parliament makes the grant. Undoubtedly, if there is going to be a Bill, there must be a Schedule and the Schedule must give the details probably in the same set-up as the Schedule that will be attached to the Appropriation Bill. If my honourable Friend reads article 94 again which the House has accepted, he will find that reference to payment out of the Consolidated Fund is there and he will be able to realise better the explanation given by Dr. Ambedkar that after all, the Appropriation Bill is the same thing as the Consolidated Fund Bill. The initial Bill will be the Consolidated Fund Bill No. I and the Schedule attached to the main Bill will comprise all that was contained in the Consolidated Fund Bill No. I. The validity of the initial Bill will cease the moment the main Bill is passed. The exact procedure that has got to be followed will depend on the temper of the Parliament and the nature of the demand made. If they would accept a token Schedule giving the various heads and giving roughly the total amount needed, as being sufficient, the labour involved would be negligible. But, if they want all the items that are now enumerated in the Book of Demands, even that possibly could be done, because it would only be *pro rata* of the total estimates placed before Parliament but there may be a certain amount of clerical work necessary; it all depends upon the demands made by Parliament. The matter is one of procedure and as my honourable Friend has accepted the principle, I do not think there need be any further difficulty about accepting this suggested procedure. The mere fact that mention is made of articles 93 and 94 that procedure having to be followed therein does not raise, in my view at any rate, insuperable difficulties. I may assure my honourable friend Mr. Santhanam that what we have aimed at right through is to avoid creating a procedure which would be difficult for Parliament to follow, and at the same time avoid creating a situation which will alter the present state of things all of a sudden. Parliament might change these things as it wants later on. Perhaps, Sir, it may be necessary in the first budget session after this Constitution has been passed when the provisional Parliament will be sitting, we may have to allow Parliament a certain amount of elasticity in either following or varying the rigid provisions mentioned in these articles which are now being discussed. Every care will be taken in

[Shri T.T. Krishnamachari]

regard to making the transitory period easy. This is a mere matter of procedure and I see no difficulty in meeting the wishes of Parliament as may be indicated by them from time to time.

**The Honourable Dr. B. R. Ambedkar :** Sir, I do not think there is any necessity to say anything more. I am only moving an amendment:

“That after sub-clause (c), of clause (1), the following words be added after ‘and’ and before ‘to’:—

‘Parliament shall have power.’ ”

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

“That for article 96, the following article be substituted:—

Votes on account, votes on credit and exceptional grants notwithstanding anything contained in the foregoing provisions of this Chapter, the House of the People shall have power—

- (a) to make any grant in advance in respect of the estimated expenditure for a part of any financial year pending the completion of the procedure prescribed in article 93 of this Constitution for the voting of such grant and the passing of the law in accordance with the provisions of article 94 of this Constitution in relation to that expenditure;
- (b) to make a grant for meeting an unexpected demand upon the resources of India when on account of the magnitude of the indefinite character of the service the demand cannot be stated with the details ordinarily given in an annual financial statement;
- (c) to make an exceptional grant which forms no part of current service of any financial year; and Parliament shall have power to authorise by law the withdrawal of moneys from the Consolidated Fund of India for the purposes for which the said grants are made.
- (2) The provisions of articles 93 and 94 of this Constitution shall have effect in relation to the making of any grant under clause (1) of this article and to any law to be made under that clause as they have effect in relation to the making of a grant with regard to any expenditure mentioned in the annual financial statement and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet such expenditure.”

The amendment was adopted.

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

“That article 96, as amended, stand part of the Constitution.”

The motion was adopted.

Article 96, as amended, was added to the Constitution.

**Mr. President :** There is notice of amendment by Professor Shah to add a new article 96-A. No. 1721.

**Prof. K. T. Shah :** After the vote on Mr. Saksena’s amendment of the same kind, I do not know that it would be proper to move this. But if you will permit me I will make one submission *apropos* the remarks made by Dr. Ambedkar in reply thereto ascribing motives by saying that such amendments as this were inspired by people who wanted longer sessions. I have expressed that view twenty-five years ago in my books, and if Dr. Ambedkar says it is a bad motive, I think it most unfair.

**Mr. President :** I think he did not mean it seriously. We go to article 97. Mr. Kamath—1722.

**Article 97**

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

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

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

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

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

**Mr. President :** No. 1723.

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

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

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

The amended clause would read:

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

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

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

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

[Prof. K. T. Shah]

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

Sir, I move.

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

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

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

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

**Prof. Shibban Lal Saksena** : No, Sir.

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

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

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

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

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

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

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

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

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

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

The amendment was negatived.

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

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

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

The amendment was negatived.

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

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

The amendment was negatived.

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

“That in clause (3) of article 97, before the word ‘passed’ the words ‘considered or’ be inserted.”

The amendment was negatived.

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

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

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

The amendment was negatived.

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

The question is:

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

The amendment was adopted.

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

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

The motion was adopted.

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

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### Article 98

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

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

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

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

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

“That clause (4) of article 98 be omitted.”

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

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

I move:

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

Thereafter clause (4) would read:

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

The Drafting Committee has appended a note to this clause (4) at the bottom of page 44, saying that the committee is of opinion that the Speaker of Parliament, as the House of the People is the more numerous body. That of the House of the People should preside at a joint sitting of the two House is good far as goes but when the speaker of the house of the People is absent I think the appropriate procedure would be to permit the Chairman of the Council of State to preside. The Chairman of the Council of State is an elected person, elected by both House of Parliament, and I see no reason, Sir, when the Speaker of the House of the People is not present, why in his absence the Chairman of the Council of State should not be authorised to preside. Clause (4) as it stands says: That in the absence of the Speaker of the house of the People such other person shall preside as may be determined by rules of procedure made under clause (3) of this article.”

Now this practically shuts out the chairman of the Council of States from presiding, for I think it will not be seriously contended that the Chairman of the Council of State may be permitted to preside over the joint sitting in accordance with rules that may be framed under clause (3). The President, when framing such rule in consultation with the Chairman of the Council of States, I am sure, will not have before him the proposal emanating from the Chairman of the Council of States himself that he should be authorised to preside in the absence of the Speaker of the House of the People, because he must be a very presumptuous Chairman of the Council State, a person who has absolutely no delicacies, who would be so audacious as to put forward such a suggestion to the President that he should be authorised to preside in such a contingency. I think it is necessary, therefore, that we should provide in clause (4) that when the Speaker of the House of the People is absent, the Chairman of the Council of the State should preside.

Sir, I beg to move.

(Amendment nos. 1728 and 1729 were not moved.)

**Mr. President :** So all the amendments have been moved of which we have received notice. Does any one now like to speak?

**Shri T. T. Krishnamachari:** Sir, while I quite admit the logic of the amendment moved by Mr. Kapoor-I do not know what Dr. Ambedkar will do in the matter, but my own feeling is that the clause as it is had better stand rather than be amended by the suggestion of Mr. Jaspat Roy Kapoor for this reasons: The proper arrangement will be that either the Chairman of the Council of State should preside, and in his absence the Speaker should preside; or the arrangement should stand as it is, because the Chairman of the Council of States happens to be the Vice-President of India, and has a unique position, second only to that of the President, and perhaps the Premier or somebody like that. To put him in a position below the Speaker would mean a very invidious distinction-making a person who is likely to succeed the President or take over his duties under certain circumstances to be put below the Speaker of the House of the People.

Again there might be some objection to put the speaker below the Chairman of the council because that might involve a question of rivalry between the two House as to which House takes the first place. It is a very delicate and difficult position, and I think the Drafting Committee has solved the position by eliminating the Chairman of the Council of State who is the view-President from the picture altogether, and it is best from all points of view that once the two House sit together, the Vice-President who is Chairman of the Council goes out completely from the picture and the Speaker presides. The acceptance of the suggestion of Mr. Jaspat Roy Kapoor though

[Shri T. T. Krishnamachari]

is might look logical, is, I think, likely to create a delicate situation which had better be avoided by the article being allowed to remain as it is.

**Shri K. M. Munshi** (Bombay: General): Sir, I think it would be best to leave the article as it is, without incorporating the Chairman of the Upper House. The reason is very simple. The Chairman of the Upper House is also the Vice-President and if we put the Speaker in the first instance it would not be right to put the Chairman next after him; and it may be that it would not be advisable to have a person who would be acting as a President in some temporary capacity or the other as the Speaker or the Chairman of this Joint sitting. It is from that point of view that it would be very improper, and I think it must be left to the rules to decide whether he should preside or not: But putting him expressly in this manner would be stultifying his position as Vice-President of the Union and it is very advisable to keep it as it is.

**The Honourable Dr. B. R. Ambedkar** : All that I can say is that I cannot accept Mr. Jaspat Roy Kapoor's amendment. It is much better that the matter be left elastic to be provided for by rules. With regard to Mr. Kamath's amendment, I certainly feel drawn to it. But for the moment I cannot commit myself, but I can assure him that this matter will be considered by the Drafting Committee.

**Mr. President** : Then I do not put Mr. Kamath's amendment to the vote. I treat it as a drafting amendment which the Drafting Committee will consider.

With regard to Mr. Jaspat Roy Kapoor's amendment No. 15, I would like to draw Dr. Ambedkar's attention to one point. In clause (2) of article 98 we have the words:

“With respect to the Legislature of the Dominion of India.”

In another place we have used the expression “Constituent Assembly of India”. I suppose Dr. Ambedkar would like to have the same expression here also?

**The Honourable Dr. B. R. Ambedkar** : Yes.

**Mr. President** : I was just pointing out that here in this clause (2) the expression “Legislature of the Dominion of India” occurs. Perhaps, the expression ‘Constituent Assembly of India’ will be better?

**The Honourable Dr. B. R. Ambedkar** : We have now got two Assemblies so to say, the Constituent Assembly sitting as Constituent Assembly and the Constituent Assembly sitting as legislature. We have rules on both sides. I think therefore it would be desirable to retain the words ‘Dominion of India’, so that we could adopt the rules which are prevalent on the other side.

**Shri Jaspat Roy Kapoor** : My submission is that for the words ‘Legislature of the Dominion of India’ we may have the words ‘Constituent Assembly of India’ and the word ‘Legislative’ within brackets. That is how we have describing our Constituent Assembly when it functions as Legislature.

**The Honourable Dr. B. R. Ambedkar** : We have to use the language of the Indian Independence Act. We have to restrict ourselves to the terminology of that Act.

**Mr. President** : If it will not create any difficulty, I do not mind it.

I will put the amendment moved by Shri Jaspat Roy Kapoor to vote.



**Shri Jaspat Roy Kapoor :** Sir, I seek leave of the House to withdraw it. I do not want it to have the fate of a defeated amendment.

**Mr. President :** If the House grants him leave to withdraw his amendment, it may be withdrawn.

The amendment was, by leave of the Assembly, withdrawn.

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

“That article 98 stand part of the Constitution.”

The motion was adopted.

Article 98 was added to the Constitution.

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#### **New Article 98-A**

**Mr. President :** We have notice of an amendment to insert a new article by Dr. Ambedkar.

**The Honourable Dr. B. R. Ambedkar :** I moved:

“That after article 98, the following new article be inserted:—

<p>98-A. Parliament may, for the purpose of the timely completion of the financial business, regulate by law the procedure of and the conduct of business in, each house of Parliament in relation to any financial matter or to any Bill for appropriation of moneys out of the Consolidated Fund of India, and if and in so far as the provision of any law so made is inconsistent with any rule made by a House of Parliament under the last preceding article or with any rule or standing order having effect in relation to Parliament under clause (2) of that article, such provision shall prevail.’ ”</p>	<p>Regulation by law of procedure in Parliament in relation to financial business.</p>
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**Mr. President :** As no Member desires to speak on this amendment, I shall put the motion to vote.

The question is:

“That after article 98, the following new article be inserted:

<p>98-A. Parliament may, for the purpose of the timely completion of the financial business, regulate by law the procedure of and the conduct of business in, each house of Parliament in relation to any financial matter or to any Bill for appropriation of moneys out of the Consolidated Fund of India, and if and in so far as the provision of any law so made is inconsistent with any rule made by a House of Parliament under the last preceding article or with any rule or standing order having effect in relation to Parliament under clause (2) of that article, such provision shall prevail.’ ”</p>	<p>Regulation by law of procedure in Parliament in relation to financial business.</p>
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The motion was adopted.

Article 98-A was added to the Constitution.

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#### **Article 173**

**Shri T. T. Krishnamachari:** May I suggest that, in continuation of these financial provisions relating to the Union which the House has considered, we

[Shri T. T. Krishnamachari]

may take up the consideration of the appropriate provision relating to the States? If that is done continuity can be maintained.

**Mr. President :** I was myself going to make that suggestion. We may not take up the Financial Article in the States Part of the Constitution.

The House will now take up article 173 for discussion.

Amendments Nos. 2461 and 2462 are not moved. Dr. Ambedkar may move the next amendment, No. 2464.

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

“That in clause (4) of article 173, after the words ‘deemed to have been passed’ the words ‘by both Houses in the form in which it was passed’ be inserted.”

**Shri T. T. Krishnamachari:** Sir, I formally move:

“That in clause (2) of article 173, for the word ‘thirty’ the word ‘twenty-one’ be substituted.”

**Shri B. M. Gupte :** I beg to moved:

“That with reference to amendment No. 2463 of the List of Amendments in article 173, for the words ‘thirty days’ wherever they occur, the words ‘fourteen days’ be substituted.”

This provision we have already adopted for the Central Legislature. In order to bring the States in line with that, this amendment may be accepted.

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

“That with reference to amendment No. 2463 of the List of Amendments, in article 173, for the words ‘thirty days’ wherever they occur, the words ‘fourteen days’ be substituted.”

The amendment was adopted.

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

“That in clause (4) of article 173, after the words ‘deemed to have been passed’ the words ‘by both Houses in the form in which it was passed’ be inserted.”

The amendment was adopted.

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

“That article 173, as amended, stand part of the Constitution.”

The motion was adopted.

Article 173, as amended, was added to the Constitution.

#### Article 174

(Amendment No. 2465 was not moved.)

**Mr. President :** Dr. Ambedkar, there are two amendments in your name, Nos. 69 and 70 of List I. These are only to bring this article into line with the provision which we have already adopted.

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

“That for sub-clauses (c) and (d) of clause (1) of article 174, the following be substituted:

- ‘(c) the custody of the Consolidated Fund or the Contingency Fund of the State, the payment of moneys into or the withdrawal of moneys from any such fund;
- (d) the appropriation of moneys out of the Consolidated Fund of the State.’ ”

and also—

“That in sub-clauses (e) and (f) clause (1) of article 174, for the words Revenues of the State’ the words ‘Consolidated Fund of the State’ be substituted.”

**H. V. Kamath :** Mr. President, Sir, there are two amendments in my name, Nos. 2466 and 2467. As regards 2467 I only formally move it, as it is only of a drafting nature. As regards amendment No. 2466, I move:

“That in sub-clause (e) of clause (1) of article 174, for the words ‘the increasing of the amount of’ the words ‘varying amount of’ or abolishing’ be substituted.”

I raised a similar point when discussing the corresponding article for the Union Parliament, and I think, and I still hold the view that that point was not satisfactorily answered. The House will see that article 177 provides for various items that shall be charged upon the Consolidated Fund of the State, among these various items being the emoluments and allowances of the Speaker and the Deputy speaker of the Legislative Assembly and in the case of a State having a Council, of the Chairman and the Deputy Chairman of the Legislative Council. There is no provision at all in this Constitution to the effect that the emoluments and allowances of these would not be diminished during their terms of office, as we have got in the case of the Governor of the State. Therefore it is likely that the legislature may at any time by law diminish the emoluments of the Speaker, the deputy Speaker, Chairman and the Deputy Chairman.

**Shri B. Das :** But these are all charged expenditure under article 177.

**Shri H. V. Kamath :** But there is no provision that they shall not be diminished during their term of office, and if a proposal arises for the diminution of such allowances and emoluments, should we allow the Council to have power to move such a Bill? Mr. Ananthasayanam Ayyangar replying to this on the last occasion said that so far increasing the amount is concerned, that will come within the scope of a money Bill, and therefore such money Bills should be introduced only in the Lower House, but the point that I want to raise is this: Suppose the legislature wishes to diminish the emoluments and allowances of the Speaker, the Deputy Speaker, the Chairman and the Deputy Chairman, should we not regard that also as a Bill coming within the scope of money Bills for purposes of article 174? Should we allow the Upper House the power to move a motion with regard to that matter? Should we not consider that also as falling within the scope of this article 174 and allow the Lower House the exclusive power to make such a motion?

Then, Sir, as regards abolition. There is one omnibus clause, a comprehensive clause in article 177, clause (f) which lays down that any other expenditure declared by this Constitution or by the Legislature of the State to be so charged shall also be charged to the Consolidated Fund of the State. Here also I do not know whether any occasion will arise at any time during the tenure of the legislature when it might consider that an expenditure which was previously declared as an expenditure chargeable to the State. In that case also, the point is whether the Upper House should be given the power to make such a motion, or the Lower House alone should have that power. Sir, I move.

As regard 2467, I only formally move it but would leave the matter to the wisdom of the Drafting Committee.

**Mr. President :** There are no other amendments to this article. I shall now put it to vote.

**Shri H. V. Kamath :** Does not Dr. Ambedkar want to say anything in the matter?

**The Honourable Dr. B. R. Ambedkar :** All I can say is that I shall look into the matter when we take up the revision of the Constitution.

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

“That for sub-clauses (c) and (d) of clause (1) of article 174, the following be substituted:

- (c) the custody of the Consolidated Fund or the Contingency Fund of the State, the payment of moneys into or the withdrawal of money from any such fund;
- (d) the appropriation of moneys out of the Consolidated Fund of the State;”

The amendment was adopted.

**Mr. President :** The Question is:

“That in sub-clauses (e) and (f) of clause (1) of article 174, for the words ‘revenues of the State’ the words ‘Consolidated Fund of the State’ be substituted.”

The amendment was adopted.

**Shri H. V. Kamath :** As Dr. Ambedkar has promised to look into that matter, I will leave it to his wisdom. He might exercise it at a later stage.

**Mr. President :** Both the amendments?

**The Honourable Dr. B. R. Ambedkar :** There is only one amendment.

**Shri H.V. Kamath :** May I ask which one he promised to look into? Perhaps he will make it clear.

**Honourable Dr. B. R. Ambedkar :** Amendment No. 2466.

**Mr. President :** Very well, than, I will not put them to vote.

The question is:

“That article 174, as amended, stand part of the Constitution.”

The motion was adopted.

Article 174, as amended, was added to the Constitution

**Shri Honourable Dr. B. R. Ambedkar :** I want article 175 to be held over.

**Shri T. T. Krishnamachari :** I suggest articles 175 and 176 may be held over as they affect some problems which the Drafting Committee are still considering. Article 177 may be taken.

**Mr. President :** Then we shall take up article 177.

#### Article 177

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

“That in sub-clauses (a) and (b) of clause (2) of article 177, for the words ‘revenues of the State’, be substituted.”

I move:

“That in clause (3) of article 177, for the words ‘revenues of each State’, the words ‘Consolidated Fund of each State’ be substituted.”

Sir, I also move:

“That in sub-clause (b) of clause (3) of article 177, for the word ‘emoluments’ the word ‘salaries’ be substituted.”

(Amendments Nos. 2486, 2487 and 2489 were not moved.)

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

“That in sub-clauses (a) and (b) of clause (2) of article 177, for the words ‘revenues of the State’ the words ‘Consolidated Fund of the State’, be substituted.”

The amendment was adopted.

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

“That in clause (3) of article 177, for the words ‘revenues of each state’ the words ‘Consolidated Fund of each State’ be substituted.”

The amendment was adopted.

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

“That in sub-clause (b) of clause (3) of article 177, for the word ‘emoluments’ the word ‘salaries’ be substituted.”

The motion was adopted.

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

“That article 177, as amended, stand part of the Constitution.”

The motion was adopted.

Article 177, as amended, was added to the Constitution.

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### Article 178

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

“That in clause (1) of article 178, for the words ‘revenues of a State’, the words ‘Consolidated Fund of a State’ be substituted.”

(Amendment No. 2490 was not moved.)

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

“That in clause (1) of article 178, for the words ‘revenues of a State’, the words ‘Consolidated Fund of a State’ be substituted.”

The amendment was adopted.

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

“That article 178, as amended, stand part of the Constitution.” The motion was adopted.

Article 178, as amended, was added to the Constitution

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### Article 179

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

“That for article 179, the following be substituted:—

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

- (a) the grants so made by the Assembly; and
- (b) the expenditure charged on the Consolidated Fund of the State but not exceeding in any case the amount shown in the statement previously laid before the House or Houses.
- (2) No amendment shall be proposed to any such bill in the House or either House of the Legislature of the State 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 Consoli-

[The Honourable Dr. B. R. Ambedkar]

dated fund of the State, 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 the State except under appropriation made by law passed in accordance with the provisions of this article.' ”

**Mr. President :** There is no other amendment to this article.

The question is:

“That for article 179, the following be substituted:—

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

Appropriation Bills.

- (a) the grant so made by the Assembly; and
- (b) the expenditure charged on the Consolidated Fund of the State but not exceeding in any case the amount shown in the statement previously laid before the House or Houses.
- (2) No amendment shall be proposed to any such Bill in the House or either House of the Legislature of the State 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 the State, 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 the State 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 179, as amended, stand part of the Constitution.”

The motion was adopted.

Article 179, as amended, was added to the Constitution.

### Article 180

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

“That for article 180, the following article be substituted :—

‘180. (1) The Governor shall—

- (a) if the amount authorised by any law made in accordance with the provisions of article 179 of this Constitution to be expended for a particular service for the current financial year is found to be insufficient for the purposes of that year or when a need has arisen during the current financial year for supplementary or additional expenditure upon some new service not contemplated in the annual financial statement for that year, or
- (b) if any money has been spent on any service during a financial year in excess of the amount granted for that service and for that year, cause to be laid before the House or the Houses of the Legislature of the State another statement showing the estimated amount of that expenditure or cause to be presented to the Legislative Assembly of the State a demand for such excess, as the case may be.
- (2) The provisions of the last three preceding articles shall have effect in relation to any such statement and expenditure or demand and also to any law to be made authorising the appropriation of moneys out of the Consolidated Fund of the State to meet such expenditure or the grant in respect of such demand as they have effect in relation to the annual financial statement and the expenditure mentioned therein or to a demand for a grant and the law to be made for the authorisation

Supplementary, additional or excess grants.

of appropriation of moneys out of the Consolidated Fund of State to meet such expenditure or grant.’ ”

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

“That article 18C, the following article be substituted :—

“180. (1) The Governor shall—

- (a) if the amount authorised by any law made in accordance with the provisions of article 179 of this Constitution to be expended for a particular service for the current financial year is found to be insufficient for the purposes of that year or when a need has arisen during the current financial year for supplementary or additional expenditure upon some new service not contemplated in the annual financial statement for that year, or
- (b) if any money has been spent on any service during a financial year in excess of the amount granted for that service and for that year, cause to be laid before the House or the Houses of the Legislature of the State another statement showing the estimated amount of that expenditure or cause to be presented to the Legislative Assembly of the State a demand for such excess, as the case may be.
- (2) The provisions of the last three preceding articles shall have effect in relation to any such statement and expenditure or demand and also to any law to be made authorising the appropriation of moneys out of the Consolidated Fund of the State to meet such expenditure or the grant in respect of such demand as they have effect in relation to the annual financial statement and the expenditure mentioned therein or to a demand for a grant and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of the State to meet such expenditure or grant.’ ”

The amendment was adopted.

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

“That article 180, as amended, stand part of the Constitution.”

The motion was adopted.

Article 180, as amended, was added to the Constitution.

### Article 181

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

“That for article 181, the following article be substituted :

- ‘181. (1) Notwithstanding anything contained in the foregoing provisions of this Chapter, the Legislative Votes on account, Votes on Assembly of a State shall have power. credit and exceptional grants.
- (a) to make any grant in advance in respect of the estimated expenditure for a part of any financial year pending the completion of the procedure prescribed in article 178 of this Constitution for the voting of such grant and the passing of the law in accordance with provisions of article 179 of this Constitution in relation to that expenditure;
- (b) to make a grant for a meeting an unexpected demand upon the resources of the State when on account of the magnitude or the indefinite character of the service the demand cannot be stated with the details ordinarily given in an annual financial statement;
- (c) to make an exceptional grant which forms no part of the current service of any financial year; and the Legislature of the State shall have power to authorise by law the withdrawal of moneys from the Consolidated Fund of the State for the purposes for which the said grants are made.
- (2) The provisions of articles 178 and 179 of this Constitution shall have effect in relation to the making of any grant under clause (1) of this article and to any law to be made under that clause as they have effect in relation to the making of a grant with regard to any expenditure mentioned in the annual financial statement and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of the State to meet such expenditure.’ ”

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

“That for article 181, the following article be substituted :

‘181. (1) Notwithstanding anything contained in the foregoing provisions of this Chapter, the Legislative Votes on account, votes on Assembly of a State shall have power—  
Credit and exceptional grants.

- (a) to make any grant in advance in respect of the estimated expenditure for a part of any financial year pending the completion of the procedure prescribed in article 178 of this Constitution for the voting of such grant and the passing of the law in accordance with the provisions of article 179 of this Constitution in relation to that expenditure;
  - (b) to make a grant for meeting an unexpected demand upon the resources of the State when on account of the magnitude or the indefinite character of the service the demand cannot be stated with the details ordinarily given in an annual financial statement;
  - (c) to make an exceptional grant which forms no part of the current service of any financial year; and the Legislature of the State shall have Power to authorise by law the withdrawal of moneys from the Consolidated Fund of the State for the purposes for which the said grants are made.
- (2) The provisions of articles 178 and 179 of this Constitution shall have effect in relation to the making of any grant under clause (1) of this article and to any law to be made under that clause as they have effect in relation to the making of a grant with regard to any expenditure mentioned in the annual financial statement and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of the state to meet such expenditure.’

The amendment was adopted.

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

“That article 181, as amended, stand part of the Constitution.”

The motion was adopted.

Article 181, as amended, was added to the Constitution.

#### Article 182

**Mr. President :** The motion is:

“That article 182 form part of the Constitution.”

**The Honourable Dr. B. R. Ambedkar :** With your permission, Sir, I seek to move a small amendment.

“That in article 182, for the words ‘revenues of the State’, the words ‘Consolidated Fund of the State’ be substituted.”

**Mr. President :** There is no other amendment.

The question is:

“That in article 182, for the words ‘revenues of the State’, the words ‘Consolidated Fund of the State’ be substituted.”

The amendment was adopted.

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

“That article 182 as amended stand part of the Constitution.”

The motion was adopted.

Article 182, as amended, was added to the Constitution.

#### Article 183

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

“That article 183 form part of the Constitution.”

There are some amendments to this article.

(Amendment No. 2496 was not moved.)



**Shri R. K. Sidhwa :** Sir, I move:

“That in clause (1) of article 183, the word ‘shall’ be substituted for the word ‘may’ and the following be added at the end :—

‘within 6 months from the date of the first session of the Assembly.’”

Sir, my amendment says that the legislature of the State shall make rules for regulating, subject to the provisions of this Constitution, its procedure and conduct of business within six months of the first session of the Assembly. In this article it is stated that until the rules are made—which is left to the choice of the Speaker of the House— the rules of procedure and standing orders in force immediately before the commencement of this Constitution shall prevail. I feel, Sir, that there should be a specific period fixed and the Speaker should be required to see that the rules are made within six months. Six months is a very long period. In view of the new set up and the new Constitution, it is just possible that the old rules may not properly fit in. We do not framed for an indefinite period. I have seen, Sir, that in some provinces, rules are not made for nearly eighteen months. I think this is a very reasonable amendment. Sir, I move.

(Amendments Nos. 2498 and 2499 were not moved.)

**Mr. President :** There is no other amendment.

**Shri H. V. Kamath :** Mr. President, Sir, I rise to support the amendment that has been brought before the House by my honourable Friend Mr. Sidhva.

It is very necessary, Sir, as Mr. Sidhva has stated, that the rules of procedure and conduct of business should be framed as expeditiously as possible. This House is aware that in this very House sitting as legislature we have not yet finally adopted even today the rules of procedure and conduct of business so far as that House is concerned. We have only tentatively adopted and I do not think it is desirable state of affairs that such an inordinate delay should occur for framing the rules of procedure. There should not be any difficulty whatsoever in having this specific time-limit of six months—it is a fairly generous time limit and any legislature which means business and which proceed to business in a really expeditious manner should be able to have the rules ready within six months. I would put it at even three months but as the amendment specifically mentions six months, I would support the amendment as it is and I hope it will commend itself to Dr. Ambedkar and the House.

There is one other observation which I would like to make and that is with regard to clause (1). I hope Dr. Ambedkar will bear in mind what he promised to do with regard to a similar amendment which I moved for the Union Parliament, and clause (1) as it appears here might be reconstructed in the light of the amendment I moved earlier.

**Mr. President :** Does anyone else wish to say anything?

**The Honourable Dr. B. R. Ambedkar :** I do not accept the amendment.

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

“That in clause (1) of article 183, the word ‘shall’ be substituted for the word ‘may’ and the following be added at the end :—

‘within 6 months from the date of the first session of the Assembly.’ ”

The amendment was negatived.

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

“That article 183 stand part of the Constitution.”

The motion was adopted.

Article 183 was added to the Constitution.

### New Article 183-A

**Mr. President :** There is a new article 183-A proposed by Dr. Ambedkar.

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

“That after article 183, the following new article be inserted :—

‘183-A. The Legislature of a State may, for the purpose of the timely completion of the financial business, regulate by law the procedure of, and the conduct of business in, the House or Houses of the Legislature of the State in relation to any financial matter or to any Bill for the appropriation of moneys out of the Consolidated Fund of the State, and, if in so far as the provision of any law so made is inconsistent with any rule made by the House or either House of the Legislature of the State under the last preceding article or with any rule or standing order having effect in relation to the Legislature of the State under clause (2) of that article, such provision shall prevail.’ ”

Regulation by law of procedure in the Legislature of the state in relation to financial business.

**Mr. President :** Does anyone wish to say anything? The question is:

“That new article 183-A be added to the Constitution.”

The motion was adopted.

Article 183-A was added to the Constitution.

### Article 184

**Mr. President :** We go to article 184.

**Shri T. T. Krishnamachari :** Sir, we have not discussed article 99 which is analogous. This may be held over. Articles 185 and 186 have not got many amendments and they might be taken up.

### Article 185

**Mr. President :** We pass over article 184. We go to article 185.

(Amendment Nos. 2518 and 2519 were not moved.)

Does anyone wish to speak?

**Shri B. Das :** Sir, I feel that the provincial Legislature should have the right to question the conduct of the High Court Judges. Regarding the Supreme Court, the Parliament is there which will be very alert and if they find the Supreme Court Judges are misbehaving, the Parliament will find its own way to correct them and to bring the Government, the President and the Cabinet under censure so that they control properly the Supreme Court Judges. I am not happy with 185 (1). I do not think and appeal to Dr. Ambedkar—the Drafting Committee has been very fair and if they have been fair, why do they want to stifle discussion about the High Court Judges in the provincial Legislatures? That is all I want to say.

**Mr. President :** A similar provision has been passed with regard to Supreme Court and High Court in article 100. Does anyone else wish to speak?

**Shri T. T. Krishnamachari :** Mr. President, if the Chair will permit me and the house agrees, I would like to move—

“That clause (2) of this article may be omitted.”

The reason is that right through in the States Chapter we have been omitting specific reference to States in Part III of the First Schedule and it would only be following the same practice which we have hitherto followed. I hope the House will agree to this and omit clause (2). Sir, I move.

**Shri R. K. Sidhwa :** Mr. President, I know, as you have rightly pointed out, that in the previous clauses as far as the Supreme Court is concerned, we have passed a similar article. But I do not understand why the Judge of a High Court should be above criticism as far as his conduct is concerned. Sometimes he misbehaves, he is not a super-man, his conduct also should be subject to question somewhere and if you do not allow the House to discuss his conduct, you know sometimes what happens. We know what happened in a recent case. While I say that his judgment should not be under discussion of the House, his conduct should be certainly subject to discussion. There is nothing wrong and it does not in any way derogate from his position. If you have some kind of restriction upon a judge, I think it will be a very healthy procedure.

**Shri T. T. Krishnamachari :** May I point out that we have accepted 101 which is practically the same so far as Parliament is concerned and we are applying the same provision with regard to Legislatures of the States?

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

“That clause (2) of article 185 be deleted.”

The amendment was adopted.

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

“That article 185, as amended, stand part of the Constitution.”

The motion was adopted.

Article 185, as amended, was added to the Constitution.

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#### Article 186

**Mr. President :** We go to No. 186.

(Amendment No. 2520 was not moved.)

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

“That article 186 stand part of the Constitution.”

The motion was adopted.

Article 186, was added to the Constitution.

The Assembly then adjourned till Eight of the Clock on Monday, the 13th June, 1949.

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