

CONSTITUTION (TENTH AMENDMENT) *BILL

The Minister of Revenue and Civil Expenditure (Shri M. C. Shah): I beg to move for leave to introduce a Bill further to amend the Constitution of India.

Mr. Speaker: Motion moved:

"That leave be granted to introduce a Bill further to amend the Constitution of India".

Shri Kamath (Hoshangabad): I would like to draw your attention to one constitutional point. I find that the Bill sought to be introduced falls within the ambit or within the purview of sub-clauses (a) to (f) of clause 1 of article 110. I shall read out the relevant part of that article.

"For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely—

(a) the imposition, abolition, remission, alteration or regulation of any tax;....."

If you will kindly turn to clauses 2 and 3 of the Bill, you will find that they seek to impose taxes on the sale or purchase of goods other than newspapers. That is to say, new taxes are sought to be imposed.

Now, article 117 of the Constitution makes it obligatory that:

"A Bill or amendment making provisions for any of the matters specified in sub-clauses (a) to (f) of clause (1) of article 110 shall not be introduced or moved except on the recommendation of the President and...."

And this Bill falls within the purview of sub-clause (a) of clause 1 of article 110, as I have already pointed out. Such a Bill or amendment shall not be introduced or moved except on the recommendation of the President. Here in this Bill—I got a copy of the Bill from the Publications Counter—I do not find the recommendation of the President at all. If you will kindly refer to the last page of the Bill, it only says, "A Bill further to amend the Constitution of India".

Mr. Speaker: Does this impose any tax?

Shri Kamath: Imposition, regulation, alteration; everything is there.

Mr. Speaker: What is done is that they have added an entry in the Seventh Schedule, in the Union List. To that extent, they have modified it. It is open to Parliament to take action under article 110 by introducing a Bill. Now authority for the Union as against the States is necessary. So far as inter-State trade and commerce is concerned, this is an amendment to the Schedule. It does not mean thereby that any tax is imposed, whether the Centre should impose or the State should impose. That is all the point here. (*Interruption*). This is what is passing in my mind. I am asking the hon. Member to be clear over this matter. When an income-tax Bill or Finance Bill is brought before the House, it is for the President to consider whether it is a Money Bill, and if it is a Money Bill, to make or not to make his recommendation. This does not actually impose or abolish or remit any tax. How does it do it?

Shri Kamath: Am I to understand that the proposal of Government does not include any one of these, namely, imposition, abolition, remission, alteration or regulation?

Mr. Speaker: It does not appear so. This is only giving power so far as inter-State trade is concerned.

Shri Kamath: What about 'regulation'.

Shri M. C. Shah: This is simply an amendment to the Constitution to enable us to bring forward further legislation with regard to inter-State sales tax. Therefore, it cannot come under article 110 or 117. This is simply effecting certain changes with regard to the items in the Concurrent List, and also regarding articles 269 and 286 of the Constitution. When the legislation comes, Shri Kamath may advance whatever arguments he may have. Today this is simply an amendment to the Constitution.

Mr. Speaker: I find that this is an amendment to the Constitution. When a Bill is introduced under article 110, it does not partake of the nature of an

[Mr. Speaker]

amendment to the Constitution. If a Bill is sought to be introduced under article 110, it is a Money Bill and is under the Constitution. Whenever such right is sought to be exercised even by the Government, as in the case of the Budget demands for grants, it must be sanctioned by the President, that is, any expenditure. For that, if a Bill is sought to be introduced here, it must equally have the recommendation of the President. All those acts are under the Constitution, which is the Constitution for the time being.

So far as this Bill is concerned, this is not under the Constitution, but it seeks to modify the Constitution. If the provisions in this Bill had infringed or invoked any of the items contemplated in article 110, there might be some force in the argument that a recommendation of the President may be necessary. As I see it, what is sought to be done is to give power to the Centre, that is, to the Union, to impose tax on sale of articles. That is removed from the State List. The authority or power to impose such taxes is given either to the one or the other. Either one should do it or the other should do it. That is all the point here.

Therefore, I do not find that this comes strictly within the mischief of article 110, and, therefore, no recommendation of the President is necessary.

The question is :

"That leave be granted to introduce a Bill further to amend the Constitution of India".

The motion was adopted.

Shri M. C. Shah : I introduce the Bill.

TRAVANCORE-COCHIN APPROPRIATION (VOTE ON ACCOUNT) BILL

The Minister of Revenue and Civil Expenditure (Shri M. C. Shah) : I beg to move :

"That the following amendment recommended by Rajya Sabha in the Bill to provide for the withdrawal of certain sums from and out of the Consolidated Fund of the State of Travancore-Cochin for the service of a part of the financial year 1956-57, be taken into consideration :

New Clause 4.

That at page 1, after clause 3, the following new clause be inserted :

'Repeal of Ordinance 4 of 1956 4. The Travancore-Cochin Appropriation (Vote on Account) Ordinance, 1956, is hereby repealed.'

Mr. Speaker : The hon. Minister will explain what exactly the matter is. The House may agree or disagree with him. Therefore, let him say what exactly the matter is.

Shri M. C. Shah : As the House is aware, the Travancore-Cochin Appropriation (Vote on Account) Bill was passed by this House on the 29th March 1956. At that time, the Rajya Sabha was not in session and the expenditure had to be incurred from the Consolidated Fund of Travancore-Cochin from 1-4-56. Therefore, under article 123(1) of the Constitution, the President promulgated an Ordinance authorising the withdrawal from the Consolidated Fund of Travancore-Cochin for the service of a part of the financial year. That Ordinance was laid on the Table of the Rajya Sabha when it assembled on the 23rd April 1956. That Ordinance can remain in force for six weeks from the date of the Houses of Parliament re-assemble. That date is to be considered from the date that the Rajya Sabha again met on the 23rd April 1956. Therefore, that Bill was presented to the Rajya Sabha. An amendment was moved by Government there that the Ordinance be repealed. That was accepted, and the Bill was returned by the Rajya Sabha.

The President can withdraw the Ordinance, but in view of the past practice, it was considered better to place the matter before both Houses of Parliament. Therefore, this Bill has now come before this House as returned by the Rajya Sabha with the amendment that the Ordinance be repealed.

Mr. Speaker : As the other House was not in session, it was necessary to promulgate an Ordinance. When that House re-assembled, it considered this matter. The Ordinance is no longer necessary. It is a formal affair.