

[Mr. Tajamul Husain]

President of the Republic should declare and divest himself of all his rights, shares, property, etc. in any enterprise, business or trade which is in any way aided or supported by the Union Government and should make over such rights, etc. to the Government, to be held in trust during the period he is occupying his exalted office as President of the Indian Republic. Now, Sir, in my opinion, this is a fair amendment but I am afraid that this amendment will not be accepted by the Honourable Dr. Ambedkar. Professor Shah comes forward with beautiful amendments but they are all lost because the honourable Member in charge of the Draft Constitution is not in favour of them. Therefore, with your permission, I want to move a verbal amendment to this.

Mr. Vice-President : I cannot allow you to do that. In that case other people would also come forward with verbal amendments. You may make a suggestion for the acceptance of Dr. Ambedkar.

Mr. Tajamul Husain : My suggestion is this: Mr. Shah's amendment does not say that when a person is elected President he should declare and divest himself of all his personal property. He only says that he should divest himself of his rights, shares or interests in any concern aided or supported by government and that such rights, etc. should be taken over and held in trust for him by the Government of India. I say that as it would come to the Government of India, I thought that Dr. Ambedkar would accept it. If, Dr. Ambedkar as the Law Minister of the Government of India is not going to accept it, then instead of the 'Government of India', let it go to the President's wife and children. That is a very simple matter. The article as amended would read thus:

"Any person elected President shall, before he enters upon the functions and responsibilities of his office, declare and divest himself of all his right, title, share, property and interest in any enterprise, business or trade, which is in any way aided or supported by the Union Government; and all such right, title, share or interest of the President shall be bought up by the President's wife and children, if he has none then to Dr. Ambedkar himself, the Law Minister."

With these words, I support the amendment and I move my oral amendment.

Mr. Vice-President : There is no amendment to be moved.

The Honourable Dr. B. R. Ambedkar : Sir, I have nothing to say.

Mr. Vice-President : The question is:

"That after article 47, the following new article be inserted:

'47-A. Any person elected President shall, before he enters upon the functions and responsibilities of his office, declare and divest himself of all his right, title, share, property and interest in any enterprise, business or trade, which is in any way aided or supported by the Union Government; and shall make over all such right, title, share or interest to Government of India, to be held, during his term of office, in trust for him'."

The motion was negatived.

Article 48

Mr. Vice-President : On going through the amendments one by one, I find that Amendments Nos. 1127, 1128 and 1130 are of similar import. Amendment No. 1130 seems to be the most comprehensive and may be moved.

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

"That in clause (1) of article 48:

- (a) for the words 'either of Parliament or' the words 'of either House of Parliament or of a House' be substituted;
- (b) for the words 'member of Parliament or' the words 'member of either House of Parliament or of a House' be substituted;
- (c) for the words 'in Parliament or such Legislature, as the case may be,' the words 'in that House' be substituted'."

There was some defect in the original language and we have tried to improve it.

Mr. Naziruddin Ahmad (West Bengal : Muslim): Mr. Vice-President, we have already decided by accepting certain rules that amendments which are intended to beautify the language of an article will not be allowed. Improving the language is not now one of the objectives of an amendment. Before the amendment was moved, it looked like an imposing amendment, but Dr. Ambedkar has clearly admitted that it was intended merely to improve the language of the article. In that view, although it has been moved, it need not be put to the vote.

Mr. Vice-President : Certain powers have been given to the Chair and the Chair is going to exercise them in the way which seems best.

I understand that there is an amendment to this amendment—Amendment No. 28 of List 1 (fifth week) standing in the name of Mr. V. S. Sarwate.

Shri V. S. Sarwate [United State of Gwalior—Indore—Malwa (Madhya Bharat)]
Sir, I move:

“That in amendment No. 1130 of the List of Amendments in article 48, before the words ‘House of Parliament’ the words ‘of the ruling family of Indian States and is in receipt of political pension or of an allowance on account of privy purse’ be inserted.”

The amendment purports to say that if a member of the ruling family of an Indian State is elected President, he would have to divest himself of the allowance or the privy purse which he may be receiving.

My object is that the President of this Republic should be of such convictions and wedded to such an ideology as would be republican and democratic. Obviously a person who was lately a ruler of an Indian State and is in receipt of a privy purse or allowance is not expected to fulfil this requirement. It has been said that the President is more or less a nominal figure-head. All the same I would point out that the President is expected in times of emergency to discharge certain very grave and important functions and duties. Further, from his status and position he is expected to give a certain incentive and a certain directive in the best interests of the democratic republic, which we are trying to establish in India. Now all these requirements cannot be expected to be fulfilled by one who has been brought up and who belongs to a family, which must behold and must have held traditions which are entirely different from those ideas which we call republican or democratic. Therefore, what is required by this amendment is that a late ruler of an Indian State should not be allowed to become President. That, however, does not debar him from standing for election, but debars him to this extent that if he is elected, he may not continue to receive the allowance. The amendment, if further read carefully, will show that the junior members of the ruling families are not debarred from standing or for holding the position of the President, since such junior members would not be in receipt of any allowance on account of privy purse. I need not point out that the Governors and the Governor-General, and especially the new President is expected, from conviction and from his bringing up and from his whole psychological set up, to be a person who would be so entirely devoted to democracy and republic, that there may not be the least shadow of doubt regarding his opinions, his democratic and republican opinions; but this is not likely to be expected in the case of a late ruler. Therefore, my submission is that this amendment may be accepted by the Mover of the original amendment.

Mr. Vice-President: Amendment No. 1127 stands in the name of Giani Gurmukh Singh Musafir. Does he want me to put it to the vote?

Giani Gurmukh Singh Musafir (East Punjab : Sikh): No, Sir.

Mr. Vice-President : Amendment No. 1128. Do you want me to put it to the vote?

Mr. Naziruddin Ahmad : Yes, Sir.

Mr. Vice-President : Amendment No. 1129. Verbal; disallowed.

Amendment No. 1131. Verbal; disallowed.

Amendment No. 1132. This may be moved.

(The amendment was not moved.)

Mr. Vice-President : Amendment Nos. 1133 and 1134 are practically the same. Amendment No. 1133 may be moved.

Mr. Naziruddin Ahmad : On a point of order, Sir, this is merely a verbal amendment.

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

“That in clause (2) of article 48, for the words ‘or position of emolument’ the words ‘of profit’ be substituted.”

Sir, this amendment is just for the sake of uniformity.

Mr. Vice-President : Amendment No. 1134. Do you want me to put this to the vote?

Shri H. V. Kamath: I have been forestalled by Dr. Ambedkar; but I would like to move amendment No. 1135.

Mr. Vice-President : We have now only come up to amendment No. 1134. Amendment No. 1135. You can move it.

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

“That in clause (3) of article 48, the words ‘the President shall have an official residence and’ be deleted.”

That is to say, the clause will read thus, if the amendment is accepted.

“There shall be paid to the President such emoluments and allowances, etc. etc.....”

In moving this amendment, Sir, I seek a little light from Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Which amendment?

Shri H. V. Kamath : Amendment No. 1135. My purpose in moving this amendment before the House is to request Dr. Ambedkar to throw a little light upon the necessity for incorporating such an insignificant, such a minor detail in our Constitution. I recognise, I admit freely that this Constitution, perhaps we are proud of the fact, is the bulkiest in the whole world. The emblem and crest that we have selected for our Assembly is an elephant. It is perhaps in consonance with that that our Constitution too is the bulkiest that the world has produced. Sir, May I ask in all humility whether there is any sense or any point in cumbering the Constitution with details like the President having a residence? If this be accepted, will it not be equally appropriate to say that the President shall have so many servants, the President shall have so many peons, chaprasis, the President shall have an A.D.C., the President shall have a Private Secretary, and what not? It may be argued, I see, Sir, that the President’s residence is a symbol and therefore it must be mentioned in the Constitution. I do not know how many precedents there are for a thing like this to be embodied in the Constitution.

An Honourable Member : The Irish Constitution.

Shri H. V. Kamath : I am coming to that. In the American Constitution I do not know whether the White House is mentioned in the Constitution. White House is universally recognised as the President’s official residence. Coming to England, I suppose 10, Downing Street is more universally known than Buckingham Palace among students of politics or present day affairs. 10, Downing Street which is the Prime Minister’s residence is more widely known than Buckingham Palace. In our Constitution there is no reference to the Prime Minister’s residence; we have mentioned only the President’s residence. In our Constitution, the President is, more or less, as Dr. Ambedkar has just

now said, a figure-head and the Prime Minister is a far more powerful individual than the President. In the fitness of things, I personally feel that the Prime Minister's official residence should be mentioned rather than the President's residence.

Another little point is this. Suppose, the President has two residences—formerly I suppose the Governor in most of the provinces and even at the Centre the Governor-General had two residences, one for summer and one for the other seasons—suppose there are two residences, will this article debar the State from granting or sanctioning two residences for the President, one of summer and one for non-summer seasons? Will this come in the way? Therefore, the point is, why bother about this little thing like a residence for the President? After all, the President will not live under a tree or on a maidan; he will have a roof over his head; he will have a house; that goes without saying. After all, we are now aspiring to provide a roof over the head of everybody in our country. Does the House mean to say, does Dr. Ambedkar mean to say that the President will have no roof over his head? He may have one, two or three residences. Who knows how many he will have? Why restrict by means of this article the right of the Government or the nation to provide more than one residence to the President? Therefore, I feel, Sir, that this is—I do not know how this has crept into the Constitution—too paltry, too trifling a detail to be incorporated in the Constitution, and tends to burden our Constitution with unnecessary, irrelevant and superfluous detail.

I therefore move that this portion of the article regarding the provision of official residence for the President be deleted.

(Amendment Nos. 1136 and 1137 were not moved.)

Mr. Vice-President : Amendment No. 1138 standing in the name of Professor K. T. Shah.

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

“That in clause (3) of article 48, after the words ‘shall have an official residence’ the following be added:—

‘and such secretarial, clerical, or expert consultative assistance at public expense as he may consider necessary for the due discharge of his duties and responsibilities under the Constitution, or the laws made thereunder for the time being in force’.”

Sir, this is one of the few inoffensive amendments which I have dared to put forward. It seems to be so self-evident that, except in extraordinary flights of fancy, imagination and impossibility, no one should question this. Accordingly I will not waste the time of the House by putting forward specific arguments in support of that. I trust the good sense of the House will lead it to accept the amendment.

Mr. Vice-President : Amendment No. 1139. Verbal; disallowed.

Amendment No. 1140, standing in the name of Professor K. T. Shah.

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

“That the following new clause be added to article 48:—

‘(5) Every President on completion of his term of office, and retirement, shall be given such pension or allowance during the rest of his life as Parliament may determine, provided that during the life time of any such President in retirement, the pension or allowance granted to him shall not be varied to his prejudice’.”

This, Sir, is another novel idea which is not found in the American Constitution, and as such it is also trying to break new ground. I trust that, however, will not be regarded as an argument in itself against my motion, that since even the wise Americans have not provided for this contingency, we in India need not do so.

[Prof. K. T. Shah]

If that argument should be urged, may I mention that in one of the later amendments to the Parliament Act or Ministers' Salaries Act, the hoary old Mother of Parliament has provided for the Prime Minister's pension on retirement, and, if I am not mistaken, even for the Leader of the Opposition. Lest I should be misunderstood by this word, I wish no one will think me guilty of any personal implication in that latter statement. I am only quoting a provision of the law made by the British Parliament providing for the retiring Prime Minister a reasonable competence, so that one who has held the dignity of the Prime Minister of the United Kingdom should not be reduced to circumstances wherein, as in the case of Mr. Asquith, his friends would have to come to his assistance, and provide a sort of trust to enable him to pass his remaining years in peace.

Sir, it is a matter of no small concern to all of us that one who has held the office of the President of India should not, by force of circumstances, by economic necessity, be compelled to have recourse to any service, trade, business or activity of any sort, or even to political manoeuvring, which might bring him a competence. It must be the greatest of our public ideals, the greatest of our public concerns that whoever has been elected Head of the State shall, on retirement, be adequately provided with what is considered at the time adequate sustenance for him who has been President of India.

This has both a precedent, as I have just pointed out, and a principle in its favour. Take for instance, the provision made for Judges of the High Court who also hold apart of the Sovereign power of the State, and who on retirement are without question provided with a pension everywhere in the world. You have plenty of precedents for it, I mean for some retiring pension for the President. If you can provide and if you should provide some retirement allowance to high judicial officials on their retirement, why should you not provide for the Head of the State embodying the Sovereignty of the people though even for a time, some sort of an allowance or pension—call it what you like—which would have him from being reduced by necessity to resort to means that may not be considered honourable, or that may not be considered befitting the dignity of one who has been Head of the State?

Sir, the Constitutions, from which precedents are usually cited, were drafted at a time and were made for a people where those coming up for such offices were presumed to be so well off, so well provided and in possession of such worldly wealth, that the provision was a superfluous or unnecessary.

In fact it has been said as regards the President of America, or of the Prime Minister of England, that very often they have retired poorer by thousands than when they entered upon their office. And yet no compensation was found necessary to spend their retirement on a decent livelihood. What does that signify? In this case, Sir, if ideals such as have been preached in this country are at all to be realized in actual fact, if the poorest is to be able to claim one day to have at least the right to be elected President, if one who has no right, title or interest in any industry, aided, supported or protected by the State, and not merely *carried on* by the State, then in such matters I hope the mere consideration of economic necessity after the post has been filled with honour and dignity will not debar such a person otherwise highly qualified from being chosen as a candidate or being chosen successfully as the occupant of the post.

I think, Sir, that the consideration in favour of making some such provision by Parliamentary enactment is so overwhelming that if not in the words that I have had the honour to put forward, in some other way and in some other form, the principle embodied in this amendment will commend itself to the Draftsmen and those who support him; and as such will become part of the Act.

The Honourable Dr. B. R. Ambedkar: Mr. Vice-President, Sir, I regret I cannot accept the amendments which have been moved. Professor Shah's amendment No. 1138 seems to be somewhat superfluous. It provides that the

President shall be given Secretariat assistance. There is no doubt about it that it will be done whether there is any provision in the Constitution or not.

With regard to his second amendment No. 1140 prescribing that a pension be given to the President on his retirement, I find that while I am agreeable to the sentiment that he has expressed that persons who serve the public by becoming members of Parliament undergo a great deal of personal sacrifice and that it is desirable that they should not be left unprovided for towards the end of their lives, it seems rather difficult to accept this particular amendment also. According to him, every person who becomes President and serves his term of office, which is 5 years, shall, at the end of 5 years be entitled to a pension. The second difficulty is that according to his amendment his pension shall not be altered during his life-time. Now supposing for instance one person who has been a President and has filled his full terms of years and has obtained a pension under the amendment of Professor Shah, suppose that he is again elected to be the President, what is the position? The position is that he continues to get his salary as the President in addition to that he will also be entitled to his pension. We would not be in a position even to reduce the pension in order to bring it down to his salary. Therefore, in the form in which the amendment is moved, I do not think that it is a practical proposition for anyone to accept. But there is no doubt about the general view that he has expressed, that after a certain period of service in Parliament, Members, including the President, ought to be entitled to some sort of pension, and I think it is a laudable idea which has been given effect to in the British Parliament, and I have no doubt it that our future Parliament will bear this fact in mind.

Then, with regard to the question raised by Professor Kamath about residential....

Shri H. V. Kamath : Sir, I am not Professor Kamath.

The Honourable Dr. B. R. Ambedkar : But he is quite entitled to be called Professor because he speaks so often. (*Laughter.*)

Shri H. V. Kamath : God forbid I should ever become a professor. (*Laughter.*)

The Honourable Dr. B. R. Ambedkar : Well, my friend Mr. Kamath asked me to explain why we have included this provision here, with regard to the official residence of the President, and he also twitted me on the fact that I was burdening the Constitution by mentioning it and other small minutiae. It might be thought that this is a small matter and might not have been included in the Constitution. But the question I would like to ask Mr. Kamath is this. Does he or does he not intend that the President should have an official residence and that Parliament should make provision for it? And is there very much of wrong if the proposition was stated in the Constitution itself? If the intention is that.....

Shri H. V. Kamath : Sir, may I know whether the Prime Minister will or will not have an official residence?

The Honourable Dr. B. R. Ambedkar : Yes, this is merely a matter of logic, I want to know if he does or does not support the proposition that the President should have an official residence. If he accepts that proposition, then it seems to me a matter of small import whether a provision is made in the Constitution itself or whether the matter is left for the future Parliament to decide. The reason why we have introduced this matter in the Constitution is that in the Government of India Act, in the several Orders in Council which have been issued by the Secretary of State under the authority conferred upon him by the Second Schedule of the Government of India Act, official residences, both for the Governor-General and the Governors have been laid down; and we have merely followed the existing practice in incorporating this particular provision in the Constitution; and I do not think we have done any very

[The Honourable Dr. B. R. Ambedkar]

great violence either to good taste or done something which we do not intend to do.

Shri H. V. Kamath : On a point of clarification, Sir, may I know whether this particular clause of article 48 will stand in the way of the President being provided with more than one official residence? It speaks of the President having "an official residence."

The Honourable Dr. B. R. Ambedkar : Not at all. There may be two official residences.

Then, with regard to the amendment of Mr. Sarwate, No. 28, I would like to say that this matter may have to be considered when we deal with the Constitution of the States which will accede to the Indian Union. Today the situation is so fluid that it is very difficult to make any provision of the sort which has been suggested by Mr. Sarwate.

Mr. Vice-President : The amendments will now be put to vote, one by one. Amendment No. 1130, standing in the name of Dr. Ambedkar.

"That in clause (1) of article 48 :—

- (a) for the words 'either of Parliament or' the words 'of either House of Parliament or of a House' be substituted,
- (b) for the words 'member of Parliament or' the words 'member of either House of Parliament or of a House' be substituted,
- (c) for the words 'in Parliament or such Legislature, as the case may be,' the words 'in that House' be substituted."

The amendment was adopted.

Mr. Vice-President : Amendment No. 28, standing in the name of Mr. Sarwate.

"That in amendment No. 1130 of the List of Amendments in article 48, before the words 'House of Parliament' the words 'of the ruling family of Indian States and is in receipt of political pension or of an allowance on account of 'privy purse' be inserted."

The amendment was negatived.

Mr. Vice-President : Amendment No. 1128, standing in the name of Mr. Naziruddin Ahmad.

"That for clause (1) of article 48, the following clause be substituted, namely:—

- (1) If the President is a member of any Legislature of the Union or of any State, he shall be deemed, on his making and subscribing the oath under article 49, to have resigned such membership'."

The amendment was negatived.

Mr. Vice-President : Amendment No. 1133, standing in the name of Dr. Ambedkar.

"That in clause (2) of article 48, for the words 'or position of emolument' the words 'of profit' be substituted."

The amendment was adopted.

Mr. Vice-President : Amendment No. 1135, standing in the name of Mr. Kamath.

"That in clause (3) of article 48, the words 'the President shall have an official residence and' be deleted."

The Amendment was negatived.

Mr. Vice-President : Amendment No. 1138, standing in the name of Prof. K. T. Shah.

"That in clause (3) of article 48, after the words 'shall have an official residence' the following be added:—

- 'and such secretarial, clerical, or expert consultative assistance at public expense as he may consider necessary for the due discharge of his duties and responsibilities under the Constitution, or the laws made thereunder for the time being in force'."

The amendment was negatived.

Mr. Vice-President : Amendment No. 1140, standing in the name of Prof. K. T. Shah.

“That the following new clause be added to article 48:—

‘(5) Every President on completion of his term of office, and retirement, shall be given such pension or allowance during the rest of his life as Parliament may determine, provided that during the life time of any such President in retirement, the pension or allowance granted to him shall not be varied to his prejudice’.”

The amendment was negatived.

Mr. Vice-President : The question before the House is that article 48, as amended, form part of the Constitution.

The motion was adopted.

Article 48, as amended, was added to the Constitution.

New Article 48-A

Mr. Vice-President : Now we come to the new article 48-A and amendment No. 1141 standing in the name of Prof. K. T. Shah. It will be seen that this amendment is similar to amendments No. 1125 and No. 1126 which have been negatived. Therefore it is disallowed.

Article 49

Mr. Vice-President : We now come to article 49.

The motion before the House is:

“That article 49 form part of the Constitution.”

We will go through the amendments, one by one.

First is amendment No. 1142, standing in the name of the Honourable Shri G. S. Gupta; it is a verbal amendment and is disallowed.

Amendments Nos. 1143, 1144 and 1145 are of similar import. No. 1144 may be moved, standing in the name of Shri T. T. Krishnamachari.

Shri T. T. Krishnamachari : Mr. Vice-President, Sir, I move:

“That in article 49, after the words ‘Chief Justice of India’ the words ‘or, in his absence the senior-most Judge of the Supreme Court available’ be inserted.”

Sir, this is only making a provision in case the Chief Justice of India is not present, some other Judge should do his function, and it is but proper that the senior-most judge of the Supreme Court should do this function. Sir, I trust the House will accept the amendment because it needs no further explanation.

Mr. Vice-President : Dr. Ambedkar, do you accept that amendment?

The Honourable Dr. B. R. Ambedkar : Yes, I do.

Mr. Vice-President : Then I need not put No. 1143 to vote.

Then comes amendment No. 1145, standing in the name of Shri Jaspat Roy Kapoor.

(Amendment No. 1145 was not moved.)

Mr. Vice-President : Then comes amendment No. 1146, standing in the name of Mr. Kamath.

Shri H. V. Kamath : Mr. Vice-President, Sir, by your leave, I move this amendment No. 1146 in a slightly amended form, as follows:—

“That in the affirmation or oath in article 49, for the words ‘I, A. B. do solemnly affirm (or swear)’, the following be substituted:—

‘In the name of God, I, A. B, do swear’

or alternatively,

‘I, A. B. do solemnly affirm’.”

Sir, as I read the Constitution carefully I was left with a sadly uncomfortable feeling that there was a void in the Constitution, that there was a vacuum in the Constitution.