

[Mr. Vice-President]

Parliament may by law from time to time determine, provided that no one shall be appointed Deputy Minister or Parliamentary Secretary who at the time of his appointment was not an elected member of either House of Parliament, or who is not elected within six months of the date of his appointment to a seat in one or the other House of Parliament.

- (2E) No one shall be appointed Minister or Deputy Minister or Parliamentary Secretary, who has been convicted of treason, or of any offence against the sovereignty, security, or integrity of the State, or of any offence involving moral turpitude and of bribery and corruption and liable to a maximum punishment of two years' rigorous punishment.

Every minister shall, before entering upon the functions of the office, declare all his right, interest or title in or to any property, business, industry, trade or profession, and shall divest himself of the same either by selling all or any such right, interest, or title in or to any property, business, industry, trade or profession in open market or to Government at the market price; and further, shall take an oath ever to consider exclusively the interests of the country and not seek to promote his own interest or aggrandizement of his family in any act he may do or appointment he may have to make.' "

The amendment was negatived.

**Mr. Vice-President :** Amendment No. 46 of List IV is blocked. Mr. Kamath will understand why I am not putting it to vote. It is blocked by the rejection of amendment No. 1300 as amended.

Now I will put article 61 to the vote of the House.

The question is:

"That article 61 stand part of the Constitution."

The motion was adopted.

Article 61 was added to the Constitution.

#### Article 62

**Mr. Vice-President :** The House will take up for consideration article 62. The motion is:

"That article 62 form part of the Constitution."

Mr. Mahboob Ali Baig may move amendment No. 1302. No, I see that it is blocked by the decision in regard to the previous article.

**Mahboob Ali Baig Sahib Bahadur :** Yes, Sir. That is so.

**Mr. Vice-President :** Amendment No. 1303 standing in the name of Kazi Syed Karimuddin may now be moved.

I should tell the Mover that parts (1) and (2) are blocked. He may move part (3) only.

**Shri T. T. Krishnamachari :** May I point out that if parts (1) and (2) of this amendment are blocked as result of the rejection of a previous amendment, the rest of the amendment cannot be moved?

**Mr. Vice-President :** Part (3) of the amendment may be moved. It deals with the removal of a Member of the Cabinet.

**Kazi Syed Karimuddin :** Sir, in view of the ruling given by you that sub-clauses (1) and (2) of my amendment are barred, it has really become difficult for me to make a speech on parts (3) and (3A).

**The Honourable Shri K. Santhanam :** Is it not barred by the rejection of an earlier amendment? Unless the Ministers are elected, this will not follow at all. The thing is meaningless as it is.

**Kazi Syed Karimuddin :** It is not meaningless.

**Mr. Vice-President :** Kindly let Mr. Santhanam speak.

**The Honourable Shri K. Santhanam :** Part (3) is consequential upon part (2). Only if (2) is accepted, part (3) can be considered. It will have no meaning otherwise. It is only if Ministers are to be elected this will arise. Here the Ministers are merely appointed by the President. Then the amendment will make them irremovable. His point is that if they are elected they should not be removed.

**Kazi Syed Karimuddin :** My amendment is regarding the removal of Ministers.

**Shri T. T. Krishnamachari :** May I point out, Sir, that if sub-clause (2) of article 62 remains and is not being omitted, part (3) of amendment No. 1303 cannot be moved. Sub-clause (2) of article 62 says: "Ministers shall hold office....., etc." If that remains, part (3) of the honourable Member's amendment, cannot have any place in it.

**Mr. Vice-President :** Mr. Karimuddin wants a special provision for the removal of Members of the Cabinet. Is that not so?

**Kazi Syed Karimuddin :** Yes.

**Mr. Vice-President :** Mr. Krishnamachari's contention is that this is barred. Why?

**Shri T. T. Krishnamachari :** If the Honourable Member wants to achieve his object, sub-clause (2) has to be omitted first. If parts (1) and (2) of his amendment are not moved, the third part would not fit in at all.

**Kazi Syed Karimuddin :** Parts (1) and (2) have nothing to do with part (3) of my amendment.

**Mr. Vice-President :** This may be interpreted as a substitute for (2) and (3). At any rate I allow him to make his point.

**Kazi Syed Karimuddin :** Mr. Vice-President, Sir, I move amendment for the inclusion of sub-clause of (3) and (3A):

"(3) A member of the Cabinet shall not be liable to be removed except on impeachment by the House on the ground of corruption or treason or contravention of laws of the country or deliberate adoption of policy detrimental to the interests of the State.

(3A) The procedure for such impeachment will be the same as provided in article 50."

Sir, my submission is that at present the executive machinery of the Government in the country is deteriorating very fast because the legislators and all those who belong to the majority parties in the assemblies exercise very great influence on the Ministers. If the Ministers do not listen to the legislators and their supporters, the result is that they are likely to be removed. Under these circumstances it is clear that even the Congress High Command have felt that a procedure should be evolved by which the Ministers should not be compelled to accede to the requests of the legislators and their supporters. In C.P. the Honourable Pandit Misra has issued clear instructions that government servants should not allow any interference by Congressmen and their supporters. This means that in this country the executive is being influenced by those who are supporters of the party. Until the Ministers feel secure in their seats, it is possible that there will be interference in the day to day administration of the country. Therefore my submission is that, in order to have a stable and a formidable government, which would not be influenced by the People in the street or by their supporters, it is very necessary that it should not be removable by the House. I have laid down in (3) "except on

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impeachment on the ground of corruption or treason or contravention of the laws of the country or deliberate adoption of policy detrimental to the interests of the State," they shall not be removed.

**Shri Mahavir Tyagi :** What about a no-confidence motion? Can it be moved or not?

**Kazi Syed Karimuddin :** No.

(Amendments Nos. 1304, 1305, 1306, 1307 and 1308 were not moved.)

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

"That in clause (1) of article 62, before the words 'and the other ministers' the words 'from the members of the party commanding a majority of votes in the People's House of Parliament' be inserted."

The amended clause would read:

"The Prime Minister shall be appointed by the President from among the Party commanding a majority of votes in the Peoples' House of Parliament, and the other Ministers etc."

Sir, this is just to clarify the idea that the Ministry is not only collectively responsible to the legislature, but also that it is homogeneously selected and that therefore it is guaranteed the confidence of the House. That is, I think, necessary to clarify in the Constitution itself in order to secure that the Ministry is not only stable, but is commanding the confidence of the House. Those who accept the principle of collective responsibility of the Ministry to the chosen representatives of the people, should not find any fault with this suggestion as it is only clarifying what is no doubt the intention of the whole clause, and in fact of the whole Constitution.

I realise that I making myself somewhat unpopular with those who do not like the number or nature of the amendments that I have put forward, or are unable to follow in the multiplicity of the clauses that I have suggested the essence of those clauses. I very much regret that I cannot help doing so, because I do not judge that my function is merely to get anything accepted by those who will not accept. None so blind as will not see, nor none so deaf as will not hear. My function, Sir, is not to get those amendments successfully through. My function is, I hold, to place my view on each point before the House; and it is for the House as a whole to accept or reject after hearing my arguments. Prophets are never honoured in their own time. I do not look upon the task that I have assigned to myself as merely to get my views successfully adopted. I am deeply grateful to my friend Mr. Santhanam, who was pleased to commiserate with me on that heavy burden I have placed on myself which he considers unnecessary. But, I repeat, Sir, I do not view my work here merely in the light of the successful acceptance of the proposals that I have been putting forward in the House. I have, under the procedure of this House to propose, not an alternative Constitution, but only amendments to each particular clause as it comes up. Accordingly, without going out of the rules, it would be impossible for me to convey to the House the ideas that I have before me. It may be very well for those who once stood for the separation of powers between the executive, the legislature and the judiciary, to change places, to think different about it now that they may have changed their chair. I have no objection to that. But, for my part, I have never believed in the doctrine that consistency is not a virtue in politics. Consistency may not be a virtue among politicians. Unfortunately, not being able to accept that doctrine, I continue to present my ideas to the House regardless altogether of the fate with which the House might accept them. Every time I have attempted to put forward particular principles, the House is unwilling to see

eye to eye with me; but I assure you that unless I am barred altogether by a specific motion of the House that all amendments tabled by me shall be rejected even before they are moved. I will present every one of my amendments, speak on them, and abide by whatever fate they may have in the House.

**Mr. Vice-President :** The House stands adjourned till 10 A.M. tomorrow.

The Constituent Assembly then adjourned till Ten of the Clock on Friday, the 31st December 1948.

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