

Parliament. Or to put it briefly and in a different language, they were not prepared to allow trade and commerce to be included as an entry in List No. I. If it was possible for us to include trade and commerce in list I, which means that Parliament will have the executive authority to make laws with regard to trade and commerce throughout India, we would not have found it necessary to bring trade and commerce under article 16, in the fundamental rights. But as that door was blocked, on account of the basic considerations which operated at the beginning of the Constituent Assembly, we had to find some place, for the purpose of uniformity in the matter of trade and commerce throughout India, under some head. After exercising considerable amount of ingenuity, the only method we found of giving effect to the desire of a large majority of our people that trade and commerce should be free throughout India, was to bring it under fundamental rights. That is the reason why, awkward as it may seem, we thought that there was no other way left to us, except to bring trade and commerce under fundamental rights. I think that will satisfy my friend Mr. Subramaniam why we gave this place to trade and commerce in the list of fundamental rights, although theoretically, I agree, that the subject is not germane to the subject-matter of fundamental rights.

With regard to the other argument, that since trade and commerce have been made subject to article 244, we have practically destroyed the fundamental right, I think I may fairly say that my friend Mr. Subramaniam has either not read article 244, or has misread that article. Article 244 has a very limited scope. All that it does is to give powers to the provincial legislatures in dealing with inter-state commerce and trade, to impose certain restrictions on the entry of goods manufactured or transported from another State, provided the legislation is such that it does not impose any disparity, discrimination between the goods manufactured within the State and the goods imported from outside the State. Now, I am sure he will agree that that is a very limited law. It certainly does not take away the right of trade and commerce and intercourse throughout India which is required to be free.

Shri C. Subramaniam: The clause says that it shall be lawful for any State to impose by law such reasonable restrictions on the freedom of trade, commerce or intercourse....as may be required in the public interests.

The Honourable Dr. B. R. Ambedkar: Yes, but reasonable restrictions do not mean that the restrictions can be such as to altogether destroy the freedom and equality of trade. It does not mean that at all.

Sir, I therefore submit that the article as it stands is perfectly in order and I commend it to the House.

Mr. Vice-President : I shall now put the article to the vote.

The question before us is that:—

Article 16 stand part of the Constitution.

The motion was adopted.

Article 16 was added to the Constitution.

Article 17

Mr. Vice-President : Now we come to article 17.

The motion before the House is that article 17 form part of the Constitution.

There are a number of amendments to this article, and they will be gone through now. The first in my list is No. 543. It is a negative one and is therefore ruled out.

There is an amendment to this amendment, that is No. 93 in List V, standing in the name of Shri Ram Chandra Upadhyaya.

(Interruption by Mr. Kamath.)

[Mr. Vice-President]

Yes, Mr. Kamath, you are observing that there are other amendments?

Shri H. V. Kamath (C. P. and Berar: General): Yes, Sir. No. 544.

Mr. Vice-President : But I have not called out that. I was dealing with No. 543, and amendment No. 93 to amendment No. 543.

Shri H. V. Kamath: But Sir, that has not been moved. How can an amendment to that amendment be moved or even called?

Mr. Vice-President : Are you pointing out my mistake? Have I not already confessed that I am innocent of all these rules? Is it necessary to rub it in every time, Mr. Kamath?

Now, we come to amendment No. 544, standing in the name of Kazi Syed Karimuddin.

Shri H. V. Kamath: I do not in the least presume to advise you, Sir.

Kazi Syed Karimuddin: Mr. Vice-President, Sir, I move:

That for article 17, the following be substituted:

“17. Neither slavery nor involuntary servitude such as *begar* except as a punishment for crime shall exist within the Union State.”

Sir, there is not much of a change in the amendment I am moving. But article 17(1) does not cover cases in which prisoners are asked to work, a prisoner is asked to work against his own free will. If this article is allowed to remain as it is, then the jail authorities will not be allowed to take work from the prisoners. Therefore I have mentioned the words “except as a punishment for crime”. I may point out that such an article finds a place in the American Constitution also.

Mr. Vice-President : Amendment No. 545. Shri Damodar Swarup Seth.

Shri Damodar Swarup Seth (United Provinces: General): Sir, I move:

“That the following words be added at the beginning of clause (1) of article 17:—

‘Servitude and serfdom in all forms as well as’.”

I do not think this is a point on which one is required to speak at length. I will therefore, only like to submit that in some States serfdom and servitude in some form or another prevails. Moreover, in the South customs like devadas have taken root.

Pandit Lakshmi Kanta Maitra (West Bengal : General) : What is serfdom as distinguished from servitude?

Mr. Vice-President : The Honourable Member wants to know from you what is the meaning of serfdom.

Shri Damodar Swarup Seth: It is a form of servitude or I may say, ‘slavery’ that prevails in States.

Mr. Vice-President : Probably it is his idea with respect to this distinction between serfdom and servitude.

The next three amendments are Nos. 546, 547 and 548, of which the most comprehensive is No. 546, standing in the name of Prof. K. T. Shah.

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

“That in clause (1) of article 17, for the words ‘Traffic in human beings and *begar*’, the words ‘Traffic in human beings or their dedication in the name of religion to be Devadas or be subject to other forms of enslavement and degradation and *begar*’ be substituted.”

In commending this motion I should like to point out that by “Traffic in human beings”. I understand the possibility of buying and selling as if these human beings were chattels, and as such ought to be prohibited. The

common understanding interprets these words to mean slavery as it was practised in olden countries, and, until recent times, even in the so-called civilized countries of Europe or America. It is but right that such traffic should be abolished.

But the traffic in human beings is not confined only to what was known as slavery in recent times. It happens,—and perhaps it happens on a much larger scale than innocent Members of this House may be aware—in what is known as White Slave traffic, namely, the buying and selling of young women for export or import, from one set of countries to another; and their permanent enslavement or servitude to an owner or proprietor of the establishments of commercialised vice probably for life.

This is covered no doubt by ordinary forms of legal contract, where the contracting parties are presumed to be free agents. How far such legal contracts are truly lawful if interpreted in the spirit of the law, I cannot say. But that these contracts offend very much against the common sense of all civilized humanity, I am prepared to assert.

Accordingly, I would like it very clearly to be understood by this amendment that “traffic in human beings” does not consist only of buying and selling of what were formerly known as slaves: but also this new type of slavery which in effect is a very large scale commercialised vice that the so-called civilized countries have popularised, or, may I say, have made an industry of.

This may not perhaps have been in the minds of the draftsman of this clause. But I think the House would do well to bear it in mind, and to accept this amendment by which such a practice would be perfectly clearly and expressly prohibited.

I have, no doubt, worded my amendment with reference to a particular form of slavery which prevails in this country to a large extent, namely, dedication, in the name of religion, of young women to be *Devadasis*, and as such devoted to immoral traffic almost from an immature age. This also I think ought to be stopped. The name or cloak of religion should not help all those who indulge in such traffic; and the Constitution should make no bones about prohibiting this, if I am right in reading the spirit of this article which would prohibit all kinds of traffic in human beings.

Forced labour is no doubt an evil; and the peculiar form of it, which is known by the word “begar”, that is to say of compulsory work without payment, and work at command, should also be stopped. But more than anything else. I would like by this amendment to emphasize this highly immoral, and; I was going to say, in human traffic, which prevail on a very large scale, much larger than perhaps the House realizes, and as such I commend this amendment to the House.

Mr. Vice-President : Amendment No. 547.

Shri B. Das (Orissa : General): Sir, I do not move but I wish to speak.

Mr. Vice-President : I cannot allow you to speak. Do you want that it should be put to the vote?

Shri B. Das : No Sir, I do not move. Could you not allow me to say a word?

Mr. Vice-President : I cannot because that will create a general flutter in the House. You will have to take your chance.

Mr. Vice-President : Amendment No. 548.

Giani Gurmukh Singh Musafir (East Punjab : Sikh): Sir, my amendment reads:

“That in clause (1) of article 17, after the words, ‘human beings’ the words ‘including prostitution’ be inserted.”

Mr. Vice-President : Do you want to move it?

Giani Gurmukh Singh Musafir: *[I merely want to say something.]

Mr. Vice-President : I cannot say that every Member who has sent in an amendment would find time to speak. I must make this clear, because we have to hurry.

(Amendments 549, 550 and 552 were not moved.)

Amendment No. 551: This is a verbal amendment and therefore it is disallowed.

(Amendment 553 was not moved.)

Amendment No. 554: This is a verbal amendment and therefore it is disallowed.

Amendment Nos. 555, 558 and 560 are to be considered together, I can allow No. 555 to be moved.

Shri Jaspat Roy Kapoor (United Provinces: General): I am not moving amendment No. 555.

Sardar Bhopinder Singh Man (East Punjab : General): Mr. Vice-President, Sir, I move—

“That in clause (2) of article 17, after the words “caste or class” the words “and shall pay adequate compensation for it” be inserted.”

Sir, with the addition of my amendment clause (2) will read thus:

“Nothing in this article shall prevent the State from imposing compulsory service for public purposes and shall pay adequate compensation for it.”

Begar is a sort of forced work from labourers and we have sought to abolish it and prohibit it in the country. The idea is that the worker should not be made to work against his will, but however an exception is made that the State can impose compulsory service for public purposes. Now, supposing the State requires any property and deprives any citizen of it, there is the accepted principle that it shall pay compensation, adequate price, for it. Similarly, when the State deprives a worker of his labour, (and I believe his labour is his property for the labourer) then I want that the State should pay compensation for it.

Shri H. V. Kamath: Mr. Vice-President, Sir, I beg to move—

“That in clause (2) of article 17, for the word “public” the words “social or national be substituted.”

At the outset, may I just say that the non-English word in this article—*begar*—has nowhere been defined and it will be better if we define it somewhere in the constitution, if not in this article itself. Now, coming to the amendment, to my mind the word “public” does not bring out the meaning or significance of the purport of clause (2) of this article as much as the word “social” or “national” will. We all know that the services of the State—Government services—are referred to as “public services”, but “national service” or “social service” has got a wider and a higher, a more comprehensive connotation than the word “public service”. I remember very well that during the proceedings of the National Planning Committee, which was brought into being by Netaji Subhas Chandra Bose and presided over by Pandit Jawaharlal Nehru and to which my friend Prof. K. T. Shah rendered yeoman service for a period of well over three or four years, in that report it was suggested that all citizens should be conscripted for some social service; and Pandit Nehru when speaking on this subject went to the length of saying that no student should be awarded his academic

*[] Translation of Hindustani Speech.

degree unless and until he puts in six months or a year of some kind of social service. The word used there was “social service”, not “public service”. The word “national” has got even a still higher connotation than the word “social”. My friend Dr. Ambedkar yesterday referred to this type of national service. When there is a war; when there is an emergency; when the stability of the State is threatened; when there is an insurrection; then in particular the question of national service will arise and then also will arise, as he referred to yesterday, the duty of the citizens to bear arms. In these cases, I say there must be conscription, I do not mean for military service only but for some kind of service in the national cause. Even conscientious objectors must be asked to do some kind of service, though not necessarily to bear arms and go to the front line.

Here, I would also suggest that not merely there should be no discrimination of religion, race, caste or class, but there should be no discrimination of sex either. In this connection, however I would like to sound a note of caution and that is, against the unqualified enforcement of the duty to bear arms. The duty to bear arms, to my mind, without the corresponding right to bear arms, is one of the characteristics of a totalitarian State, a police raj or a military dictatorship, and not of a democratic State which the Preamble says our future of India is going to be. The enforcement of the duty to bear arms is only the outward expression of the idea or doctrine of “dying” for the State. We must die for the State. The expression of this doctrine is the duty to bear arms. But every citizen has a higher duty to perform, and that is to “live” for the State—live for the State, and not merely die for the State—and this doctrine of “live for the State” is connected with the right to bear arms.

In the end I suggest that clause (2) of this article may be re-worded, and for the word “public service” the words “social or national” should be substituted. I would have had no objection if they had said just “public service”, but “service for public purposes” is hardly appropriate, and to my mind the significance and meaning of this clause would be better expressed if we say that “nothing in this article shall prevent the State from imposing compulsory service for social or national purposes”. Sir, I move.

(Amendment No. 557 was not moved.)

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

“That in clause (2) of article 17, after the words “discrimination on the ground” the word “only” be added.”

This, Sir, is a very small, but in my opinion, a very important amendment. If it is accepted the clause would read:

“.....in imposing such service the State shall not make discrimination on the ground only of race, religion caste or class.”

The significance of this is so clear that, even though I have moved it, I trust the Draftsmen will accept it.

Mr. Vice-President : The clause is now open for general discussion. Giani Gurmukh Singh will now speak. I give him five minutes.

Giani Gurmukh Singh Musafir: *[Mr. Vice-President, article 17 is a useful provision in the Constitution, but there are one or two short-comings which should be removed. In this connection I had given notice of an amendment but I could not get an opportunity to speak on it. I would like to say that prostitution is not in accord with the Indian civilization.

It was imported from the West and with the departure of Western rulers it must come to an end. In clause (1) of article 17, after the words

[Giani Gurmukh Singh Musafir]

“Traffic in human beings” the word “Prostitution” must be included, for then alone the dignity of this clause will be increased, and defect removed. Another suggestion has been moved by Sardar Bhopendra Singh Man. It is a very good suggestion that, if the Government imposes compulsory service in the public interest, then the workers must get adequate compensation. It is good to specify in clause (2) of this article that in imposing compulsory service no discrimination on the ground of race, religion, caste or class shall be made. The right of imposing compulsory service conceded to the Government by this clause, is more or less absolutely vested in them. Even now, the government officials through their influence impose compulsory service. If provision is made to pay compensation, then this defect will disappear and the usefulness of this clause will be enhanced. Hitherto the practice of ‘Begar’ was a source of oppression to the poor. Now this clause would not fit in, if it is passed without providing for payment of compensation. I do not propose to say more, as the Vice-President has already ruled; and therefore, without taking much of the time of the House, I shall mention only two points, firstly that the curse of prostitution should go from this country and secondly, compensation must be paid for compulsory service.]

Shrimati G. Durgabai (Madras : General): Mr. Vice-President, let me assure you that I will take up only one or two minutes of the valuable time of the Assembly. I want to say a few words on this article. There is the amendment of Professor Shah intended to substitute in clause (1) ‘Traffic in human beings or their dedication in the name of religion to be Devadasis or be subject to other forms of enslavement and degradation as well as begar’, for the words ‘Traffic inhuman beings and begar.’

Sir, if any province has suffered from this bad practice of dedication of devadas is in the name of religion, it is the province of Madras. The worst form of this custom existed in Madras for a long time. I do not know whether this custom of dedication exists in any other province in any form. But we all know that in several ways this was practised. But, I do not think, while appreciating the object of Professor Shah in bringing forward this amendment and while being thankful to him for having realised the necessity for removing this evil, that this amendment is necessary. Madras has already prohibited this practice under a law passed a few years ago. It is no more in vogue there. Though some relics of that system still exist, these, I am sure, will disappear in course of time. I should mention in this connection my appreciation of the efforts put in by reformers like Mrs. Muthulakshmi Reddi. It is mainly on account of her efforts that this evil is no more there. Our deep debt of gratitude is due to her for her efforts. As I said, Madras has passed a law prohibiting this custom. I do not therefore think it necessary to include this provision in article 13, although I very much appreciate the spirit which has actuated Professor Shah to move this amendment.

Mr. Vice-President : I now call upon Shri B. Das to speak. He is almost the father of the House and must set an example of brevity.

Shri B. Das : Sir, on the previous occasion when we were discussing the Fundamental Principles I pointed out the need of including in the Draft Constitution the removal of this great social evil, the traffic in women. This traffic means use of force to compel women to life of prostitution. When we talk of traffic in women—which is a great social evil all over the world—I did dilate upon it last time and said that we should not be pruders and attempt to hide the fact that there existed this traffic in women in India. Sir, I bow to the decision elsewhere that I should not move my amendment which sought to add the words ‘particularly in women’ after the words ‘Traffic in human beings’.

Sir, let us confess and admit that there is this traffic in women for which men every where are responsible. Women were often removed from Orissa. I pointed out that in the great Bengal disaster in 1943-44, lakhs of women were spirited away to the Punjab and North-West Frontier Province. Sir, young women were taken away by the alien Government into the camps of soldiers and they were thus lost to humanity, lost to family, lost to us as good citizens. So, we mere men should not fight shy of this and feel that by including an amendment of this kind we will be confessing the existence of this traffic in women in this country. That is why I gave notice of the amendment. If the House is willing to accept Shrimati Durgabai's amendment or even the amendment of Professor Shah who has confined his amendment to the Devadasi system and has not thought of the influence of dances before temples which preserve our national art and music from time immemorial.

Shri H. V. Kamath: Has Shrimati Durgabai given notice of any amendment to this article, Sir?

Mr. Vice-President : She has not.

Shri B. Das : She has sent in one to Dr. Ambedkar.

Mr. Vice-President : I have no knowledge of it.

Shri B. Das : I am sorry, I misunderstood. However, I think we will not be justifying our constitution on fundamental rights if we do not accept and admit our great sins by including the words "traffic in women" and try to save the situation now and hereafter.

Shri Raj Bahadur (United State of Matsya): Mr. Vice-President, Sir, *begar* like slavery has a dark and dismal history behind it. As a man coming from an Indian State, I know what this *begar*; this extortion of forced labour, has meant to the down-trodden and dumb people of the Indian States. If the whole story of this *begar* is written, it will be replete, with human misery, human suffering, blood and tears. I know how some of the Princes have indulged in their pomp and luxury, in their reckless life, at the expense of the ordinary man, how they have used the down-trodden labourers and dumb ignorant people for the sake of their pleasure. I know for instance how for duck shooting a very large number of people are roped in forcibly to stand all day long in mud and slush during cold chilly wintry days. I know how for the sake of their game and hunting people have been roped in large numbers for beating the lion so that the Princes may shoot it. I have also seen how poor people are employed for domestic and other kinds of labour, no matter whether they are ailing or some members of their family are ill. These people are paid nothing or paid very little for the labour extorted from them. This is not the whole story. As I said in the beginning, it would make really a terrible reading if the whole story is told. I know that very often these tyrannies are perpetrated upon poor people by the petty officials. Not only do these petty officials perpetrate such tyrannies but they also extort bribes from the labourers who want to escape the curse of this *begar*. While making my observations on this article, I would like to say that I am opposed to the amendment which has been moved by Sardar Bhopindra Singh Man providing for compensation in case of compulsory labour on works for public purposes, because I feel that there is a possibility that, if this amendment is accepted, it may be misused and people might be forced against their will.

Summing up, I may add that article 13 constitutes the charter of freedom for the common man, and this article is a sort of complement to that charter of freedom. This frees the poor, down-trodden and dumb people of the Indian

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States—I cannot say anything of other provinces—from this curse of *begar*. This *begar* has been a blot on humanity and has been a denial of all that has been good and noble in human civilisation. Through the centuries this curse has remained as a dead weight on the shoulders of the common man like the practice of slavery. The members of the Drafting Committee and this Constituent Assembly are entitled to the grateful thanks of the dumb down-trodden millions who would be freed by this article from this curse of *begar*.

Shrimati Renuka Ray (West Bengal : General): Mr. Vice-President, Sir, I shall try to be as brief as possible.

The awakened conscience of women in India and the world is fully alive to the problem of the traffic in women and cannot tolerate its continuance. Sir, if we do not accept the amendment of Mr. B. Das, it is not because we do not appreciate his purpose. We realise that he wishes to place particular emphasis on the problem of the traffic in women, but I do think that the article as it stands does cover it. I am merely pointing this out because it may be thought that the women members of this House are not alive to this problem. It is one of the most urgent of all problems on which women's organisations in this country, have focussed their attention for some time past.

As for the amendment that my honourable Friend, Mr. K.T. Shah, moved, I agree with Shrimati Durgabai that legislation has covered this problem in regard to Madras, but I think that if Mr. Shah's amendment could be accepted by this House so that the Devadasi system—the dedication of women in temples—is abolished by a categorical provision in the Constitution, it would be better procedure as the custom still lingers in some areas. Otherwise it is to be hoped that legislation abolishing the custom in other parts where it still exists will soon come in. I want to stress the fact that women are fully alive to the fact that it is the dual standards of morality that have led to traffic in women. It is when society realises fully the need for doing away with dual standards of morality that this article that is being adopted can really come into effect and become a reality and not merely a paper provision in the Constitution.

Acts for the prevention of immoral traffic in women do exist already in this country but their operation is not effective and even if legal flaws are amended, these can only become really effective when men's minds change towards this problem, whereby a section of women are at the mercy of exploiters whereby the very dignity of womanhood is lowered.

Mr. Vice-President : Mr. Nagappa, please show that you deserve the confidence that the House has placed in you by limiting yourself to five minutes.

Shri S. Nagappa (Madras : General): I will not take much time, Sir.

This practice of *begar* is prevalent in my own part of the country, especially among the Harijans. I am glad that the Drafting Committee has inserted this clause to abolish *begar*. Sir, whenever cattle die; the owner of the cattle wants these poor Harijans to come and remove the dead cattle, remove the skins, tan them and make chappals and supply them free of cost. For this, what do they get? Some food during festival days. Often, Sir, this forced labour is practised even by the government. For instance, if there is any murder, after the postmortem, the police force these people to remove the dead body and look to the other funeral processes. I am glad that hereafter this sort of forced labour will have no place. Then, Sir, this is practised in zamindaries also. For instance, if there is a marriage in the zamindar's family, he will ask these poor people, especially the Harijans, to come and whitewash his whole house, for which they will be given nothing except food for

the day. This sort of forced labour is still prevalent in most parts of the presidency.

Another thing that I want to bring to the notice of the House is that whenever the big zamindar's lands are to be ploughed, immediately he will send word for these poor people, the Harijans, the previous day, and say: "All your services are confiscated for the whole of tomorrow; you will have to work throughout the day and night. No one should go to any other work." In return, the zamindar will give one morsel of food to these poor fellows. Sir, this sort of forced labour is in practice in the 20th century in our so called civilised country. I am very thankful to this Drafting Committee. I support this article.

Shri T. T. Krishnamachari (Madras : General): Mr. Vice-President, Sir, I am here primarily to oppose the amendment moved by my honourable Friend, Prof. K. T. Shah, in that it imports into the consideration of this article facts which ought not to be taken into account in a consideration of the fundamental rights that are to be incorporated in the Constitution.

Sir, if the House would permit me a moment to deal with the general principles which are the basis of this particular Part, it is that we want to ensure certain amount of rights to the individual, so that he will be ennobled. We also want to bar legislation from creeping in into those rights, which it is absolutely necessary should be maintained intact so that the individual's status might be protected. There is no point in our trying to import into this particular Part reform of all the abuses, which our society is now heir to. If those abuses are such where vested interests are likely to seek perpetuation of those abuses, well, I think we have to provide against them, but if public opinion is sufficiently mobilised against those abuses, I do not think we ought to put a blot on the fair name of India, possibly, by enacting in our constitution a ban on such abuses. Abuses which will disappear in course of time cannot disappear all at once by our putting a ban on them in the constitution. Looking as I do at such matters in that light, I wish most of my honourable Friends in this House will not try to import into these fundamental rights age-old peculiarities of ours that still persist, bad as they are in particular parts of society which can be made to disappear by suitable legislation in due course, perhaps in two, three or four years. My honourable Friend Shrimati Durgabai pointed out that this system of Devadasis obtaining in India has been abolished by legislation in Madras. There is nothing to bar other provinces from following suit and I think public opinion is sufficiently mobilised for all provinces undertaking legislation of that type. Why then put it into the fundamental rights, a thing which is vanishing tomorrow? I think the same principle might be adopted in the rest of the article that would come before the House in this particular part, namely, what we could achieve in the matter of social reform by normal legislation, we need not seek to put into the fundamental rights, but if it is a matter where the vested interests for purposes of economic gain want to perpetuate a particular anti-social custom that obtains amongst us, well, I think, it is perfectly right that we should put it into the Fundamental Rights. I think some form of forced labour does exist in practically all parts of India, call it 'begar' or anything like that and in my part of the country, the tenant often times is more or less a helot attached to the land and he has certain rights and those are contingent on his continuing to be a slave.

We are trying to root it out, and by putting it in the fundamental rights it will have ten legislation to wipe out evils of that kind as it will then become an obligation of the State. I would only mention to the House that let us not seek to enlarge the scope of these articles by putting in evils which can be wiped out by legislation, on which public opinion is sufficiently mobilised,

[Shri T. T. Krishnamachari]

but only import into it such considerations against which vested interests might conceivably take a firm stand. Sir, I support the article that is being considered by the House.

Shri Mahavir Tyagi: May I seek your permission, Mr. Vice-President. I want to clear some doubts which arise in my mind in regard to this article.

Mr. Vice-President : I am sorry, it is too late.

Shri Mahavir Tyagi: I must be told as to how I can catch your eye or draw your attention.

Honourable Members: Order, order.

Mr. Vice-President : The House has pronounced its decision.

Shri Mahavir Tyagi: Can any one, by handing over slips or by standing every time, catch your eye, Sir?

Mr. Vice-President : The House has pronounced its decision.

Shri Mahavir Tyagi: What is the decision?

Mr. Vice-President : You ask the House.

Shri Mahavir Tyagi: I feel it is very unfair.

The Honourable Dr. B. R. Ambedkar: Mr. Vice-President, I should like to state at the outset what amendments I am prepared to accept and what, I am afraid, I cannot accept. Of the amendments that have been moved, the only amendment which I am prepared to accept is the amendment by Prof. K. T. Shah, No. 559, which introduces the word “only” in clause (2) of article 17 after the words “discrimination on the ground”. The rest of the amendments, I am afraid, I cannot accept. With regard to the amendments which, as I said, I cannot accept one is by Prof. K. T. Shah introducing the word ‘devadasis’! Now I understand that his arguments for including ‘devadasis’ have been replied to by other members of the House who have taken part in this debate, and I do not think that any useful purpose will be served by my adding anything to the arguments that have already been urged.

With regard to the amendment of my honourable Friend, Mr. H. V. Kamath, he wants the words ‘social and national’ in place of the word ‘public’. I should have thought that the word ‘public’ was wide enough to cover both ‘national’ as well as ‘social’ and it is, therefore, unnecessary to use two words when the purpose can be served by one, and I think, he will agree that that is the correct attitude to take.

With regard to the amendment of my honourable Friend Shri Damodar Swarup Seth, it seems to be unnecessary and I, therefore, do not accept it. With regard to the amendment of Sardar Bhopinder Singh Man, he wants that wherever compulsory labour is imposed by the State under the provisions of clause (2) of article 17 a proviso should be put in that such compulsory service shall always be paid for by the State. Now, I do not think that it is desirable to put any such limitation upon the authority of the State requiring compulsory service. It may be perfectly possible that the compulsory service demanded by the State may be restricted to such hours that it may not debar the citizen who is subjected to the operation of this clause to find sufficient time to earn his livelihood, and if, for instance, such compulsory labour is restricted to what might be called ‘hours of leisure’ or the hours, when, for instance, he is not otherwise occupied in earning his living, it would be perfectly justifiable for the State to say that it shall not pay any compensation.

In this clause, it may be seen that non-payment of compensation could not be a ground of attack; because the fundamental proposition enunciated in

sub-clause (2) is this: that whenever compulsory labour or compulsory service is demanded, it shall be demanded from all and if the State demands service from all and does not pay any, I do not think the State is committing any very great inequity. I feel, Sir, it is very desirable to leave the situation as fluid as it has been left in the article as it stands.

Shri H. V. Kamath: On a point of information, Sir, is Dr. Ambedkar's objection to my amendment merely on the ground that it consists of two words in place of one? In that case, I shall be happy if the wording is either 'social' or 'national' in place of 'public'.

The Honourable Dr. B. R. Ambedkar: It is better to use a wider phraseology which includes both.

Shri Rohini Kumar Chaudhuri: (Assam : General): May I know, Sir, does the honourable Member accept amendment No. 548, which deals with prostitution, and which was moved by Giani Gurmukh Singh Musafir?

The Honourable Dr. B. R. Ambedkar: I understand it was not moved.

Mr. Vice-President : It was not moved.

I shall now put the amendments to vote one by one.

Amendment No. 544 standing in the name of Kazi Syed Karimuddin.

The question is:

"That for article 17, the following be substituted:—

"17. Neither slavery nor involuntary servitude such as *begar* except as a punishment for crime shall exist within the Union State."

The amendment was negatived.

Mr. Vice-President : Amendment No. 545 standing in the name of Shri Damodar Swarup Seth.

The question is:

"That the following words be added at the beginning of clause (1) of article 17".

"Servitude and serfdom in all forms as well as."

The amendment was negatived.

Mr. Vice-President : Amendment No. 546 standing in the name of Professor K. T. Shah.

The question is:

"That in clause (1) of article 17, for the words "Traffic in human beings and *begar*", the words "Traffic in human beings or their dedication in the name of religion to be Devadasis or be subject to other forms of enslavement and degradation as well as *begar*" be substituted."

The amendment was negatived.

Mr. Vice-President : Amendment No. 560 standing in the name of Sardar Bhopinder Singh Man.

The question is:

"That in clause (2) of article 17, after the words "caste or class" the words "and shall pay adequate compensation for it" be inserted."

Sardar Bhopinder Singh Man: Sir, I request the permission of the House to withdraw it.

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

Mr. Vice-President : Amendment No. 556 standing in the name of Mr. Kamath.

The question is:

“That in clause (2) of article 17, for the word “public” the words “social or national” be substituted.”

The amendment was negatived.

Mr. Vice-President : Amendment No. 559 standing in the name of Professor K. T. Shah, accepted by Dr. Ambedkar.

The question is:

“That in clause (2) of article 17, after the words “discrimination on the ground” the word “only” be added.”

The amendment was adopted.

Mr. Vice-President : I shall now put the article as a whole as modified by amendment No. 559 to vote.

The question is:

That article 17 as modified by amendment No. 559 form part of the Constitution.

The motion was adopted.

Article 17, as amended, was added to the Constitution.

Article 18

Mr. Vice-President : We now go to the next article.

The motion is that Article 18 form part of the Constitution.

The first amendment is No. 561. This is negative and therefore, it is out of order.

Amendments numbers 562 and 564: No. 562 standing in the name of Professor Shibban Lal Saksena and 564 standing in the name of Shri Damodar Swarup Seth and others are of similar import and have therefore to be considered together. Amendment No. 562 is allowed to be moved.

Prof. Shibban Lal Saksena (United Provinces : General) : Sir, I am not moving the amendment; but I would like to speak on the article.

Mr. Vice-President : Then, I will allow amendment No. 564 to be moved.

Shri Damodar Swarup Seth: Sir, I beg to move:

“That the following be added at the end of article 18:

‘Nor shall women be employed at night, in mines or in industries detrimental to their health.’ ”

Sir, it is a matter of great satisfaction that in article 18 protection has been afforded to children of minor age. But, unfortunately, for reasons not known to me, no protection has been provided for the fairer and softer sex, who had been in the past, employed in mines even at night time and in industries which are injurious to their health. I therefore think, Sir, that it is just and desirable that the addition suggested should be made in this article so that women may also be provided with due protection and may not be employed in mines at night and in industries which are not suited to their delicate health and position in society. I therefore hope that the House will accept this amendment of mine.

Mr. Vice-President: Then, comes amendment No. 563.

(Amendments 563 and 565 were not moved.)

The article is open for general discussion.