

[Shri H. V. Kamath]

Taking the article as suggested by the Drafting Committee, I think the changes suggested by me are very necessary. Taking the first amendment first, the oath as suggested by the Drafting Committee refers to the "Constitution of India as by law established". It is wholly redundant to say that the Constitution is established by law. As a matter of fact the law flows from the Constitution and not *vice versa*. We adopt the Constitution and whatever laws we may make flow from the Constitution subsequently. This is a supreme, sovereign Assembly and certainly this not necessary for us to say that the Constitution that we have enacted here has been established by law.

The Honourable Shri K. Santhanam : May I point out to the honourable Member that the Third Schedule uses this phrase?

Shri H. V. Kamath : May I point out to Mr. Santhanam that the article about the oath of the President does not mention "the Constitution by law established" ?

The Honourable Shri K. Santhanam : It is different altogether.

Shri H. V. Kamath : It is quite the same, in my judgment. Mr. Santhanam may differ but if he refers to the oath for the President in article 60, he will find this reference to "the Constitution by law established" is not there. The Constitution is not established by law. The Constitution is there for what it is worth. If Mr. Santhanam does not see this fine point, I am sorry for him. In article 60, the oath for the President reads:

"I..... will faithfully execute the office of President..... and will to the best of my ability preserve, protect and defend the Constitution *and the law*."

"And the law" is a different matter, but the Constitution is not established by law. That is my point.

The Drafting Committee may look into the amendment and I hope they will see their way to accepting amendment No. 188, because there is a distinction between "the Constitution established by law" and "the Constitution as framed by a sovereign Assembly." It is redundant to say that it is established by law.

As regards my second amendment I am sorry for the bad English used by the Drafting Committee. The Committee is composed of several experts, legal, constitutional and linguistic. I fail to understand why that Committee made such a mistake, so far as the English language is concerned. The House will see that a person enters upon "the duties of *his office*." He does not enter upon his duty. It is the "duties *of the office*" that should be referred to. If the House will turn to article 71 clause (2) the English used there is correct "duties of the office of President or Vice- President". I will just refer to another previous article, article 68, last part of clause (2) where the words used are "from the date on which he enters upon his office". The correct English is the "duties of the office upon which he enters" and I think all sensible persons will agree that that is correct English. If my amendment is accepted by the House the form of oath or affirmation will read as follows:

"I, A.B., do swear in the name of God that I will bear true faith and allegiance to the

 solemnly affirm

Constitution and that I will faithfully discharge the duties of the office upon which I am about to enter."

I move the amendments, and commend them to the acceptance of the House.