

Monday, 27th December, 1948

Volume VII

4-11-1948

to

8-1-1949



CONSTITUENT ASSEMBLY DEBATES OFFICIAL REPORT

REPRINTED BY LOK SABHA SECRETARIAT, NEW DELHI
SIXTH REPRINT 2014

Printed by JAINCO ART INDIA, New Delhi

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CONSTITUENT ASSEMBLY OF INDIA

Monday, the 27th December, 1948

The Constituent Assembly of India met in the Constitution Hall, New Delhi, at Ten of the Clock, Mr. Vice-President (Dr. H. C. Mookherjee) in the Chair.

Mr. Vice-President (Dr. H. C. Mookherjee): I have just received a letter from our President informing me that he has improved greatly, but there has been a slight relapse, which has compelled him to take a few days' rest. He, however, hopes to be here by the beginning of next year and to conduct the proceedings of the House on and from the 3rd of January next. I am sure the House will allow me to convey to him the greetings of the Season and along with that to assure him that we shall do our best to make as much progress as possible, so as to lighten his work. Is that the wish of the House?

Honourable Members : Yes, yes.

DRAFT CONSTITUTION—(Contd.)

Article 47

Mr. Vice-President : We shall now resume our discussion and start with article 47. (Amendments Nos. 1102 and 1103 were not moved.)

Amendments Nos. 1104, 1105 and 1106 are of similar import; Amendment No. 1104 may be moved.

(Amendments Nos. 1104, 1105, 1106 and 1107 were not moved.)

Amendment No. 1108 is by Prof. K. T. Shah. I shall draw his attention to the last sentence of the new sub-clause, *i.e.*, sub-clause (d) proposed to be added by this amendment. He may please compare it with clause (1) of article 47. It is for him to decide.

Prof. K. T. Shah (Bihar : General): Clause (1) of article 47 gives some positive qualifications. What I propose to move is somewhat of a negative character, and therefore I thought that the two can go together.

Mr. Vice-President : All right.

Prof. K. T. Shah : Sir, May I move?

Shri T. T. Krishnamachari (Madras : General): May I point out that the latter part of this amendment is already barred. We have already accepted article 46 in an amended form, by which the President can be elected *ad infinitum*, any number of times. So the latter part of his amendment is barred and cannot be moved.

Mr. Vice-President : Have you heard what the honourable Member has said?

Prof. K. T. Shah : I have heard that, Sir. If I may again make a submission, that reaffirms the same thing. I do not see how it is finally passed.

Mr. Vice-President : I do not want to put any kind of stop to what you want to say, but it does seem to me that it is not needed. But I do not want to impose my will on you.

Prof. K. T. Shah : Sir, I quite realize that this new change in article 46 affects the latter portion and therefore, I will not move that portion. The other portion still remains and if you will permit me, I will move the other part.

Mr. Vice-President : Yes.

Prof. K. T. Shah : Sir, I move:

“That after sub-clause (c) of clause (1) of article 47, the following new sub-clause be added :

‘(d) and is not disqualified by reason of any conviction for treason, or any offence against the State, or any violation of the Constitution’;”

The amended clause would then read:

“No person shall be eligible for election as President unless he—

- (a) is a citizen of India;
- (b) has completed the age of thirty-five years;
- (c) is qualified for election as a member of the House of the People;
- (d) and is not disqualified by reason of any conviction of treason, or any offence against the State, or any violation of the Constitution.”

As I just now mentioned, these amendments that I would like to introduce put emphasis on the negative side, or disqualifications, as against the positive side of qualification referred to in clauses (a), (b) and (c). I submit, of course, to the judgement of the House in having deleted the restriction included in the original draft of article 46, namely that no one should hold office as President once again. I regret, of course, that that should have commended itself to the good sense of the House, for I fear that the possibility of holding in unlimited succession the office of the President is apt to lead to undesirable consequences, on which one need not now dilate. Sir, you remember that the foundation or rather the destruction of the Republic of Rome was inaugurated by the life consulship of Caesar, which afterwards ended in a hereditary empire. But, as I started by saying, now that the House has in its wisdom, found that it is undesirable to introduce this restriction, I will submit to the good sense of the House, and not insist on the latter part of my amendment.

Even so, the qualifications that I have introduced in my amendment need, I think, to be positively or specifically stated. It is no use saying that all this is understood; and that no one with common sense would like to have any one as President who has been guilty of treason, or who has violated the Constitution. Many things, Sir, are matters of common sense which, under unknown conditions of the future or party passions, and in the heat of the election fever, may be found to be so completely ignored or extenuated that all those disqualifications may be forgotten.

The inclusion, therefore, of this categorical disqualification is a safeguard for the free and honest working of the Constitution, which, I think, should be acceptable to this House.

The disqualification in regard to treason is particularly important, because now that precedents have taken place in such matters, even as trial of defeated enemies for the so-called war crimes, you might begin to feel that whatever you may have done in perfect good conscience may nevertheless be found to be a penalty of your defeat under the influence of party passions, and as such may be liable to charges or accusations against which, in the prevailing atmosphere, there may be no defence, or no possibility of effective safeguard.

Fearing this I desire to leave no room for any doubt at all on the subject. Let the Constitution itself from the start make this particular point clear, that any one convicted of treason must be disqualified for being elected President. To me it seems that there could be no objection to this amendment being accepted; and though perhaps this is in a milder form, I personally hold the sin of violating the Constitution equally serious, and certainly consider that also ought to be made a disqualification for any future candidature in regard to Presidentship.

The later clauses will show that you have provided very effective safeguards for convicting any one as regards violation of the Constitution. If under those safeguards, with due process of law and fair administration of justice, a party has been properly convicted of violating the Constitution in any serious particular, then I think that in itself ought to be a bar against the candidature of

any such party. On those grounds I think the drafter of the Constitution should accept this amendment, and that it ought to be included in the Draft in order that anybody who is guilty of treason, or who has been guilty of violating the Constitution, should be excluded.

I commend this to the acceptance of the House.

Mr. Vice-President : Amendment No. 1109, Verbal; disallowed. Amendments numbers 1110 to 1112 are of similar import. The first of these may be moved. It stands in the name of Dr. Ambedkar.

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

“That in clause (2) of article 47, and in Explanation to clause 2, for the words ‘any office or position of emolument’, wherever they occur, the words ‘any office of profit’ be substituted.”

Sir, this amendment is merely intended to improve the language of the draft.

Mr. Vice-President : Amendment No. 1111. Should that be put to the vote?

Shri H. V. Kamath (C. P. & Berar : General) : Dr. Ambedkar has stolen a march over me; this does not arise.

Mr. Vice-President : Amendment No. 1112.

Shri Mihir Lal Chattopadhyay (West Bengal : General) : That is already covered, Sir.

(Amendment No. 1113 was not moved.)

Mr. Vice-President : Amendments numbers 1114, 1115 and 1116 are verbal and are disallowed.

Amendment No. 1117, Dr. Ambedkar.

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

“That for sub-clause (a) of the Explanation to clause (2) of article 47, the following be substituted:—

‘(a) he is the Governor of any State for the time being specified in Part I of the First Schedule or is a Minister either for India or for any such State; or’ ”

The object of this amendment is to remove a disqualification that might arise on account of the fact that a Governor of a State or a Minister is holding an office of profit under the Crown. It is desirable that the Governor of a State as well as a Minister both at the Centre and in the States should be permitted to stand for election and the rule of office of profit under the Crown should not stand in their way.

(Amendment No. 1118 was not moved.)

Mr. Vice-President : Amendments numbers 1119 to 1122 are verbal and are disallowed.

(Amendment No. 1123 was not moved.)

Amendment No. 1124.

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

“That after clause (b) of the Explanation to clause (2) of article 47, the following be added:—

‘provided that any such Minister shall, before offering himself as candidate for such election, resign his office’.”

Sir, I am sure it could not have been intended by the draftsmen that a person in the position of a Minister should continue to be a Minister, and yet offer himself as a candidate. This is one of the items which to me appear to be a matter of commonsense and as such should be accepted; but, of course,

[Prof. K. T. Shah]

where an extraordinary sense prevails, commonsense may not get a chance. I would therefore, like to point out that there is a great danger in a Minister holding the Ministership, and yet offering himself as a candidate, and resorting to, or his workers and canvassers resorting to practices, which cannot but be condemned under any same system of constitutional Government. Accordingly, that ought to be prohibited by the fundamental constitution.

It is in order to guard against this danger that I would provide, in the Constitution itself, that any Minister, if he chooses to be a candidate for any such office, should first resign his post and offer himself like any other ordinary citizen, for this honour. Whatever he has gained by way of influence, whatever he has previously acquired by way of prestige, connection, etc., will still remain to him; they would not be lost to him. They may be an asset to him. But, let him not be at all liable to the suspicion that continuing in office, he is able to, even if he does not actually do so, utilise his office and position of influence in order to get elected or get more votes. That, I repeat, is a matter of serious import to the Constitutional freedom and good government of the country, and as such, this amendment should be accepted without any opposition. I commend it to the House.

Mr. Vice-President : There is an amendment to this amendment. It is number 27 in List I, fifth week, standing in the name of Pandit Thakurdas Bhargava.

(The amendment was not moved.)

Amendment No. 1125.

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

“That the following new clause (c) to the Explanation of clause (2) of article 47 be added:—

‘(c) 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 Government of India’.”

I regard this, Sir, as amongst the most cardinal amendments that I have had the honour to put before this House. This theme will recur from different angles as amendments to different articles hereafter. I would like to make it clear, however, that I have deliberately worded in the different cases the same idea in a different manner, not only because the verbal objection may apply that it has been already disposed of, but also because the angle of approach in the different articles is slightly different. Accordingly, whereas, one might be rejected, it does not necessarily become impossible for another to be accepted.

That, Sir, however, is a matter for you at the time when the other amendments come up for decision. But, I would like to say that the principle contained in this amendment is of the highest importance for an honourable and idealistic Government of the State.

Ideals, Sir, seem to be very much at a discount, except, of course, for declamation from public platforms. From the public platform we declare day in and day out the high ideals which we all profess to follow, and which we call upon our friends and admirers to follow, always thinking that they apply to the other fellows and not to ourselves, assuming that our conduct is beyond reproach. I feel, however, that even in a regime of saints entirely, it is by no means superfluous to offer a suggestion of this kind that, at any rate, the Head of the State should be, even more than Caesar’s wife, above any suspicion what-so ever.

If he has any holding, if he has any interest, if he has any property to which he could seek or obtain advantage by any act of his policy or his Government’s policy, which in the least he is in a position to influence, then, I submit to the

House, he would be liable as head of the State, and the entire Government would be liable, to suspicion and discredit, and it ought not to be permitted.

Sir, it must be within the knowledge of many Members of this House, who are at all interested in contemporary history of the world, that one of the matters that affected the otherwise heriocrally worshipped President of the German Reich, in the days before the Nazis came to power, was that President Hindenberg allowed himself to be persuaded to help in the so-called assistance to Eastern Prussian landlords which paved the way for his discredit, and which led, in my opinion at any rate, to the establishment of the Nazi power.

That I hope all will agree was an undesirable thing for Germany, and its consequences have already been realised. This, therefore, is a counsel of perfection, or at any rate, a caution which we will do well to adopt, and to implement in our Constitution.

That the President should be free from any entanglements, that the President should be free from any interest other than that of the State as a whole, that he should be open to no temptation except the desire to serve his country to the best of his ability, even in the ornamental post that he may be given in the Constitution, is of such supreme importance that I think we cannot be too strong, and too definite about removing from his path every possible, every imaginable, every conceivable temptation. Accordingly, here is a constructive, a positive requirement that, before the President enters upon the functions of his office, before he can be inducted in his office, he must make a clear declaration of all his title, right or interest in any property, industry or business in any of these thing he may have held as a private citizen before he became President. Further, he must divest himself of it, and Government should take over that right or buy it from him.

This means that notwithstanding this provision, the holder of the Presidential office is not punished, he is not penalised, he is not impoverished, by the mere acceptance of or election to the Presidency. In his position, there would be, financially speaking, no change, no reduction. Morally speaking, however, his stature would grow far more; if you at all consider moral values, if you at all have any ideal that the Head of your State shall be free from any temptation, that the Head of the State shall be free even from any suspicion, then I put it to you that you cannot possibly, in decency, reject this amendment of mine.

By this, I am calling upon you to be true to those ideals which you are proclaiming everyday *ad nauseam* and which nevertheless, many of you at least, are openly breaking everyday in their lives. That being so, I have no hesitation in asking the House that this proposition, for the reason that I have stated, should be accepted, on pain of our being regarded as only preaching ideals for the purposes of hum bugging others, enunciating maxims which you do not believe yourselves. I make no apology in putting forward this amendment, and I trust without dissent this amendment will be accepted.

Mr. Vice-President : We shall proceed to put the amendments to vote.

Shri H. V. Kamath : We want discussion, Sir.

Mr. Vice-President : If you insist on it, I am prepared to allow it.

Shri H. V. Kamath : Mr. Vice-President, by your leave I rise to lend my support to the amendment of Professor K. T. Shah, No. 1108, moved by him just a short while ago—the first part. The first part of No. 1108 lays down certain disqualifications for the office of the President of the Indian Republic. On the last day of the last Session before we adjourned for recess, when I moved amendment No. 1100 providing for laying down certain disqualifications for the office of President, *viz.*, that if he has been impeached for violation of the Constitution, that will act as a bar to his contesting an election for the Presidentship again, when I moved that amendment, Dr. Ambedkar told the House

[Shri H. V. Kamath]

that amendment was not in its proper place but should come up at a later stage, *i.e.*, in article 47 which lays down certain qualifications or disqualifications for the office of Presidentship. I am glad to find that my Friend and scholar Prof. Shah has brought in this particular provision for violation of the Constitution and consequent impeachment as a part of this amendment just moved by him. I realise that article 83 of the Constitution provides—article 83 reads—

“A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament

(e) or if he is so disqualified by or under any law made by Parliament.”

It is conceivable that the future Parliament of Free India will make certain provisions to this effect as to who will be qualified and who will be disqualified. But to my mind this is far too important a matter to be left to the decision of Parliament. This goes to the root of the matter, the disqualifications on the score of treason or on the score of offence against the State or on account of impeachment because of violation of the Constitution—it is possible that when we come to article 83 we might incorporate certain of these disqualifications or all of them as disqualifications for being a member of the House of Parliament but we must be clear on this point, as to whether we shall leave them to a future Parliament to decide or whether we will incorporate these things in the body of the Constitution. I therefore would request Dr. Ambedkar when he rises to reply to this debate, to tell us clearly whether he will leave it to the Parliament of future India or whether he will embody these disqualifications clearly and plainly—plain as a pike staff—without any equivocation in this article 83. That much Sir, for the amendment No. 1108 of Prof. Shah.

Coming to amendment 1125 just moved by him, I am inclined to think that the principle embodied in this amendment is a very sound one. I would certainly welcome the proposition that a person on being elected President of the Indian Union must at least declare to Parliament, or to the people and the nation, what interests, and what shares he holds in any enterprise, business or trade in the country. In the last Budget Session of the Legislative Assembly, if I remember aright, this Assembly adopted the Factory Act, and one of the clauses or sections in that Act was to the effect that even the medical officer of a factory, when he is appointed to his post, must declare to the board of directors or the management or the government, what interests, shares or other similar interests he holds in the factory or in any of the allied concerns of that particular undertaking. If we are going to enforce such a thing in the case of a mere petty officer in a factory, it stands to reason that the President of the Indian Union must declare to the nation and to Parliament what interests he holds in any business or trade or enterprise in the country. I recognise and I do admit that the President is not invested with considerable power. But nobody would deny the fact that the President has been invested with considerable influence, and that influence can be abused by a President if he is not of the proper or right type. We have just come from the Jaipur Session of the Congress—at least some of us—where only a few days ago, the Congress passed a resolution on the standards of public conduct. Are we, Sir, here, serious about implementing that resolution or not? In spite of the subsequent deletion at the instance of Pandit Nehru at the Jaipur Session, it applies to all Congressmen, from top to bottom. And if it applies to all Congressmen, certainly, the code of public conduct that we are going to lay down for Free India, should apply to all, Congressmen or non-Congressmen whenever they hold a post, high or low in the country. Certainly, Sir, the President's post, the President's position, is very important and if we are earnest about this resolution about public conduct. I would certainly plead before this House that the President of the Indian Union must publicly before entering his office, tell us, tell

Parliament, what interests and what shares he has in any business or other enterprise in the country, lest on any occasion, on any tempting occasion, he might abuse his position for the furtherance of any particular undertaking in which he is more interested.

Sir, I will not go so far as Prof. K. T. Shah and say that such rights or interests must be bought up by the Government of India. I would suggest that once he has declared what his interests and shares are, in any particular business or undertaking, then the matter must be left to the Parliament to decide in what way those rights or interests are to be dealt with, or administered or disposed of. If this much is admitted or conceded, that the President shall be obliged to declare and disclose his interests, then we can leave it to the Parliament of India to deal with this matter and decide how to dispose of or deal with the particular matter brought before it.

Mr. Vice-President : Dr. Ambedkar.

Shri Syamanandan Sahaya (Bihar: General): Sir, I have.....

Mr. Vice-President : I have called Dr. Ambedkar, I am sorry. But have you any amendment?

Shri Syamanandan Sahaya : No, I have no amendment, but...

Mr. Vice-President : If you had come to the front, you could have caught my eyes, because in that direction there is a bad glare.

Shri R. K. Sidhwa (C. P. & Berar: General): But, Sir, we have not had adequate discussion of this article. Only one member has spoken.

The Honourable Dr. B. R. Ambedkar : If they want further discussion, I have no objection.

Mr. Vice-President : Dr. Ambedkar has been good enough to say he does not mind if other Members also speak. Will Shri Syamanandan Sahaya please come to the mike?

Shri R. K. Sidhwa : Sir

Mr. Vice-President : Mr. Sidhwa will always have the last word. I shall give him the last word.

Shri Syamanandan Sahaya : Mr. Vice-President, Sir, I am here to support the amendment which has been moved by Prof. K. T. Shah.

The Honourable Dr. B. R. Ambedkar : Which amendment of Prof. Shah?

Shri Syamanandan Sahaya : Amendment No. 1124 which reads like this:

‘provided that any such Minister shall, before offering himself as candidate for such election, resign his office’.

Sir, it is not always that I have the good fortune to agree with Prof. K. T. Shah but I do feel that in this particular amendment which he has proposed, he has raised a very vital point, and I do think that in a matter like this, even through there may have been different decision elsewhere, this House must remain firm because Prof. K. T. Shah, in his amendment, desires to lay down a principle which has been accepted all over the world (Cries of No, No.) Yes, Yes. Everybody has the right to place his information and his knowledge. Even in the present Congress Committees, a person who desires to stand as President of the Provincial or District Congress Committee has to resign his seat, not merely as a Minister, but even as a member of the Legislative Assembly.

Pandit Balkrishna Sharma (United Provinces: General) : No, No. You do not know. Do not go on generalising like that.

Shri Syamanandan Sahaya : I come from a Province where this rule obtains; this is a very good rule. If other provinces are not following it, they are doing it to their own disaster.

Mr. Vice-President : You need not reply to these interruptions.

Shri Syamanandan Sahaya : I shall accept your advice, Sir. It is a very good advice.

Now, the position is, that the place which the President will occupy in our Constitution is a very high and important one, indeed, and it would be very unwise and unsafe if a person who is already a Minister, working as such, stands for election as President. Even though such a person may not himself desire it, the fact remains that a Minister in power is likely together more support, directly and indirectly, than another person. It is therefore only fair and reasonable that the election of a President must be carried on in such a manner that no individual person may have any additional advantage over his opponents.

Considering the position that obtains in this country at present, it is hoped that there may not be much difficulty among the persons who happen to occupy this high position. They also have a high standard of morality and I have no doubt that they will themselves resign before they stand for Presidentship. But we are laying down in this Constitution a rule by which, if a Minister desires or chooses to stand as a candidate for election, he can do so and contest the whole of the election, occupying all the time the position of a Minister. That, Sir, in my opinion, would not be the right course to adopt, and considering the difficulties that one can foresee, it would only be proper that it should be laid down that no person who occupies the position of a Minister should stand as a candidate as long as he occupies that position. He should first be asked to resign and then he can stand and contest the presidentship like anybody else.

Before I close I would like the House to visualize a situation that will arise when a Minister is a candidate for election as a President. It will be like this. Who is the candidate? A Minister. Who are the voters? Members of the different Assemblies. Who are the Polling officers? Servants of the Government, some of them may be under the Ministry concerned. How does this look? Even assuming that there will be everything fair, I ask: Does it look fair to frame a constitution which not only sanctions but encourages such a situation?

Shri Algu Rai Shastri (United Provinces : General) : *[Mr. Vice-President, Sir, I rise to oppose the amendments moved by Prof. K. T. Shah, more specially his last one, No.1125 on the list. I may repeat what has been said several times previously and it is that the type of constitution Prof. K. T. Shah has in view can either be accepted in its entirety or cannot be accepted at all. At times such amendments as the present one, are moved by Prof. K. T. Shah which seek to make some changes in the constitution or in the basic concept on which it is founded. If a single amendment of Prof. Shah is accepted in any part of the Constitution, the entire structure of the constitution would be changed. His idea in moving this amendment is that our President—the President of our Republic—should be a person who has no private financial interests of his own at all. He wants that the President of our Republic should have no financial interest at all but at the same time in course of his speech he has said that if the President has any shares in any property the same should be purchased by the Government so that he may not become a pauper. The dread of private property seems to have influenced him in making this proposal even though he does not seem to desire the abolition of private property itself. He does not propose to expropriate the person, who is to be elected President, of his entire property. It is thus plain that he does

* [] Translation of Hindustani speech.

not stand for the abolition of private property. His only objective is that any person, after being elected President, should sell away all his financial interests or they may be acquired by the Government, and that such a person should make a specific declaration that he has no financial interest anywhere. It appears to me that these two ideas are contradictory to each other. On the one hand the institution of private property would remain when we allow him to own the monied wealth he receives on sale of his property and such an ownership is permitted by Prof. Shah because he apprehends that otherwise such a person will become a pauper. On the other hand he seems in my opinion, to have in view Plato's idealistic and Utopian communism under which rulers shall have no property, no financial interest and no money of their own and there would be a common kitchen and the rules would be leading an ideal life like saints and hermits having no personal financial interests. We can very well lay down in the Constitution that a person who owns a property or has any shares in any enterprise shall not be eligible for Presidentship. The object behind the amendment moved by Professor K. T. Shah is that after a person is elected President he should hold no share in any property but he can hold the same before being elected. In my opinion Professor Shah should aim at the abolition of individual ownership of property and nationalisation of the same so that no individual may possess any property. But we have already accepted and given a place to individual ownership of property in the articles we have passed earlier. Now at this stage it does not appear necessary to me to pass a provision enjoining upon a person to make a particular declaration and relinquish all his financial interests in order that he may honestly discharge the duties of his office. Of course, I do visualise a society in which the individual ownership of property is gradually abolished and commodity be brought under social ownership. I would prefer such a society. We can not accept the ideal of Plato's or such a communism which reduces our life to a mere hotel life. Such a society cannot be stable. It is possible to establish such a society in small communes. But it is difficult to run even a small municipal board on these lines. I have seen that the financial questions bedevils the working of even small bodies. Even in the 'Maths' of Sadhus disputes arise for succession to the Gadi. We must keep the reality in view and from the point of view of reality the proposed restriction is unnecessary. I, therefore, oppose the amendment moved by Mr. Shah.

The other amendment moved by Mr. Shah, which lays down that if any minister seeks election as President, he should resign from the ministerial office before doing so, cannot be accepted. It is evident that a minister who seek selection as President would not be in a position to secure votes of this vast population either by purchase or by undue influence exercised under the powers he possesses as minister. The people or the prospective voters in the Presidential election cannot be beguiled or coerced to sell their votes. This amendment too seems unnecessary and therefore in my opinion it ought to be rejected and the original article as standing in the Draft Constitution should be accepted.]

(Interruption)

Mr. Vice-President : It is not proper for experienced Parliamentarians to heckle a speaker in that way.

Mr. Tajamul Husain (Bihar : Muslim) : Mr. Vice-President, I am, and in fact the whole House is, very grateful to you and also particularly, I would say, to the Honourable Dr. Ambedkar, for allowing us to speak. We know your powers. You can stop us at any time you like. But I would always request you to allow us even at this stage to speak as we are for the first and the last time drawing up a constitution for the whole of India. You will pardon me for using the word "gagging" officially. But do not gag us. Let us speak. The Constitution is not going to be framed within a year as the

[Mr. Tajamul Husain]

Government of India are expecting. They are mistaken. It does not matter if it finishes in two or three years, but give us time to speak.

Coming to the amendment I wish to point out that, as far as I understand it, the amendment of my honourable Friend, Prof. K. T. Shah implies that a person who wishes to stand for the presidentship of the Indian Republic should resign his seat if he happens to be a Minister, or resign his seat if he happens to be a Member of the Legislature. An honourable Member from my province of Bihar has just spoken and he has stated that the law in his province is that a Member of a Legislature who wishes to become the President of the Provincial Congress Committee has to resign his office. There was vehement opposition to this. I entirely agree with the opposition that is not the law. We find here that the last President of the Congress, Mr. Kripalani, was also a Member of this House and a Member of the Dominion Parliament. Here we find that the Honourable the Speaker of the U.P. is a member of this House. This is not the kind of thing in Bihar. Since the Congress started its activities under the guidance of Mahatma Gandhi, Dr. Rajendra Prasad, the President of this House, was the President of the Provincial Congress Committee for a number of years. It is unfortunate that he had to leave our Province and come over to Delhi. When he came to Delhi and left Bihar somebody who was not a member of the legislature was elected as President and he died. Then we elected a member of the Provincial Assembly and he had to resign his seat in the Assembly. We wanted him to resign and he resigned. Afterwards another member of the provincial assembly was elected and he also had to resign his seat in the Assembly. So we in Bihar have this convention, though not as a law or rule, that a member of the legislature when he wants to become President, before he seeks election he must resign. It is a very good and healthy convention. After all the first President of the Indian Republic will be the first gentleman of this land and equal to any monarch in the world. We want that before he becomes President he should cease to have any connection with any legislature. Before his election as President a Minister, whether at the Centre or in the Provinces, must cease to be a minister: he must come in as a simple man, a non-member of any legislature, stand for election and get elected. That is what people want. This is a very simple amendment and it should be accepted by the House and by Dr. Ambedkar. That is all I have to submit to the House and I thank you, Sir, for permitting me to speak.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, I regret that I am unable to accept any of the amendments which have been moved by my honourable Friend, Prof. K. T. Shah. There are three amendments which have been moved by Prof. K. T. Shah. One of them relates to the Minister as a candidate for the Presidency and the other two amendments relate to the President. I propose to divide my observations in reply to his speeches on the three amendments into two parts. In the first part I propose to devote myself to his amendment relating to the Minister.

Prof. K. T. Shah's amendment requires that if a person is holding the office of a Minister and wishes to contest an election, the first condition must be that he shall resign his office as a Minister. In other words, ministership by itself would be a disqualification for election. It seems to me that Prof. K. T. Shah has not devoted sufficient attention to his amendment. In the first place, if a Minister resigns then this amendment is unnecessary. The second point which I think Prof. Shah has not considered and which seems to me to be very crucial is this. Supposing we accept his amendment that a Minister shall resign before he stands as a candidate for Presidentship, it is quite clear that between the period of the dissolution of the old Parliament and the time

when the new Parliament assembles there can be no Ministers at all in charge of the administration. And the question that we have to consider is this. What is to happen to the administration during the period which is involved between the dissolution of the old Parliament and the assembly of the new Parliament? Are we to hand over the administration to the bureaucrats or the heads of the administrative departments to carry on until the new Parliament is elected? Or is there to be some kind of expedient whereby we are to go about and find a set of temporary Ministers who would take charge of Government during this short period of two or three months and thus forego the opportunity of contesting elections and becoming Ministers themselves in a new Parliament for the full period of their term? It seems to me that the amendment of Prof. K. T. Shah, if accepted, would create complete administrative chaos in the Government of the country and therefore I submit.....

Shri L. Krishnaswami Bharathi (Madras : General) : It does not refer to all Ministers: it only refers to one minister.

Shri Mahavir Tyagi (United Provinces : General) : And to deputy Minister also.

The Honourable Dr. B. R. Ambedkar : Supposing every Minister wants to contest the election and therefore every Minister will have to resign.

Prof. K. T. Shah referred to the fact that the Ministers generally monkeyed with the election or may manipulate or exercise their influence over the administration. That of course, to some extent, is probably true. But in order to eliminate the influence which Ministers exercise or might exercise on the elections the Draft Constitution has provided under certain articles (articles 289 to 292) for a special machinery to be in charge of what are called Election Commissions both in the Centre as well as in the Provinces, which would take charge of the elections to Parliament as well as to the State legislatures. They are to have complete superintendence, control and management of elections, so that whatever possibility that there exists of Ministers exercising their influence over elections has been sought to be eliminated and consequently the fear which Prof. K. T. Shah entertains has really no place at all. I am therefore, for these reasons, unable to accept his amendment.

Coming to his amendments which deal with the President, his first amendment No. 1108 sets out certain disqualifications such as conviction for treason, any offence against the State or any violation of the Constitution, etc. The reason why, for instance, we have not specifically mentioned in this particular article under discussion these disqualifications, will be obvious if the Members recall that we have made other provisions which would have the same object which Prof. Shah has in his mind. In this connection I would like to draw the attention of the House to sub-clause (c) of article 48 which requires that "the President shall be a person who shall be qualified for election to Parliament". Now the qualification for election to Parliament are laid down in article 83. Sub-clause (e) of article 83 leaves it to the Parliament to add any disqualifications which Parliament may think it necessary or desirable to add. It is therefore possible that the Parliament when it exercises the powers which are given to it under sub-clause (e) of article 83 may think it desirable to include in the list of disqualifications (it is empowered to add to those already enumerated under article 83) some of the propositions which Prof. K. T. Shah has enunciated in his amendment. I therefore submit that, although this particular clause does not refer to the disqualifications mentioned by Professor Shah, it is quite possible and open to Parliament to add them by any law that it may make in sub-clause (e) of 83.

Shri H. V. Kamath : On a point of clarification. Mr. Vice-President, if matters like 'unsound mind' and 'undischarged insolvent' are found important enough to be embodied in the article itself, what is the point in leaving this more vital and fundamental thing to Parliament and not giving it a place in the Constitution itself?

The Honourable Dr. B. R. Ambedkar : I do not know. It is a mere matter of logic. It is perfectly possible to say that every disqualification should be laid down here. It is perfectly possible to say that some essential things may be laid down here and the others left to the Parliament. I cannot see any inconsistency in that at all.

Now coming to the last amendment of Professor Shah, No. 1125, I think a careful perusal of the language he has used is very essential. What the Professor wants is that every person who has to be a President shall, before assuming office, divest himself of his interest, rights, title, etc. in any business or concern which is being sponsored by Government or carried on by Government either itself or through any agency, and secondly that the Government should buy that interest from the President. In regard to this, the first thing that strikes me is that this is one of the most novel propositions that I have ever seen. I do not remember that there is any Constitution anywhere in the world which lays down any such condition. I should have thought that if any such condition was necessary it is in the Constitution of the United States where the President has got an opportunity of exercising administrative control, and administrative discretion and therefore the greatest opportunity of personal aggrandisement exists there. And yet, the Constitution of the United States is absolutely silent about any such condition at all. Professor Shah no doubt has tabled his amendment because he looks upon it as a merely consequential amendment to the original proposition which he had enunciated in the form of his amendment, namely, that the President should have the same position as that of the President of the United States. But our Constitution has completely departed from the position which has been assigned to the President of the United States. As I have stated over and over again, our President is merely a nominal figurehead. He has no discretion; he has no powers of administration at all. Therefore, so far as our President is concerned, this provision is absolutely unnecessary. If at all it is necessary it should be with regard to the Prime Ministers and the other Ministers of State, because it is they who are in complete control of the administration of the State. If any person under the Government of India has any opportunity of aggrandising himself, it is either the Prime Minister or the Ministers of State and such a provision ought to have been imposed upon them during their tenure and not on the President.

The third question that arises—I think it is a very concrete question—is this. Supposing we laid down any such condition; is it possible in the circumstances in which we are living, to obtain any candidate who would offer himself for the Presidentship and subject himself to the conditions which have been laid down by Professor Shah? I doubt very much whether even Professor Shah would offer himself to be President of the Indian Union if these conditions are laid down.

Prof. K. T. Shah : It is not my custom to interrupt speakers at all. But may I give him this categorical assurance that as far as I myself am concerned, he can rest assured that there will be complete fulfilment of these conditions. (*Laughter*).

The Honourable Dr. B. R. Ambedkar : I am glad. But this country could not carry on under the assumption that Professor Shah would be the only candidate who would offer himself for Presidentship. (*Laughter*) Safety lies in multiplicity of candidates. Therefore we have to consider whether, from a practical point of view, we should have a sufficient number of candidates offering themselves for this particular post. And I have not the least doubt about it that, notwithstanding the very virtuous character of this amendment we should practically be suspending this particular provision from the Constitution if we accept this amendment.

For these reasons I do not accept any of the amendments.

Shri H. V. Kamath : Is Dr. Ambedkar opposed even to the disclosure of the candidate's interest or share? Is he opposed even to a declaration like that?

The Honourable Dr. B. R. Ambedkar : But that is not the amendment.

Shri H. V. Kamath : That is part of the amendment.

The Honourable Dr. B. R. Ambedkar : But that is not the amendment.

Mr. Vice-President : I will now put the amendments to vote one by one.

The question is:

"That after sub-clause (c) of clause (1) of article 47, the following new sub-clause be added:

'(d) and is not disqualified by reason of any conviction for treason, or any offence against the State, or any violation of the Constitution'."

The amendment was negatived.

Mr. Vice-President : The question is:

"That in clause (2) of article 47, and in Explanation to clause 2, for the words 'any office or position of emolument', wherever they occur, the words 'any office of profit' be substituted."

The amendment was adopted.

Mr. Vice-President : The question is:

"That for sub-clause (a) of the Explanation to clause (2) of article 47, the following be substituted:

'(a) he is the Governor of any State for the time being specified in Part I of the First Schedule or is a minister either for India or for any such State; or'."

The amendment was adopted.

Mr. Vice-President : The question is:

"That after clause (b) of the Explanation to clause (2) of article 47, the following be added:

'provided that any such Minister shall, before offering himself as candidate for such election, resign his office'."

The amendment was negatived.

Mr. Vice-President : The question is:

"That the following new clause (c) to the Explanation of clause (2) of article 47 be added:

'(c) 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 brought up by the Government of India'."

The amendment was negatived.

Mr. Vice-President : I shall now put the article as amended to vote. The question is:

"That article 47, as amended, stand part of the Constitution."

The motion was adopted.

Article 47, as amended, was added to the Constitution.

New Article 47-A

Mr. Vice-President : Amendment No. 1126 is almost the same, though not quite the same, as amendment No. 1125. Professor Shah may move it.

Prof. K. T. Shah : I beg to move:

"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'."

[Prof. K. T. Shah]

As you have been kind enough to point out, this is not quite identical with the previous amendment that I had the honour to submit to this House. Whereas in the previous amendment I had suggested that the interest of the President be *bought over* by the State, here it is to be held in a trust for him. He remains the owner, and only is saved any kind of temptation, any kind of manipulation that may be possible in the business, trade or interest that may be in any way supported or aided by the State. Sir, I have been surprised at the lack of argument which has characterised the opposition to the previous amendment. If in answer to one's serious points, one is to be faced with such assumptions as that all the Ministers, for instance, might like at one and the same time to stand for the Presidency, and if that is permitted, there would be chaos, then I think it is equally open to hold that every Minister might become ill at one and the same moment and unable to discharge the functions of his office, thus leaving it to the bureaucracy to carry on the administration. This is no argument of an earthly or reasonable character. Any such cataclysmic event may happen, but in such a case of course, mere human ingenuity may be powerless to cope with it. But if you wish to object to my amendments on reasonable level grounds, and not take flights of fancy into the unreal, then I submit that in this matter there is no contradiction or impossibility that I am asking you to agree to.

The idea that you will have no candidate for the Presidency, merely because the constitution calls upon him to declare his interests and divest himself of all his right, title, share, property and interest, in any industry, trade or business, which is in any way aided or supported by the State of which he is the head is to my mind reducing the matter to an absurdity. After all, with all due respect to the Honourable Dr. Ambedkar, I think there are not in this country a majority of people who have any such right, or title, or property. The over-whelming majority of this country's people are without such interests. The possibility, therefore, of finding a candidate who has no interest in such matters will not certainly be so catastrophically small as Dr. Ambedkar in his opposition mood might fear.

If Dr. Ambedkar is thinking of only that class to be eligible to the Presidency who have such rights, who have such interests and shares, while I would point out that such a course would be unfair, I hope he will realise that it is desirable to safeguard them against any temptation of the kind that this amendment tries to guard against.

The fact, moreover, that no other Constitution contains any such provision is no reason, in my opinion, why, under the guidance of such a genius as Dr. Ambedkar, we should not break new ground. We might as well make our own precedents which Americans may copy as we have copied this from the English or Anglo-Saxon races. Why should Dr. Ambedkar and his colleagues be so afraid of taking a new step, even though the new step may be one in the right direction?

In all his arguments I did not hear anything to show that the proposition that I am advancing is in itself wrong.

Mr. Vice-President : Professor Shah, may I request you not to reply to Dr. Ambedkar.

Prof. K. T. Shah : Dr. Ambedkar went out of his way. It is against my practice.....

Mr. Vice-President : May I suggest that as both of us belong to the same profession, we should prove superior to this weakness.

Prof. K. T. Shah : I bow to your order; but I do feel, Sir, that argument seems to be absent, and prejudice seems to predominate in a discussion of this kind. If that is so, then I in my determination would go on moving every one of my amendments, whatever the result may be. I am also equally clear, that, before the eyes of the world, before those who have no prejudices of their own, we will not be holding ourselves as model legislators if we insist on rejecting such amendments for future generations. That is all I have to say, Sir.

Coming to the amendment proper, may I point out that in this I have tried deliberately to guard against being over-ruled, merely for repeating myself by changing the wording. It was urged, and urged, quite unfairly, that this would cover enterprises “carried on” by the State. Nothing of the kind. Here I am speaking only of any trade, industry or business, which is aided or supported by the State. That is a totally different thing from an industry or business being carried on by the State. I should have thought that those who have drafted this Constitution knew the difference between ‘being carried on’ by the State, and ‘being aided or supported’ by the State. If they do not understand this difference, I am sorry the drafting should have been done by people who cannot distinguish between simple propositions of this nature.

They might equally misunderstand or misread the difference between “buying over” and “holding in trust”, which again in my opinion are totally different propositions. The English Constitution, Sir, is founded on conventions, not on any written document. That, I trust, even Dr. Ambedkar will admit. That being so, may I give him one illustration of the kind of rectitude that is expected from high officers of State. There was the case, Sir, some forty years ago, when the English Navy was thinking of going over to oil-burning instead of coal-burning. Oil was produced by Joint Stock Companies holding interests abroad while coal was produced at home. Admiral Fisher, who was then the First Sea Lord of the Admiralty, was to preside over the Committee which was appointed to investigate into the matter of changing over from coal to oil. There were three members of the Committee and they were all of the same view. Their recommendations were, therefore a foregone conclusion. Admiral Fisher, who had some oil shares in the Anglo-Persian and Iranian Oil Company, and who knew what the results of his recommendation would be, went over to the then King Edward VII, and asked for his advice. He knew the prospects of those shares once the report was published. The King advised, and the Admiral accepted his advice, that he must divest himself immediately of those shares if he was an honourable man, as he stood to gain considerable advantage from the change over from coal to oil. Admiral Fisher may not have a prototype here; but I for one hope that in this country, led and brought to this stage by Gandhiji, there are people who will be willing, only too willing, if elected to such exalted office as head of the State, to divest themselves of such rights and interests as might expose them to the slightest shade of suspicion. Even in the municipality of Bombay we have a convention that any member, who is interested in any enterprise carried on by the corporation, shall not vote when that matter comes up for consideration before the corporation. If that ideal is not suitable for you to copy, if that is a proposition which is not acceptable to you, I am very sorry that this House should be using the name in vain of people like Gandhiji, when we are not carrying out their ideals in this Constitution.

Mr. Tajamul Husain : May I speak, Sir?

Mr. Vice-President : If you insist.

Mr. Tajamul Husain : Mr. Vice-President, Sir, I am again thankful to you because you are exercising your powers in my favour. I have come to support the amendment of my honourable Friend, Professor K. T. Shah, in its entirety. His amendment is a very fair one. He wants that the person elected as

[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.

Mr. Vice-President : Mr. Kamath, Are you not moving your amendment inserting the words, “in the name of God”?

Shri H. V. Kamath : I have amended my own amendment.

Mr. Vice-President : I see, you are amending your own amendment.

Shri H. V. Kamath : Yes, Sir. When I perused the Constitution, I was left with the feeling that there was a void in it. We had forgotten, I do not know why, to invoke the grace and blessing of God. To me it is odd, it is passing strange that before an Indian Assembly, speaking on the Indian Constitution I have to come and stand before you today to plead for this amendment: to plead that God may find a place in our Constitution. I should have thought, Sir, that the Preamble itself should have opened with an invocation to God. Well, that is coming later on and we will see what will happen to that. Perhaps, it was the will of God that the Constitution should be barren of His name and that later on the name of God should be invoked in the course of a discussion on the Constitution. May I ask, Sir, do my friends think—those of them who do not attach any importance or value to this invocation—that by banishing God, by banishing the word ‘God’ from their minds and thoughts, or from the Constitution they arrogate to themselves the idea that thereby they are banishing God Himself from the Constitution? God forbid, that they should entertain any such thought. Do they think that it is possible to legislate God out of existence? The more, Sir, we avoid God, the more we try to flee from Him, the more He pursues us. There is a beautiful poem, “The Hound of Heaven” by Francis Thompson, which describes the state of mind of one who tried to flee from God.

“I fled Him down the nights
And down the days,
I fled Him down the arches of the years, etc.”

and so he goes on : then he says:

“But with unhurrying chase, unperturbed pace
The feet of God pursued him,
And a voice beat more instant than the feet,
All things betray thee
Who betrayest me.”

In India, Sir, with our ancient culture, with our spiritual genius, with the heritage to which all of us are heirs—one and all of us—it is needless for me to say how every activity of ours in every field of endeavour has been permeated through and through with the idea of an offering to God, the deepest spiritual idea. According to Hindu customs and traditions, our ceremonies open and begin with the invocation “Hari Om Tat Sat”. Our Muslim friends have the Koran Sharif whose every verse starts with the invocation “Bismilla Al Rahaman Al Rahim”. Our Sikh friends’ Guru Granth Sahib opens with “Ekonkara Satnama Karta etc.” Our Christian friends have been commanded by their Saviour to “Give up all thou hast and follow Me”. The same idea has found a place in our own philosophy, namely, in the Gita :

Sarva Dharman Parityajya, Mamakam Sharanam Vraja !

Give up everything, even all Dharmas and seek refuge in me alone that is “God”. Therefore it is needless to dilate very much upon this amendment of mine. As I have already said every act of ours from eating and drinking to the highest worship, is an offering, a dedication and a sacrifice to God, namely:

यत्करोषि यदश्नासि यज्जुहोषि ददासि यत्।
यत्तपस्यसि कौंतेय तत्कुरुष्व मदर्पणम्॥

yat karoshi yadashnasi yajjuhoshi dadasi yat
yattapasyasi kaunteya tatkurushva madarpanam

And here Sir, it is something very solemn that we are doing, and even if eating and drinking is to be an offering to God, then this Constitution which is a sacred task, must be an offering to God also. Our own teachers—all the old sages and seers and Rishis—up to the days of Mahatmaji and Netaji have been dominated by a supreme idea, namely that all our actions must be acts of sacrifice to God. I do not want to tell the House how the minds and souls of Mahatmaji and Netaji Subhas Chandra Bose were permeated with this love and “bhakti” of God and how they bathed their being ever and anon in the life-giving waters of the Eternal. Coming, Sir, to our own leaders of today, such as Sardar Patel, Rajen Babu our President, and our Governor-General Shri Rajagopalachari, you will permit me to quote from some of their recent speeches where they have enjoined upon us not to forget God in our daily activities.

The Governor-General, Sir, on Thanks-giving Day after the Hyderabad operations, in his speech, stated:

“Ministers, Generals, Soldiers, Police and Citizens, all are entitled to our gratitude. But nothing moves in this world but God moves it. We imagine we have done great things.”

In our own conceit we imagine we have done great things. Proceeding, the Governor-General said:

“The truth is that God did those things. Let us be humble and deserve the grace which he so abundantly poured on us. Let us not be proud. Let us daily fill our hearts with mutual love and trust.”

Our President, Dr. Rajendra Prasad, last year when he broadcast a message on Independence Day, said:

“With the help of God and under the leadership of Gandhiji we have won the battle of freedom and gained our objective.”

Sardar Patel recently in Bombay declared:

“We are grateful to God that we have succeeded in establishing stabilized conditions in our country to a certain extent.”

I therefore feel that in a Constitution, apart from invoking the grace and blessing of God in the Preamble itself, when a solemn thing like an oath or affirmation is concerned, it will be an empty performance, if when we take a solemn oath we do not do it in the name of God. Netaji Subhas Chandra Bose in Singapore, when he became the Commander-in-Chief and Provincial President of the Arzee Hukumat-e-Azad Hind, took the oath which ran thus:

“Ishwar ke nam par main pratigy karta hun.”

Therefore, Sir, in the end, I would appeal to the House that we are heirs to an immortal and a spiritual heritage, a heritage which is not physical, nor material nor temporal: a heritage which is of the spirit—a spirit that is, ever was, and ever shall be, a heritage that is eternal. Let us not squander this invaluable heritage. Let us not dissipate this heritage: let us remain true to our ancient heritage, our spiritual genius. Let us not lightly cast away the torch that has been handed down to us from time immemorial. Let us in the words of Swami Vivekananda aspire to conquer the world spiritually. Let us blaze forth a trail that will be the light of the world as long as the sun and moon and stars endure. I shall only end with the words which were ever on Mahatma Gandhi’s lips:

“Ishwar Allah tere nam

Sabko sanmati de Bhagvan.”

This amendment of mine, as amended, today I have moved before the House so that on this matter which I consider vital and fundamental we may have a unanimous House. Therefore I have amended with your leave, Sir.

[Shri H. V. Kamath]

the original amendment No. 1146 and in the amended form I move it before the House and commend it to the House for its acceptance.

Shri Mahavir Tyagi: Sir, I beg to move: that for amendment No. 1146 the following be substituted:

“That in article 49 for the words ‘do solemnly affirm (or swear)’ the following be substituted:—

swear in the name of God

‘do—————’,”

solemnly affirm.

This will mean that those who believe in God will swear in the name of God and there will be liberty for those agnostics, who do not believe in God, only to solemnly affirm, so that there will be freedom for one's faith. My amendment is practically the same as Mr. Kamath's except that the change of words is made for those who do not believe in God, so that they can 'solemnly affirm' and others 'swear in the name of God'.

While moving this amendment I want to take the opportunity of expressing my views with regard to the name of God. In fact I am glad and proud of the amendment which my Friend Mr. Kamath has moved. This is the first time that the Constituent Assembly is considering the question whether it would bring in the name of God in the Constitution or not. In fact we should have brought it in the very beginning but since the Preamble did not come under consideration, we shall make another effort to invoke the name of God when we start to consider the Constitution from the beginning.

The Constituent Assembly having passed a resolution saying that the State will be a secular State, a lot of misunderstandings have been created on account of that resolution. It is for us to clear them. The name of God does not, in my opinion, interfere with the secularity of the State, because when a person elected as President goes to take the oath, even though a President, he is not virtually a President before he takes the oath: he is simply a person. He has no official capacity when he approaches the altar to take the oath. He is just an individual in his personal capacity and in that capacity he takes the oath. And even if the name of God were to interfere in any way with the secular character of the State, it would be so only when an official takes the name. Till such time as the President takes the oath he remains only a person. And when a person takes an oath he does it according to his personal faith.

Shri L. Krishnaswami Bharathi : What is the distinction?

Shri Mahavir Tyagi : Those who can see the distinction can find it out. An oath is a personal matter and it must be observed with all solemnity and the occasion when an oath is taken is a very solemn one, especially when the head of the State takes the oath. Personal religion does not allow of any temple, altar or rites. It is confined purely to one's internal cult of the Supreme God and the eternal obligations of morality. This is the personal religion of each individual. It is this personal point of view. My friend wanted to know as to what was the distinction. The distinction is that personal religion pure faith in God; it does not permit of any practice, profession, or rite. God is neither a physical precept nor a mental concept. It is the spiritual realisation pure and simple. There is no rite attached to it. No temples are needed nor any altars. I well understand the philosophy or the logic of the state being secular. For, in every land, where there are so many religions and so many communities, one cannot give any particular colour to the State. The State must in such cases be secular, so that the consolidation of the nation may be achieved. We have many religions and communities in India. But the name of God is a common factor

among them all. Every section believes in God, every group believes in God and every community believes in God. Therefore if we bring in the name of God in the constitution of our State, it will help us to unify the state, and will implement the secular character of the State rather than disturb its secularity. This is only by way of argument. The fact is that since we announced in this Assembly that ours was going to be a secular State, the announcement has given rise to all sorts of interpretations and misgivings. People began to think that as far as Government was concerned it had banished God altogether. I hope the Constituent Assembly by bringing in the name of God here will to some extent clarify the misunderstandings. Some vain kind of politicians in their attempt to imitate some fashionable slogans of the West have allowed themselves to believe that in a secular State God is taboo. A secular State means the state of Truth and God and eternity without prejudice to any particular religion. In India all our culture, and all our policy and civilization has been spun and woven round the one nucleus, God, and if God is banished I do not know what Swaraj will mean to India. Personally I along with so many others, seniors and juniors, and millions of people fought for thirty years for Swaraj. The Swaraj of my conception was Ram Raj. It was not the political freedom alone that mattered. If I may be permitted to say so, I care a tuppence for political freedom. India did not only mourn the loss of her political freedom but her real grief has been the loss of her freedom of spirit. Our spiritual freedom was first hit when Somnath was attacked. Since that time, all these hundreds of years, India has not been feeling free. Real Swaraj means "Ram Raj" How this idea of secularity has been misinterpreted, I will not be going out of the subject if I take the house into confidence and inform them that very recently at a conference of A. I. R. officials they came to the unanimous decision that the recitation of the Gita and the Ramayana, the Koran and the Bible should now be stopped. If secular State means that our children will not know about the Ramayana or listen to the Gita or the Koran or the Granth what is political freedom worth? This is stretching the meaning too far. If God is banished from this "Ram Rajya", India will become Ayodhya without Ram. I submit, Sir, by 'Ram' I mean Hindu God and also Christian God. (*Laughter*) I submit that God is a common factor and therefore we must invoke Him here and also in the Preamble when the occasion arises. Even in the British Parliament, when they assemble, they do so only after prayers. They hold prayers. In the proceedings you will find that the Parliament met at such and such an hour and after 'prayer' began their proceedings. Theirs is not a communal State too. In Ireland, as also in many other places, God is not forgotten. I am indebted to my Friend Mr. Kamath who introduced this word 'God' here. We worship God and our faith must be recorded. India believes in God and therefore the Indian State must remain a State of God. It must be a godly State and not a godless State. This is our meaning of secularity. With these words I move my amendment.

Shri R. K. Sidhwa : I do not move amendment No. 1147.

Kazi Syed Karimuddin (C. P. & Berar : Muslim): Mr. Vice-President I move: That in the Form of Oath in article 49, the words "and that I will devote myself to the service and well-being of the people of India" be deleted. My reason for the deletion of these words is that the very purpose of taking an oath or making an affirmation is that certain obligations are created in law. If there is a breach of this oath, then there is the impeachment of the President or the Vice-President. As a citizen of India, of course, a person will be devoted to the service of the people. Therefore it is not necessary that in the oath you must have this pious declaration. You will see that in the form of oath prescribed in the American Constitution, the latter part of this oath is not mentioned. Therefore my submission is that the latter portion should be deleted as it is only a pious declaration.

[Kazi Syed Karimuddin]

In regard to the amendment moved by Mr. Kamath I wish to say a few words. I was very glad that he held a brief on behalf of God and pleaded that God should not be banished from our Constitution. My submission is that if his amendment is accepted we will be excluding those people who have no faith in God at all. There are so many people in this country and elsewhere who have no faith in God. I may cite the example of the Jains. They do not believe in God and there are many who are atheists. If Mr. Kamath's amendment is accepted you will be excluding those people from becoming the President. If his amendment is accepted you will be creating an obligation on people that they should have faith in God.

Shri H. V. Kamath : Mr. Karimuddin has not seen my amendment. If he has seen it, he has not understood it.

Kazi Syed Karimuddin : The monopoly of understanding is with you only.
(Laughter)

Shri H. V. Kamath : Sometimes.

Mr. Vice-President : Do you want to explain it? Yours is an amendment to the amendment of Mr. Karimuddin.

Kazi Syed Karimuddin : My submission is that in a secular State, when you are framing a Constitution, why should there be a classification of people at the time of taking the oath? Whether they believe in God or not, should not be indicated. It is contrary to the spirit of democracy that any insertion of God should be made in the Oath in the Constitution. My submission is that non-mentioning of God is not banishing Him.

Mr. Naziruddin Ahmad : I may point out, Sir, by way of clarification, that Mr. Kamath's amendment does not insist that the President should have real faith in God. According to it, he has merely to begin with the name of God.

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

"That in article 49, after the words 'well-being of the people of India' the following be added:

'and will throughout the term of my office as such President so conduct myself as to leave no ground for any charge of seeking to promote my own interest or my family's aggrandisement, and that in any act I may have to do or appointment I may have to make, I shall consider only the interest of the public service and of the country collectively.' "

I am afraid this is rather a delicate matter. But there is an old adage that fools rush in where angels fear to tread. As I have been qualifying myself very highly and frequently for the former title, I am afraid I must keep to the role even in this delicate matter.

The oath of the President, apart from other things, must include in my opinion, an assurance and an affirmation that he will only look to the interest of the country, to the service of the people; and not think of his own interest or of the aggrandisement of his family in any act that he may have to do and in any appointment that he may have to make.

It is indeed a pity, Sir, that in this House there are, so far as I can judge, such few voices being raised in support of that purity of the governmental machinery which has been taught to us as the inevitable consequence of what was just described as Ram Rajya in this country. Sir, I must, at the cost of becoming wearisome by repetition, insist that those ideals which have been professed during our struggle against the Imperialist outsiders must not merely be copy-book maxims; they must be living realities, and be implemented and must become an actual fact of daily life, agreed to by everybody in the country from the highest to the lowest.

The symbol of that, I further submit, can nowhere be more vividly insisted upon than in this part of the oath of the President, that, during his term of office, he shall so conduct himself as to leave no ground for any suspicion of seeking to promote his own private interests, or secure the aggrandisement of

his own family, in any act he may do or in any appointment he will make; but that he will always and entirely consider the interests of the country collectively as a whole and not of any individual.

It is a pity, also Sir, that it has become necessary to emphasise what on the face of it seems to be such an obvious proposition. It would not have been necessary to include it, if only we had not bitter experience of people forgetting their own professions, of people forgetting the great principles that they themselves had uttered. For, once they had acquired power, they suffered from intoxication of power and position and allowed it so freely to mount to their heads that they forget what they had stood for throughout their lives, and violate in deed and in fact everyday what they had professed themselves.

Sir, power is a dangerous drug. It is new in this country and I am told—I have no experience of my own—that new wine is much more heady than old. I do think that whatever may have happened in the past, in the new Constitution we must see to it that the head of the State and the principal officers working under him for the benefit of the country, are free from any suspicion, any charge, any ground even to believe that they, in their several acts, in their several offices or appointments, have thought of anything but the good of the country according to their light.

Sir, I know that in human affairs some ground can always be found for such fears, and where good ground is not found, rumour may be busy imagining or fabricating things which are not at all there, or exaggerating things which may be only seedlings. I am also aware, Sir, that man is liable to err, with the best of intentions. The provision that I am seeking to make by this amendment is not intended to punish such errors made in good faith, in ignorance, or in the absence of proper light. What I am seeking to guard against by this amendment is a deliberate misuse or abuse of office and power, so that, instead of the interests of the country collectively, being attended to by those in power or authority, only the family interests or the individual's own interests may be promoted.

This has happened in other countries; and notwithstanding our heritage, notwithstanding our insistence upon popularising God even in such matters, we are liable, I take it, to repeat other people's follies as well. The mere presence of the name of God, I am afraid, will not be an insurance against the frailty of man. That being so, I want it to be clearly reaffirmed, I want it to be reinforced that those who hold the trust, the highest office under the people, and have in their power, in two, three or four years, to mould the destinies of the country, shall, atleast to their own judgment and according to their lights, be free from any accusations of the kinds I have contemplated in this amendment.

It is invidious, Sir, to mention specific instances. It is unnecessary, Sir, to quote examples of this kind which most of us may know. As the saying goes, in my part of the country at any rate, while everybody knows the name of his wife, none will utter it. That being so, I certainly am not prepared to violate that maxim, and mention names which may or may not be accurate. But I think there ought to be no difference of opinion that the head of the State should be free from any such charges. Hence, even if we may not have an absolutely destitute person as President, or a person without any family entanglements, a person without any connections or dependents, even then we should insist upon such safeguards as will see to it that human frailty is not reinforced by individual temptation, or constitutional laxity, and permit things which should never be done. The human brain is ingenious and lawyers there are who will reinforce that ingenuity. Cases are not wanting in the past when persons deliberately misinterpreted or violated the spirit of their own oath, if not the letter. I remember the case of a former Lord Chancellor of

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England who had in his power vast patronage of appointments to which he appointed only his own relatives. When this scandal grew to such an extent that only his sons, nephews and grandsons had any chance of appointment at all, the House of Lords appointed a Committee of Inquiry to find out whether or not such charges were well-founded. Appearing before the committee the Lord Chancellor—I think it was Lord Eldon—had the temerity to say, before this Committee, quite solemnly “I have taken *an oath* that I will appoint only those whom I know to be so and so. And whom do I know better than my sons or nephews? He forgot to add that it was only those whom he knew to be qualified that he was to appoint, and not only those whom he only knew. That was a difference and a distinction which his learned Lordship did not care to remember at the moment.

The case is also very well known of Queen Victoria, who, at the time of the disestablishment of the Anglican Church in Ireland in 1869, brought out her Coronation Oath to show that she had taken an oath to uphold and maintain the Church of England. She had forgotten that she had taken an oath only to maintain the Church of England *in England*, but not necessarily all over the world, or even whole of the United Kingdom. In this way, the opposition of the Queen was got over.

My point is that even though it may be possible to abuse or deliberately misinterpretation misapply the terms of the oath, the oath in itself is a guarantee of some sort. I know it is not an absolute knave-proof guarantee; but it is a guarantee of some sort that those who hold such offices will always be reminded of their obligations, of their promises that they will so conduct themselves as to be free from any suspicion of the kind that is implied in many acts or utterances of those who have high offices in their power as a gift. As I said before, this matter is so self-evident and so important that there ought to be no opposition to a proposition like this. I hope the House, true to the traditions which it has been upholding, will accept my amendment.

Shri R. K. Sidhwa : Mr. Vice-President, Sir, this is a simple clause relating to the oath to be taken by the President. Sir, I am a firm believer in the existence of God and also in religion but I must say, Sir, that it will not be proper to insert the word ‘God’ in our Constitution simply because we invoke the blessings of God. God is everywhere if you really believe in Him. God is here in this House. He is omnipresent. If you really believe in the existence of God, it is no use merely putting it in the Constitution and taking consolation from it. There is no use the President taking his oath in the name of God and then do something quite contrary to the teaching of God. There is another factor to which I object; I do not share the view of my Friend, Mr. Karimuddin that in a secular State the word ‘God’ cannot come in. A secular State does not mean that an individual cannot believe in God. That theory is certainly not tenable to any reasonable man, but I do believe, Sir, that day in and day out, we do say that religion shall have nothing to do with our Constitution, and that religion is our private concern. I certainly believe in God and I think religion is my own business. It is nobody’s business to tell me in what respect and in what method you believe in God and you approach your religion. In India, we feel that God is a symbol of religion; and in the name of religion, we know, Sir, how disastrous things are happening in this country; each community believes in God in his own way. The belief of the Hindus is quite different, that of the Muslims in quite different and so also that of the Parsis and the Christians. I, therefore, do not want that our Constitution should in any way be marred by the word “religion”, but if my friends have a consolation in bringing in God, and that is to their satisfaction, let them have it. I only want to say, Sir, that it would have been better if the word ‘God’ and the religious point of view were avoided. What I would really have

preferred is that the public should have been remembered by the President, when he takes the oath. He should have stated that in the presence of the people.....

Mr. Vice-President : Is that the amendment you are suggesting?

Mr. R. K. Sidhwa : I am only stating that from the Irish Constitution. There the President takes the oath in the name of the people of the whole country. He says: "I swear before the People of the whole country" and at the end of the oath states "if I break my oath, I will submit myself to the severest punishment from the State." I have heard this morning sermons being preached that the President should be a man of integrity, sincerity and honesty, and the resolution of the Jaipur Congress was quoted. But the President does not say "I shall be subject to the severest punishment if I do not carry out the injunctions that have been imposed upon me and I make that solemn affirmation before the people of this country".

Mr. Vice-President : I really find that you are moving amendment No. 1147 quoting the very words.

Mr. R. K. Sidhwa : These are the words of the Irish Constitution, Sir.

Mr. Vice-President : I do not deny that, but you are quoting from the amendment which you did not want to move.

Mr. R. K. Sidhwa : This is not my amendment and if it is so, I wish to state that I have borrowed it from another Constitution just as so many things have been borrowed by so many eminent persons in this House.

Mr. Vice-President : Not at all; I am merely suggesting that you are quoting the amendment which you did not move, *i.e.*, Amendment No. 1147.

Mr. R. K. Sidhwa : I bow to your ruling. I can not challenge what you say. I merely stated that it is merely a reproduction of the Irish Constitution.

Mr. Vice-President : It is certainly an amendment which stands in your name.

Mr. R. K. Sidhwa : I only wanted to say that the oath should be one appealing more to the people of this country, for whose interest and well being, we are preparing this Constitution.

Shri M. Thirumala Rao (Madras : General): Mr. Vice-President, Sir, I do not know why the light goes off as soon as I approach the mike. All of us are in need of greater light, especially after my honourable Friend, Mr. Sidhwa's speech, who has protested too much by God and who wants to eliminate God from the Constitution. Sir, it is strange how the honest and god-fearing people who have drafted this Constitution have got so much fear of God that they have altogether banished Him from the Constitution ! Sir, I want to bring to the notice of this House that during the last 30 years, the Congress struggle has gone on on definite lines of ideology, led by one of the greatest men of the world. Truth and non-violence have been our weapons and they have been uniquely used by large masses of people and during all these years, the people who fought for that freedom of this country have got a concept of what that freedom should be like. Mahatma Gandhi is worshipped in this country not because he is merely a political leader, but because he is a gentleman, a person who has personified in himself the spirit of the nation that has survived the onslaught of many invasions from far-off countries. Civilizations of the world have gone before us; the civilizations of Egypt and Babylon have perished, but the civilization of India has survived all these centuries, because there is something in the very make-up of this nation, which has got its roots deeply inspiritual emotion. If you eliminate that spiritual emotion, then India has no right to exist and would have ceased to exist long ago. All of us have fought under the able guidance of Mahatma Gandhi and Mahatma Gandhi has enthused and inspired us with definite ideals of the

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governance of our country. Unfortunately as irony would have it, the drafting of this Constitution has fallen into the hands of those people whose lives have not touched Mahatma Gandhi's ideology at any point except with the single exception of my honourable Friend, Mr. Munshi there.

Shri K. M. Munshi (Bombay : General): Thank you, Sir.

Shri M. Thirumala Rao : Therefore it is a disappointment that we have not really understood the genius of our people. We have always said, wherever we have gone, that the very basis of our life is embedded in religion. Go to the western countries. There the King stands for the country and God. The King stands for the religion of the community and you have seen the western universities. Oxford and Edinburgh—and all the older universities that provide the tradition in the oldest abbeys that are built along with the universities—these ancient cities of learning have given the first place to religion or the spiritual conduct of the nation. Therefore, what I suggest is this: that this Constitution is going to safeguard the real genius, the real civilization of this country. How are they going to safeguard it? A provision has been made for atheists. The Chairman of the Drafting Committee who has got such a soft corner for atheists, who are a handful in this country, should have shown greater enthusiasm for safeguarding the spiritual heritage of the vast masses of this country ! Such of those who have gone to Jaipur would have witnessed the real life of the nation is still alive with them. Thousands and thousands of people with genuine emotion in their hearts and tears welling in their eyes were looking at either Sardar Patel or Pandit Nehru, as the real symbols of the nation. I had occasion to watch a handful of Sikhs; they were telling us—about fifteen or twenty of them:

“Hamko Darshan Pura Hogia.”

Where does the word ‘Darshan’ come from? It is a word of religion. If they were looking at our leaders, it was not because they have got a regimented press and regimented armies behind them. Mahatma Gandhi was great not because of the regimented press, state and the armies to support him like the dictators, Stalin, Hitler and Mussolini of the West. The moment you want to banish God from your daily life, as reflected in the Constitution, that moment you have no right to exist. They in the West have banished God from the regimented State of Russia; they have forgotten God in the regimented State of Germany and Italy and you have seen the fate that has overtaken them. Therefore, what I say is if you want to reflect the real genius of our people, let us stand by God; God as such is such a wide term; God is an all embracing term. It is a common noun to which a proper name is given by each religion.

I have seen the amendments of my honourable Friends, Prof. K. T. Shah and R. K. Sidhwa. You want that a man should take the oath, affirming that he will behave properly, that he will be honest and that he will be everything. All these things are contained in ‘God’; much more is contained in that one word ‘God’ by which you are asked to swear and you say that you will not define the name of God in discharging you public duty. Therefore, Sir, the amendment which has been so ably moved by my honourable Friend Mr. Kamath really reflects the genuine genius of our country. I am sure this country and this Constitution will have to undergo a thorough transformation before it finally settles down to evolve this nation as one of the greatest nations of the East, to uphold the real culture of this country as a leader of the world. Therefore, Sir, this amendment has not come a bit too late and I am glad the party has accepted it.

An Honourable Member : Which party has accepted?

Shri M. Thirumala Rao : I think it is understood what I mean by ‘party’. I hope the House will unanimously accept this amendment.

Shri K. M. Munshi : Mr. Vice-President, Sir, I think the honourable Member who spoke against my honourable Friend Mr. Kamath's amendment got that

there was an amendment by my honourable Friend Mr. Mahavir Tyagi which leaves it free to those who do not believe in God to affirm solemnly the words of the oath. The only point before the House is, when a person believes in God, is he to swear by God or swear by somebody else? The amendment of my honourable Friend Mr. Kamath as amended by my honourable Friend Mr. Mahavir Tyagi's amendment fulfils the true criterion that when a man actually believes in God, he must swear by Him and not merely swear without His name or in the name of somebody else. We know in the olden days people used to swear by the cow's tail or by the *peepul* tree. The idea is that swearing must be in the name of God, in the most solemn belief that a man possesses.

My friend who spoke last was pleased to refer to me as one who was closely connected with Mahatma Gandhi out of the Members of the Constituent Assembly. I do not know whether it is true. But, I myself have felt—I am free to confess—that we are emphasising the absence of God in this Constitution too much. My opinion was that we should have His name in the Preamble; but the general opinion was different. But when it comes to swearing, I see no reason why any person should fight shy of the name of God. I fail to understand how this offends against the conception of a secular State. A secular State is used in contrast with a theocratic Government or a religious State. It implies that citizenship is irrespective of religious belief, that every citizen, to whatever religion he may belong, is equal before the law, that he has equal civil rights, and equal opportunities to derive benefit from the State and to lead his own life; and nothing more. A secular State is not a Godless State. It is not a State which is pledged to eradicate or ignore religion. It is not a State which refuses to take notice of religious belief in this country. As a matter of fact, every State recognises this. We have done it in passing the fundamental rights with regard to religion. Religion is the richest possession of man and even under this secular State, a person having a religious belief will be fully entitled to it in the way that he likes. Any State that seeks to outlaw God, will very soon come to an end.

We must take cognisance of the fact that India is a religious-minded country. Even while we are talking of a secular State, our mode of thought and life is largely coloured by a religious attitude to life. When Mahatma Gandhi died, the State procession which carried him to the funeral ground ended in religious ceremonies. His ashes were immersed in a hundred rivers of India. I may mention to you my own experience. When the ashes of Mahatma Gandhi were taken to be immersed in the Sangam in Hyderabad, the Hyderabad State, as it then was, officially joined in it. Over 200,000 Muslims joined in it. Religious ceremony was performed at the Sangam according to the Hindu style in a congregation which consisted of Hindus, Muslims, Christians and members of other communities. That shows that the subconscious mind of India is highly religious. We should not be ashamed of it. And it will be a day of disaster for India if, by some legislative trick, our State is converted into an irreligious, Godless State. We need not fear that a secular State is inconsistent with a religious mind among the people.

As an honourable Member has said before, if India has anything to give to the world, it is the outlook on life deeply imbued by spirituality, by awareness of God in our midst. If Indian culture has any meaning at all, it is that there is God and that a man can rise to the dignity of divinity in this very life if he becomes an instrument of God. The lever with which Mahatma Gandhi created the present nationalism and won for us a free State was the religious-mindedness of India. This mind will continue to be religious, and the State in India cannot be secular in the sense of being antireligious. It does not mean that a man who believes in God should not swear by Him when pledging himself to the service of his country. This is my submission on this point.

Mr. Tajamul Husain : Mr. Vice-President, Sir, every religion says that nothing can be done without the wish or order of God. Therefore, the logical conclusion is that my honourable Friend Mr. Kamath came to propose the name of God by the wish of God. And I have come here also by the wish and order of God to say that he does not want His name here at all. I have come here to oppose the amendment of Mr. Kamath; I will give my reasons later on.

First of all, I want that article 49 should be deleted from this Constitution. What is the use of having an article which says that the highest officer, the President, when he becomes President should take an oath or affirmation? What is the necessity? My honourable Friend Dr. Ambedkar, who is an eminent lawyer, knows that 99 per cent of the witnesses who go into the witness box and take an oath or affirmation mentioning Almighty God, go to tell the untruth. (*Interruption*)

Mr. Naziruddin Ahmad : Witnesses never take oath in the name of God unless they specially agree to. (*Interruption*)

Mr. Vice-President : It would be better if honourable Members do not interrupt.

Mr. Tajamul Husain : I thought the Honourable Mr. Naziruddin Ahmad who is a lawyer from Burdwan—I am told he is a very good criminal lawyer—knew that when a witness goes to the witness box he says:

“Allah ya Bhagwan ko nazir ho kar boltae ham.”

He says, “in the name of God, I express.....”

I was saying that article 49 should be deleted. I can move it without sending it in writing, because I oppose the whole thing. I say, Sir, that this Constitution is made by us—human beings. We cannot say this is a perfect Constitution. Nobody can say that. The word of Almighty is perfect and so why have the name of God in an imperfect Constitution? Why make Him cheap and why bring Him here? Sir, this constitution is going to be translated and the translation will come before the House and will be passed. What translation are you going to have? Whose name are you going to have? We all know that God is one but we have created thousands of Gods and your God is different from my God and Mr. Sidhwa’s is different from someone else’s. Whose God are you going to have? Why should Mr. Sidhwa take the oath in the name of some God which is not the name of his God? Supposing it is translated and the word ‘Bhagwan’ is there, can you compel the Parsee or Christian or a non-Hindu to say that when he becomes a President? Either you donot want him to become the President or if he does, he cannot swear that. Why have His name? We will worship Him in any way we like in our homes. I do not want to repeat the argument of Mr. Sidhwa. He has spoken very ably on this matter. There are Indians who do not believe in God at all. How are they going to take this oath? With these words I move:

“That article 49 be deleted.”

Rev. Jerome D’Souza (Madras : General) : Mr. Vice-President, it is not without some emotion that I rise to speak a few words on this amendment of Mr. Kamath. I am sure my honourable Colleagues in this House will have no doubt as to the purport of what I am going to say here. I have made references to this solemn subject more than once before this House, and so it is not without satisfaction that I notice and wholeheartedly approve of the suggestion or the amendment of Mr. Kamath. Nevertheless Sir, accepting and welcoming this amendment, I cannot help feeling that far too great a significance to the “official”, to the “Constitutional” aspect of it, has been given to this very moderate suggestion, by some of the speakers that have preceded me. If I may be permitted to say so, our honourable Friend Mr. Munshi struck the right note and put matters in the right proportion. What does this

amendment propose to do? Does this amendment commit the Constitution or the Constitution-making body here to a solemn and unequivocal profession of belief in God and in God apprehended by a concept clearly defined and unanimously held? If it were so, objection might have been raised to it, but no such thing is implied here. What is asked here is this: when the most honoured position in our country is being given by the choice of this country to a man of outstanding personality, ability and character, we want him to come to the threshold of that office and to make a promise of service to the country in the manner that is most binding and most solemn that we can think of; we want him to draw his strength from the deepest fountains and springs of action within him for the service of his country. And knowing that the vast majority of our countrymen, Hindus or Muslims or Christians or Parsees or Sikhs draw their moral strength from trust in the Supreme Being, it gives to this chosen, this exceptional man the option of promising service to the country in that Sacred Name if he so desires. We want to give him the opportunity of making what is in his eyes the most solemn and the most binding promise. We do not impose it upon him. If there is someone who for some reason or other does not want to take that particular form, an alternative form is suggested to him. All that the Constitution-makers and we here imply by this amendment is that we accept the fact that in our country the vast majority of men are believers in God and that almost certainly, anyone who would come to this exalted office would be moved to fulfil the functions of that office most faithfully if he promised to do so in the name of Almighty God. Taking this for a fact, we merely register that fact but make no corporate profession. I do not see therefore why this should be construed as opposed to the spirit of our Secular Constitution. Secondly, even a Secular Constitution, as Mr. Munshi pointed out, is not a Godless Constitution. It is not in opposition to the very notion of God. Only it makes no choice as between this or that particular profession, or religious section, but it does look with sympathy upon the convictions, the feelings, the desires, the hopes and aspirations of the entire people. It would not be true to the spirit of those people if it ignored this profound reality, the belief of all our people in God. To my honourable Friends who asked us, 'Have we got a uniform and clear notion of what God is before we permit the introduction of this word in our Constitution?' May I say, 'Is there anyone who is not aware in a broad and general way of what we mean by this word?' Is it necessary to enter into the discussions of Philosophers and Metaphysicians and to understand their subtle distinctions between this or that concept before accepting this term in so far as it stands for the Supreme Spiritual Reality that is behind this material and transitory world? We are making here an appeal to the eternal and everlasting foundation of all reality behind this passing, this temporal world. And in appealing to that, we are all one, Christians, Hindus, Muslims, Parsis and Sikhs, all of us knowing that above and behind what we see in time and in space, there is something that is unchangeable, Something that is eternal,—one that works for justice and peace and goodness and harmony. Our deepest instincts of brotherliness, of order, of justice, of law, of progress, are founded upon and inspired and sustained by that conviction and that Reality. My honoured colleagues will, therefore, accept this broad and general assumption as sufficient for the admission of this amendment, and permit us to include it as one of the forms by which the President will take office. In doing so, we are not cheapening the concept of God. We are not imposing it upon all and sundry, and at all times and in all places. But here, on the threshold of a most sacred and most solemn duty, the chosen leader of our country, presumed to be almost always a believer in God, is asked, if he is a believer, to promise in His sacred Name, and with all the strength of his soul and the force of his convictions to fulfil the duties that are imposed upon him. Can we doubt for a moment, that if we word that affirmation in that way, all that is deepest in him will respond to it, and

[Rev. Jerome D'Souza]

that he is bound to fulfil that duty in a manner which he will not be inspired to do if a less compelling forms were used?

I therefore, request the House to waive all objections that may be based upon other considerations or scruples, and accept this amendment which will leave the fundamental secular character of the State rightly understood untouched, and to give this amendment the grace of general acceptance. By this, people of the country will certainly not be persuaded or obliged to believe that we are all here making a solemn profession of this or that particular religion, but they will at least understand that the law-makers and the Constitution-makers realise that this country and its people have a strong religious faith, and that, realising it we here make an appeal to a principle of action and a motive of nobility which are bound to be responded to, and bound to do good to the country. Therefore, Sir, with all my heart, I support this amendment of my friend Mr. Vishnu Kamath and request this House to accept it unanimously. (*Cheers*)

Mr. Vice-President : Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, Sir, I am prepared to accept the amendment moved by Mr. T. T. Krishnamachari, that is No. 1144, and also amendment No. 1146 by Mr. Kamath, as amended by Mr. Tyagi's amendment.

With regard to the first amendment, that moved by Mr. T. T. Krishnamachari, not much argument is necessary. His amendment is certainly better than the amendment that stood in my name.

With regard to the second amendment No. 1146, in view of the fact that I am prepared to accept it in the form amended by Mr. Tyagi, I do not think I am called upon to enter into the merits of the question. But perhaps, it might be as well that I should say a few words as to why the Drafting Committee itself did not introduce in its original draft, the words "in the name of God." Sir, I do not think that this matter was considered fully by the Drafting Committee and therefore I cannot advance any adequate reason why they did not originally put in those words.

So far as I am concerned, I feel that this was a matter which required some consideration. If the House will permit me, I would express my own views on the matter. The way I felt about it is this. The word "God" so far as my reading goes, has a different significance in different religions. Christians and Muslims believe in God not merely as a concept, but as a force which governs the world and which governs, therefore, the moral and spiritual actions of those who believe in God. So far as Hindu theology was concerned, according to my reading—and I may be wholly wrong, I do not pretend to be a student of the subject—I felt that the word "Eswara" or to use a bigger word, "Parameswara" is merely a summation of an idea, of a concept. As I said, to use the language of integral calculus, you put sums together and find out something which is common, and you call that "S" which is merely a summation. There is nothing concrete behind it. If in Hindu theology, there is anything concrete, it is "Brahma" "Vishnu", "Mahesh", "Siva", "Sakti." These are things which are accepted by Hindus as forces which govern the world. It seems to me, that it would have been very difficult for the Drafting Committee to have proceeded upon this basis and to have introduced phraseology which would have required several underlinings—God, below that Siva, below that Vishnu, below that Brahma, below that Sakti and so on and so on. It is because of this embarrassment that we left the situation blank, as you will find in the Drafting Committee.

Shri A. V. Thakkar [United State of Kathiawar (Saurashtra)]: But there is One above all.

The Honourable Dr. B. R. Ambedkar : I am, however, quite happy that this amendment has been introduced. Now, some Members have raised objections to the amendment. They are afraid that the introduction of the word God in the Constitution is going to alter the nature of what has been proclaimed to be a secular State. In my judgment, the introduction of the word God does not raise that question at all. The reason why the word God is introduced is a very simple one. The Constitution lays down certain obligations upon the President. Those obligations are obviously divisible into two categories, obligations for which there is legal sanction and legal punishment provided, and there are obligations for which there are no legal rules provided, nor any punishment is provided. Consequently, in every constitution this question always arises. What is to be the sanction of such duties, such obligations, as have been imposed upon a particular functionary for which it is not possible by law to provide a criminal sanction, a penalty? It is obvious that unless and until we decide or we believe that these moral duties for which there is no criminal or legal sanction are not mere pious platitudes, we must provide some kind of sanction. To some people God is a sanction. They think if they take a vow in the name of God, God being the governing force of the Universe, as well as of their individual lives, that oath in the name of God provides the sanction which is necessary for the fulfilment of obligations which are purely moral and for which there is no sanction provided.

There are people who believe that their conscience is enough of a sanction. They do not need God, an external force, as a sentinel or a watchman to act by their side. They think a solemn affirmation coming out of their conscience is quite enough of a sanction. If honourable Members have read the history of this matter which is embodied in the struggle between Mr. Bradlaugh and the House of Commons, they will realize that as early as 1880 or so, Mr. Bradlaugh insisted that he was a perfectly moral being, that his conscience was quite active, and that if he took the oath his conscience was enough of a sanction for him to keep him within the traces, so to say. After a long long struggle in the House of Commons, in which on one occasion Mr. Bradlaugh was almost beaten to death by the Sergeant-at-Arms for trying to sit in the House of Commons and taking part in its proceedings without taking the oath to which he raised objection. Mr. Gladstone ultimately had to yield and to provide an additional or alternative form which is called solemn affirmation. Therefore the issue that is involved in this amendment has nothing to do with the character of the State. Whether it is a secular or a religious State is a matter quite outside the bounds of the issue raised. The only question raised is whether we ought not to provide some kind of a sanction for the moral obligation we impose on the President. If the President thinks that God is a mentor and that unless he takes an oath in the name of God he will not be true to the duties he assumes. I think we ought to give him the liberty to swear in the name of God. If there is another person with whom God is not his mentor, we ought to give him the liberty to affirm and carry on the duties on the basis of that affirmation.

I therefore submit that the amendment is a good one and I am prepared to accept it.

Mr. Vice-President : You have nothing to say on the amendments moved by Mr. Karimuddin and Prof. Shah?

The Honourable Dr. B. R. Ambedkar : No, Sir.

Mr. Vice-President : The question is:

“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.”

The amendment was adopted.

Mr. Vice-President : The next amendment to be put to the vote is No. 1146 But this is identical with Mr. Mahavir Tyagi's amendment and if Mr. Kamath agrees I shall put this one to the vote.

Shri H. V. Kamath : I have no objection to Mr. Tyagi's amendment, as there is a mere verbal difference between his and mine.

Mr. Vice-President : Then I shall put Mr. Tyagi's amendment, which is an amendment to amendment No. 1146, to vote.

Shri H. V. Kamath : No, Sir. My amendment as amended by Mr. Tyagi should be put to the vote.

Mr. Vice-President : Yes, yes: that is understood. I did not know that you were such a stickler for forms; You break so many forms systematically.

The question is:

"That in article 49 for the words 'do solemnly affirm (or swear)', the following be substituted:—

swear in the name of God
'do—————',"
solemnly affirm

The amendment was adopted.

Mr. Vice-President : The question is:

"That in the form of Oath in article 49 the words, 'and that I will devote myself to the service and well-being of the people of India' be deleted."

The amendment was negatived.

Mr. Vice-President : The question is:

"That in article 49, after the words 'well-being of the people of India' the following be added:—

'and will throughout the term of my office as such President so conduct myself as to leave no ground for any charge of seeking to promote my own interest or my family's aggrandisement, and that in any act, I may have to do or appointment I may have to make, I shall consider only the interest of the public service and of the country collectively'."

The amendment was negatived.

Mr. Vice-President : The question is:

"That article 49 as amended, be adopted."

The motion was adopted.

Article 49, as amended, was added to the Constitution.

The Assembly then adjourned till Ten of the Clock on Tuesday, the 28th December 1948.
