

**Mr. Vice-President :** I shall now put article 19, as amended by amendment numbers 596 and 609 to vote. The question is:

“That article 19, as amended, form part of the Consitution.”

The motion was adopted.

Article 19, as amended, was added to the Constitution.

**Article 14—(Contd.)**

**Mr. Vice-President :** We shall go back to Article 14. So far as I remember—I am sorry I have mislaid my notes—in article 14 there were a number of amendments which were put to the vote one after the other, and that only two amendments were being considered, when, for reasons already known to the House, we postponed their consideration. One was amendment No. 512 moved by Kazi Syed Karimuddin, and the other was a suggestion—am I right in saying that it was a suggestion made by Mr. T. T. Krishnamachari? Mr. T. T. Krishnamachari, will you please enlighten me? Was it a suggestion or was it a short notice amendment?

**Shri T. T. Krishnamachari:** It was a short notice amendment.

**Mr. Vice-President :** It was a short notice amendment admitted by me. These two only remained to be put to the vote.

**Mr. Naziruddin Ahmad :** With regard to amendment No. 512 I have a point of order, Mr. Vice-President.

You will be pleased to remember, Sir, that amendment No. 512 was moved in the House. It was accepted by Dr. Ambedkar and then it was put to the vote. The shouts according to your estimate were in favour of its acceptance. Then some trouble arose and then shouts were again called. The shouts according to your estimate were again in favour of the amendment. What is very important in this connection, Sir, is that you declared the amendment to be carried.

**Mr. Vice-President :** Did I declare the amendment to be carried?

**Mr. Naziruddin Ahmad:** Yes, Sir. I remember.

**Mr. Vice-President :** Do the records show that?

**Mr. Naziruddin Ahmad :** The shorthand notes may be referred to. My recollection is it was declared carried (*Interruption*).

**Mr. Vice-President :** Kindly, in order to preserve the dignity of the House, do not interrupt Mr. Naziruddin Ahmad only because he is putting forward a point of view which may not be agreeable to a certain section of the House.

(To Mr. Naziruddin Ahmed) Kindly confine your remarks to the business on hand.

**Mr. Naziruddin Ahmad:** Sir, I do not wish to obstruct the majority in dealing with this amendment in any way they please. I simply suggest that if it is carried, it cannot be put again. It is against the Rules. But I have a way out, which I shall suggest and which will be constitutional. There is a rule, in our Rules, that with the consent of twenty five per cent of the Members of the House, any resolution that has been carried may be re-opened. I suggest, Sir, that if I am right that it was declared to be carried, then, it should be re-opened in the regular constitutional manner.

**Mr. Vice-President :** The official records of the deliberations read this way:

“Just before the voting was called, however, Shri Mahavir Tyagi made a suggestion, which was later supported by the Prime Minister, that the voting on this particular amendment be postponed as there appeared to be some confusion as to the full implications of this provision. The House agreed to the suggestion and voting on this amendment and on the article as a whole was accordingly postponed.”

That shows that your whole objection falls to the ground.

(Mr. Naziruddin Ahmad rose to speak.)

Please do not argue.

I want to make certain other things clear to the House. I want to make clear the point of view from which I regard this. As I have said already, the House is the ultimate authority in this as in all matters. The House has laid down certain Rules for the conduct of the business. These Rules have been laid down mainly because the aim of the House is that the work should proceed smoothly. The smooth working of the House I regard as the really essential thing, and much more important than sticking to the Rules which the House has made and which the House can un-make at any time. When there was this confusion, to use the language of Mr. Naziruddin Ahmad, I made a reference to the House and the House agreed that the matter should be reconsidered. The House is fully competent to do so and if the House is still of that view, then the matter will be considered here and now.

**Maulana Hasrat Mohani :** (United Provinces : Muslim): May I know, Sir, whether the House has reconsidered or whether it is a mandate from the Congress Party who has issued a whip that it should be opposed? Do you decide to allow the House to reconsider or is it only a mandate from the Congress Party? I have got a copy of that whip in my hand, that this must be opposed.

**Shri Mahavir Tyagi :** (United Provinces : General): Sir, I protest against the language used and the honourable Member's referring to the whip of the Congress Party.

**Mr. Vice-President :** You have done your duty as a Congress man; now I shall do my duty as the presiding officer here.

**Maulana Hasrat Mohani :** Sir, I stick to what I have said.

**Mr. Vice-President :** I am sorry.....

**Shri Mahavir Tyagi :** Will you please ask him to give back the whip, which the honourable Member has no right to handle?

**Mr. Vice-President :** You are always the stormy petrel. While I am trying to bring peace and good humour you are interfering. I will not allow you to do so again.

As I was saying, I am very sorry that an old and experienced public man like Maulana Hasrat Mohani should have permitted himself to make references to things which are no concern of this House. As I have said more than once, though I belong to a particular political party, so long as I am in the Chair, I recognise no party at all. It is in that spirit that proceedings of this House are being conducted. I regret very much that anything should have been said challenging the way in which the proceedings have been conducted or are going to be conducted.

I ask the permission of the House once again as to whether I can re-open the matter.

**Honourable Members:** Yes.

**Mr. Vice-President :** Thank you. I am going to put amendment No. 512 to the vote.

**The Honourable Shri Ghanshyam Singh Gupta:** Sir, there is no question of re-opening. You had not finally said that the amendment was carried or was not carried. I want to impress upon the House that the Chair had not declared that it was either carried or it was not carried and therefore there is no question of re-opening at all. The matter is absolutely in the discretion of the Chair now. The Rules are quite clear. A vote is taken. Once it is challenged, the division bell rings. After the division bell

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rings, the Chair again puts it to the vote and then sends Ayes and Noes to the lobbies. The Teller counts the votes and after that, it is declared that a certain motion is lost or is carried. This was not done at all. In fact, it was in the process of declaration by the Chair that the motion is or is not carried that the Chair was pleased to say that this thing stands over. Anybody who says that the Chair finally declared that that motion was carried or lost is wrong.

**Mr. Vice-President:** It merely shows the depth of my ignorance. I used the word which should not have been used. I used the word 'reopen'. I am glad that the matter has been set right. I only wish that I had sufficient—what shall I say—ability to act in the way in which the Honourable Mr. Gupta has done. I now put amendment No. 512 to vote.

The question is:

‘That in article 14, the following be added as clause (4):—

“(4) The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated and no warrants shall issue but upon probable cause supported by oath or affirmation and particularly describing the place to be searched and the persons or things to be seized.”

The amendment was negatived.

**Mr. Vice-President :** We come to Mr. Krishnamachari's amendment which was accepted by Dr. Ambedkar.

**Shri H. V. Kamath:** Is it necessary to say that Dr. Ambedkar has accepted or rejected every time?

**Mr. Vice-President :** Sometimes it is necessary. Not always. I now put the amendment to vote.

The question is:

“That in clause 2 of article 14 after the word ‘shall be’ the words ‘prosecuted and’ be inserted.”

The amendment was adopted.

**Mr. Vice-President :** Now the question is:

“That article 14, as amended, stand part of the Constitution.”

The motion was adopted.

Article 14, as amended was added to the Constitution.

### Article 15

**Mr. Vice-President :** Now the motion before the House is: that article 15 form part of the Constitution.

We shall go over the amendments one after another. 515 is ruled out of order. Nos. 516, 517, 518 and 532 are similar and of these I can allow 516 to be moved as also 517 both standing in the name of Shri Brajeshwar Prasad.

**Shri Brajeshwar Prasad:** (Bihar : General): Sir, I am not moving 516 and 517.

(Amendments Nos. 518, 532, 519 and 520 were not moved.)

**Mr. Vice-President :** No. 521 is blocked. Then 522, 523, 524, 525, 528 and 530 are similar. I can allow 523 to be moved.

**Kazi Syed Karimuddin** (C.P. & Berar: Muslim): Mr. Vice-President, Sir, if the proposed amendment by the Drafting Committee is accepted and the article is allowed to stand as it is:—

“No person shall be deprived of his life or personal liberty except according to procedure established by law.....”.

then in my opinion, it will open a sad chapter in the history of constitutional law. Sir, the Advisory Committee on Fundamental Rights appointed by the Constituent Assembly had suggested that no person shall be deprived of his life or liberty without due process of law; and I really do not understand how the