CONSTITUENT ASSEMBLY OF INDIA

Friday, the 31*st 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.

DRAFT CONSTITUTION—(*contd.*)

Article 62—(*contd.*)

Mr. Vice-President : (Dr. H. C. Mookherjee): We shall now resume discussion of article 62.

(Amendments Nos. 1310 and 1311 were not moved.)

Nos. 1312 and 1329 are of similar import. No. 1329 may be moved. Dr. Ambedkar.

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

"That after clause (5) of article 62, the following new clause be inserted:—

'(5) (a) In the choice of his Ministers and the exercise of his other functions under this Constitution, the President shall be generally guided by the instructions set out in Schedule III-A, but the validity of anything done by the President shall not be called in question on the ground that it was done otherwise than in accordance with such instructions.' "

Mr. Vice-President : There is an amendment to this amendment, *viz.*, No. 50 of List IV in the name of Mr. Naziruddin Ahmad.

Mr. Naziruddin Ahmad (West Bengal : Muslim): Mr. Vice-President, Sir, I beg to move:

"That in amendment No. 1329 of the List of Amendments, in the proposed new clause 5(a) all the words commencing with 'but the validity' to the end be deleted."

Sir, the amendment which has just been moved by the honourable Member Dr. Ambedkar introduces a new clause (5) (a) to article 62. It provides that the President in choosing his Ministers as well as "in the exercise of other functions" under the Constitution, would be generally guided by the Instrument of Instructions. With regard to this part of the clause I have no quarrel. But the last few lines which I have sought to omit seem to be open to serious objection. At least they require clarification. The words which I want to delete are the following—"but the validity of anything done by the President shall not be called in question on the ground that it was done otherwise than in accordance with such instructions."

I submit, Sir, that these words imply a serious encroachment on the Constitution. The earlier part of the clause affects also "other functions" under the Constitution. These words are all-embracing. In fact, the "other functions" under the Constitution mean all sorts of functions. The choice of Ministers should be a matter which should not be open to question at all. But the validity of any other functions, I submit, should not be immune from question. In fact, under the Constitution, the President would be a constitutional President. He would be acting on the advice of Ministers. So in the exercise of his other functions under the Constitution, he would be acting on the advice

[Mr. Naziruddin Ahmad]

of his Ministers. The effect of the words which I seek to delete would be that it would give the President absolute and autocratic power in the exercise of his "other functions" under the Constitution. That is too much to concede. The real effect of the President being a constitutional President would be that the Ministry or a Minister may advise the President to do anything which is not constitutional, and the effect of the words which I seek to delete would be that a clearly unconstitutional act, or which may amount even to a deliberate, open violation of the Constitution would not be open to question. The new clause says that such an act of the President "shall not be called in question". The prohibition is absolute. It cannot be called into question in any place, in any manner. It would not be open to question in a Court of law, in the legislature or anywhere else. I do not know whether any criticism in a newspaper questioning the legality or even the propriety of an act of the President would be prohibited under this clause. But the plain meaning of these words would be at any rate to shut out any discussion of it in the Legislature or in a Court of law where an unconstitutional act should be effectively challenged. I submit, Sir, that these words are too wide to be accepted. I do not suggest or believe that they were introduced to cover and protect a deliberately perpetrated unconstitutional act. I do not believe it. But the effect of these words would nevertheless be this. They would cover or protect from question in any way any act done by a Minister or by a Ministry through the President and a Minister will thereby secure a kind of protection which he should not enjoy. A Minister will be enabled to use the President as an effective shield to support an unconstitutional act. The sanctity of the Constitution would thus be seriously impaired, its authority seriously undermined, if a perfectly unconstitutional act is shut out from any kind of discussion or question, under the latter part of this clause. I submit, Sir, this is a very serious encroachment on the rights of the citizens so eloquently guaranteed with so much flourish in the Constitution. These rights would be absolutely nullified if a President can be coaxed, persuaded, on the advice of a Minister to act in an unconstitutional manner. I submit that this is an effect which is undesirable and, perhaps, not intended. I, therefore, seek the elimination of even any possibility of any question as to the unconstitutionality of an act of the President being in any way shut out. At any rate I seek clarification. I think that the rights of the citizens should be protected from this sort of encroachment under the last few lines.

Mr. Vice-President : Amendment No. 1312. Mr. Mohd. Tahir and Saiyid Jafar Imam, do you want this amendment to be put to vote?

Saiyid Jafar Imam (Bihar : Muslim): Yes.

(Amendment No. 1313 was not moved.)

Mr. Vice-President : Amendments Nos. 1314, 1315, 1316, 1317, 1319 and 1320 are all of similar import. No. 1315 seems to be the most comprehensive and may be moved. It stands in the name of Shri Damodar Swarup Seth.

(Amendment No. 1315 was not moved.)

Amendment No. 1314, standing in the name of Shri Kesava Rao may be moved.

(Amendment No. 1315 was not moved.)

Amendment No. 1316, standing in the names of Mr. Mohamed Ismail and Mr. Pocker Sahib, may be moved.

B. Pocker Sahib Bahadur (Madras : Muslim): Sir, I beg to move:

"That for clause (2) of article 62, the following be substituted:—

'(2) The Ministers shall hold office so long as they enjoy the confidence of the House of the People.' "

Sir, I may at the outset say that this amendment has no communal character, and there is no political motive behind it. I have to make this statement in view of my past experience. What this amendment asks for is only to put in writing in the Constitution what is admitted to be the convention. No doubt, the convention prevails, that the Ministers shall hold office only so long as they enjoy the confidence of the House of the People. So long as the Ministers enjoy the confidence of the House of the People, certainly they will not be dismissed by the President. But as a matter of practice, it is not a fact to say that the Ministers hold office during the pleasure of the President. It is really a fiction to say that the Ministers hold office during the pleasure of the President. It is not so, as a matter of fact. No doubt, the convention prevails in Great Britain and some other countries. But when we are providing for the country a written Constitution, I do not see any reason why we should hang on to the conventions that obtain in other parts of the world. Even when we have got an opportunity to put down everything clearly in the Constitution, should we be left to quote the precedents of the United Kingdom or the United States? There is absolutely no harm in putting on paper, in the Constitution, the actual state of affairs, namely, that the ministers shall hold office so long as they enjoy the confidence of the people. I am saying this in anticipation of the only possible objection to this amendment, *viz.,* that it is a convention that obtains in the rest of the world and therefore it is not necessary to put it down in writing in the Constitution. As a matter of fact, I feel myself at a disadvantage on account of the procedure that is being followed; under this procedure one is not in a position to know what the real objection to an amendment is until the Honourable Dr. Ambedkar gets up and states his objection. He has the last word on the subject. There is no opportunity for the Mover or any of the other members of the House to deal with the objections or tell the House whether the objections are valid or not. I am not in the least questioning the procedure. I simply state what the procedure followed is. Therefore I am driven to the necessity of anticipating what possible objection there can be to an innocent amendment like this.

From what was mentioned by the Honourable Shri K. Santhanam in connection with the discussion of article 61, I gather that this will be the possible objection, namely that this is a convention that obtains elsewhere and therefore it will be difficult to put it down on paper and it is also unnecessary. To this anticipated objection I submit that we should not continue to be slavish here after too, when we have obtained our freedom. No doubt until now we have been slavishly following the convention or procedure adopted in Great Britain and in other parts of the British Commonwealth. But, having obtained freedom to do what we feel to be for the best for our country, why should we not put down our ideas in the Constitution itself? I see no reason why we should again be hanging on even here after to precedents and conventions obtaining elsewhere and not put down what we desire to be the law in our Constitution? The conventions referred to in other countries are there because of the fact that they have unwritten Constitutions. At least so far as these aspects are concerned, why should we leave them in an unspecified manner to be fought out in the Supreme Court? There is no necessity for that when we have an opportunity to put these down in the Constitution now. Why cannot we state this clearly? Where is the harm or danger in doing so, I cannot understand.

Sir, as I said I have anticipated the possible objection to my amendment and I say that that is no objection at all. On the other hand, we must put down in writing clearly what the convention is.

Now, Sir, I also heartily support the amendment moved by my honourable Friend Mr. Naziruddin Ahmad for the deletion of the latter part of the amendment moved by the Honourable Dr. Ambedkar. Mr. Naziruddin's

[B. Pocker Sahib Bahadur]

amendment is to omit the words "but the validity of anything done by the President shall not be called in question on the ground that it was done otherwise than in accordance with such instructions". Mr. Naziruddin Ahmad's amendment only seeks to delete what is attempted to be taken away from that which is given by the first part of the amendment of the Honourable Dr. Ambedkar. If the latter part of the amendment of Dr. Ambedkar is not there, it will mean something. Otherwise his amendment would only be a paper amendment and a pious wish without any substance in it and helpful to nobody. Therefore I heartily support the amendment of Mr. Naziruddin Ahmad.

Now, Sir, so far as my amendment is concerned, before resuming my seat, I would only mention this: that as I have already said, I am driven to the necessity of anticipating the possible objections to it and reply thereto. Another possible objection that I can think of to my amendment is, according to the experience I have gained in the discussion on other clauses, that the amendment, is communal. To that I say that this amendment is entirely non-communal and non-political and there is no other motive behind it. It affects only the constitutional aspect of the problem. Only it happens to be moved by a member who is a Muslim. I say this, Sir, because yesterday I was surprised to find that Dr. Ambedkar, in his reply to an amendment moved by Mr. K. T. M . Ahmed Shah pointed out to the House that it must be remembered that the amendments are moved and supported only by Muslims. I ask, Sir, whether an amendment or the reason behind it loses any force by the fact that the Mover is a Muslim or a Christian or a member of the Scheduled Castes or of other minority communities? I am very sorry to find that, while Dr. Ambedkar is doing very great service to the country in having undertaken this most difficult task at so much sacrifice of pushing through the Constitution, I never expected that he of all people would resort to such reasoning.

Mr. Vice-President : Please confine yourself to your amendment. You are going out of your way.

B. Pocker Sahib Bahadur : Sir, I do not want.....

Mr. Vice-President : Kindly carry out my suggestion.

B. Pocker Sahib Bahadur : I am carrying out your suggestion. I want to say I am only appealing to the House that, in considering the validity or the propriety of this amendment, the fact that the Mover is a Muslim should not be taken into consideration. Sir, I am entitled to say that in view of what has happened with reference to the other amendments moved by some Muslim members.....

Mr. Vice-President : You need not dilate upon it.

B. Pocker Sahib Bahadur : That is right, Sir. I entirely agree. I only wanted to make that point clear; that is all. I only wished to mention that the discussion in this House should be kept at a higher level than what it would be if such kind of reasoning is adopted for opposing amendments of members of minority communities.

Mr. Mohamed Ismail Sahib (Madras : Muslim): On a point of information, Sir, may I know whether, in view of the fact that the movers of amendments have not got the right to reply and particularly in view of the fact that certain serious statements have been made by some members and also personal reflections have been cast on members, they cannot reply to them when there is an opportunity of doing so; more particularly when they have a legitimate opportunity to reply to the reflections and unjustified and unwarranted statements that were made in the House. In all legislative proceedings, the mover of a serious amendment, a substantive amendment, has got the right to reply

at the end, but you have ruled, Sir, to the contrary, to which we submit. However, have we not got the right to reply to the statements made, when there is an opportunity and that too an opportunity which does not take the Member out of his way?

Mr. Vice-President: I certainly shall not hinder any member from replying to unjustifiable reflections. On that I am perfectly clear in my mind. At the same time I must use my powers in order to persuade members when they make such reply to use language which may not provoke irritation. It is this that was responsible for the request I made to Pocker Sahib. I think you will agree that this is the best way of proceeding with our work without unnecessary friction.

Mr. Mohamed Ismail Sahib : I quite appreciate and agree to the advice you have given, Sir, that members should not use any provocative language. That advice of yours, I hope, is addressed to all sections of the House.

Mr. Vice-President : Has the Chair ever been guilty of saying anything which is meant for one section of the House only? I do not think that has ever been the case.

Mr. Mohamed Ismail Sahib : That is what I wanted you to emphasise, Sir. This interruption of mine has been occasioned by certain provocative statements that have been made. They were quite unwarranted. Therefore, I am grateful to you for saying that this advice of yours is meant not to one section but to all sections of the House. I beg your pardon for interrupting.

Mr. Vice-President : Pocker Sahib, please continue.

B. Pocker Sahib Bahadur : Sir, I would respectfully follow your advice. I do not want to make either any provocative statements or to dilate more upon the topic. I have already mentioned what I wanted to mention, *viz.,* the fact that a particular member belongs to a particular community ought not to be a ground for stating that a particular argument has no value or should not hold water, as it proceeds from a member of a particular community. I say this particularly for the reason that it is the duty of each and every member of this House to keep the debate on a high level and we should never go down to a low level to which we will be driven if such statements are resorted to. I do not want to pursue this matter further. Sir, I move this amendment and leave it to the House to consider the same without any reference to the question that it is a Muslim who has moved it.

(Amendment No. 1317 was not moved.)

Mr. Vice-President : Amendment No. 1319. Prof. Shah, do you want it to be put to vote?

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

Mr. Vice-President : There is an amendment to this amendment. I allow that to be moved. No. 48 of List IV.

Mr. Naziruddin Ahmad : I desire that this also should be put to the vote.

Mr. Vice-President : Amendment No. 1320 standing in the names of Mr. Tahir and Mr. Jafar Imam. Do you want it to be put to vote?

Mr. Mohd. Tahir (Bihar : Muslim): Yes, Sir.

Mr. Vice-President : There is an amendment to this. No. 49 of List IV.

Mr. Naziruddin Ahmad : I desire that this also should be put to the vote.

(Amendment Nos. 1318 and 1321 were not moved.)

Mr. Vice-President : Amendment No. 1322 standing in the name of Mr. Mihir Lal Chattopadhyay.

Mr. Naziruddin Ahmad : On a point of order, Sir. This is a good amendment, but it is purely verbal.

Mr. Vice-President : It is a good amendment, though it is verbal. Therefore it is allowed.

Shri Mihir Lal Chattopadhyay (West Bengal : General) : Mr. Vice-President, Sir, I move:

"That in clause (3) of article 62, after the word 'Council', the words 'of Ministers' be inserted."

Obviously, this is a simple amendment but I consider it to be very necessary. The word 'Council' has been used in the body of the Draft Constitution in different places to express different meanings. It is desirable that in this clause nothing should be left vague and uncertain. It should be precise and definite. I hope Dr. Ambedkar and the House will have no difficulty in accepting this.

(Amendment Nos. 1323 and 1324 were not moved.)

Mr. Mohd. Tahir : Sir, I beg to move:

"That for clause (5) of article 62 the following be substituted:

'(5) A Minister shall at the time of his appointment as such, be a member of the Parliament.' "

Before I submit a few words regarding my amendment I would draw the attention of the House to the existing clause of the article. Clause (5) says:

"A Minister who for any period of six consecutive months is not a member of either House of Parliament shall at the expiration of that period cease to be a minister."

This shows that even if a person is not a member of the Parliament he can be appointed as a minister. In this connection I would submit that it is wholly against the spirit of democracy that a person who has not been chosen by the people of the country should be appointed as a minister. When the Parliament is constituted it is evident that it will be a House consisting of more than 300 members and they will all be members elected by the people of the country and there is no reason why an outsider who is not a member of the Parliament should be appointed as a minister. It cannot be imagined that out of a total of 300 or 400 members of the Parliament the President or the Leader of the party will not be able to find out a suitable person to be taken into the ministry and hence he will be forced to choose a minister who is not a member of the Parliament. I think that it goes against the spirit of democracy; rather it cuts at the very root of democracy not to choose a minister from out of the members of the Parliament chosen by the people of the country. Therefore I submit that this clause should be replaced by my amendment.

After this I want to say a few words regarding the amendment which has been proposed by my honourable Friend Dr. Ambedkar, *viz.,* No. 1329. On this matter I have also given notice of an amendment, No. 1312, which reads:

"In choosing his Ministers the President shall be generally guided by the instruction set out in Schedule 4(A)."

Now my friend has brought up a similar amendment, though not exactly the same thing, and has selected the Schedule to be 3(A). I would point out that Schedule 3(A) is not the proper place nor should this schedule be numbered as Schedule 3(A), because in the existing schedules we find that Schedule 4 gives the instructions to the Governors and Schedule 3 is the form of declaration. Therefore I submit that if any proper place is to be given to this schedule it can only be either Schedule 4 or 4(A). It cannot be given a place as Schedule 3(A). Besides this, in the amendment proposed by my honourable Friend the last portion, *viz.,* "but the validity of anything done by the President shall not be called in question on the ground that it was done otherwise than in accordance with such instructions", is in fact the negation of the instruction that has been given to the President. The spirit of this schedule is that in

choosing the ministers the President should have regard to giving proper representation to the minorities in the Ministry. The instruction as has been laid down by my honourable Friend Dr. Ambedkar gives me to understand that the idea that proper representation should be given to the minorities in the Ministry cannot be met if this portion is maintained in the amendment. In fact, my honourable Friend has been very generous here to give discretionary power to the President, whereas in his speech yesterday he was clear to the House that no discretionary power should be given to the President and the House had adopted it. By this amendment, in other words, he has given some discretionary power to the President. My submission would be that the Instrument of Instructions to the President should be very simple and clear as has been laid down in my amendment and I hope my honourable Friend Dr. Ambedkar will consider it and be pleased to amend his amendment accordingly, so that the Instrument of Instructions may stand very simple and clear.

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

"That in clause (5) of article 62, for the words 'for any period of six consecutive months, is' the words 'after his appointment, is for any period of six consecutive months' be substituted."

The amended clause would then read:

"A minister, who after his appointment is for any period of six consecutive months not a member of either House of Parliament shall at the expiration of that period cease to be a minister."

This I take it must have been the intention. If for any consecutive period of six months, whether on account of his going abroad or doing other work which prevents him from being a member of the House, he is to be disqualified or that he should cease to be a minister, I think it could not have been the intention. What the intention of this clause must have been is that if a Minister is, *after* his appointment as Minister, not a member for six consecutive months, whether as originally not elected, or has not been able to find subsequently election to the House, he should cease to be a member. This, Sir, is merely a consequence of the principle of collective responsibility of a Minister, which requires every Minister to be a member of one or the other House of Parliament. As such I do not think it is necessary to present any elaborate case in support of this amendment. I commend it to the House.

Mr. Vice-President : There is an amendment to this amendment No. 71 of list V standing in the name of Mr. Krishnamachari. Does he move it?

Shri T. T. Krishnamachari (Madras : General): Mr. Vice-President, Sir, I beg to move:

"That in amendment No. 1326 of the List of Amendments for the word 'after' (in the words proposed to be substituted), the words 'from the date of' be substituted."

If this amendment is accepted, it will read: "from the date of his appointment, is for any period of six consecutive months" and so on. This is a very minor amendment. It makes the meaning very precise and indicates from when the six months will operate. I trust the House will accept it.

Shri H. V. Kamath (C. P. and Berar: General): May I suggest to my Friend Mr. Krishnamachari that consistently with the import and meaning of his amendment the word "any" should be substituted by the word "a". The word "any" makes no sense in this context.

Shri T. T. Krishnamachari : Personally I have no objection, though I do not think it will make any material difference.

(Amendment No. 1327 was not moved.)

Prof. Shibban Lal Saksena (United Provinces: General): Sir, I beg to move:

"That in clause (5) of article 62, for the words 'either House of Parliament' the words 'House of the People' be substituted."

[Prof. Shibban Lal Saksena]

This has been further amended by my amendment to this amendment No. 72 of list V. I beg to move:

"That for amendment No. 1328 of the List of Amendments the following be substituted:

'That in clause (5) of article 62, for the words "is not a member" the words "is not an elected member" be substituted.' "

This is an amendment of a fundamental character. We have provided in the Constitution for nomination of twelve members to the Council of States. There will be twelve members who are nominated in that Council and in the Lower House Anglo-Indians will also be nominated. According to this clause (5) as it stands, members who have not been returned by the electorate shall be able to be permanent Ministers of the Government. This is altogether against all democratic methods. Formerly, I had desired that only members of the Lower House who were elected by the General Electorate should be eligible to be appointed as Ministers but after seeing the opinion of many Members I thought that my amendment should not be so extreme, but I do feel that unless everybody who is a Minister has got the confidence of the electorate, he should not be appointed as one. I therefore want that instead of "is not a member" it should be "is not an elected member". You may remember, formerly, when we were discussing the election of the President, we provided that only elected members should be entitled to vote. Now, if members nominated are not fit to vote at the Presidential election, if we do not credit them with that much responsibility, surely to be a Minister of the Government of India is a far more responsible office. The same will be the case about any Cabinet in any province. Therefore, if nominated members are not fit to vote for the President's election they are also not fit to be appointed Ministers of any Government. Every Minister who is a member of a Cabinet must seek open election and if he is returned, only then he should be appointed a Minister. Otherwise, what will happen is this. In many provinces we shall have Upper Chambers, and there too there will be nominated members and if these nominated members may become Ministers I am sure an occasion might arise when the whole Council of Ministers is composed of nominated members excepting perhaps the Prime Minister. That will be a very extraordinary situation indeed. It would be a complete negation of democracy. Therefore I want this question to be properly understood. Probably, this was the purpose of my honourable Friend Dr. Ambedkar and what he meant was that if a Minister does not become a member of either House within six months, he ceases to be a Minister. By this, he surely meant that he should be elected and I would very much welcome it from him if that is his purpose, and I expect he will accept my amendment. I hope in this way he will see that Government is absolved from the charge that in our Constitution there could be Cabinets where except the Prime Minister all the Ministers are nominated. Especially in the State legislatures, as at present provided about two-thirds of the members in the Upper Chamber shall be nominated and if any Prime Minister thinks of nominating only those members, then the whole Cabinet will become a sort of nominated Cabinet and that surely is utterly against democratic principles. Similarly, in the Central Parliament also, the twelve members whom the President may nominate may be persons the majority of whom may be appointed to the Cabinet. It may be that such a thing may not arise, but it is quite possible and we should see that no Prime Minister is able to allow his power to be so misused. I therefore think that the addition of the word "elected member" would make the whole thing perfectly right. I hope Dr. Ambedkar will accept this amendment. Sir, I move.

(Amendment Nos. 1330 and 1331 were not moved.)

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

"That after clause (6) of article 62, the following new clause be inserted:

'(7) Every Minister shall, before he enters upon the functions and responsibilities of his office, make a declaration and take steps in regard to any right, title, corresponding to those provided in this Constitution for the President and Vice-President, and shall take an oath—or make a solemn declaration—in the presence of the President and of his colleagues in the following form.' "

Sir, I see that the form is not printed here. I do not know whether it was some separate slip that I had given which is left out or forgotten or has been lost, but the oath actually suggested has not been printed. I hope, Sir, that would not be an objection.

Mr. Vice-President : That will not be an objection. At the same time, I have to make it clear that the form has been received by the office.

Prof. K. T. Shah : I may have forgotten. I am not blaming the office. The form is one which I have read on the former occasion, Sir, I have not got that paper here, but I can say from memory.

Mr. Vice-President : You may proceed with your speech.

Prof. K. T. Shah : This, Sir, is an amendment which in principle I have been pressing for from a variety of angles, whether as regards the President or the Minister or the Prime Minister. It was to me a very painful and surprising phenomenon that yesterday, when one of the most satisfactory reasoned replies was given to one of my amendments by the Chairman of the Drafting Committee, this particular point was not answered; I do not know, whether it remained unanswered by oversight, or by deliberate omission. I had taken care to remind him that he had assured me, or at any rate, he had made a sort of promise when discussing a similar matter in regard to the President that when or if the matter occurred in connection with the Ministers, who had the real effective executive power under this Constitution, he might consider it. I say, Sir, it was extremely surprising that such a careful, painstaking champion of the Draft should have, notwithstanding a pointed reminder, chosen to remain altogether silent and the silence was still more intriguing, when one of the honourable Members actually asked whether there was any answer to that particular point. It seems either that the Honourable the Chairman of the Drafting Committee has no answer or does not wish to answer, or has made a promise which is so embarrassing that he does not wish now to be even reminded of it.

Whatever it may be, Sir, I beg to place before this House that even in the Press that particular item seems to have been completely overlooked, whether it was by oversight just as the form is not printed here,—my mistake of course,—or for any reason, one particular most essential item that in my opinion would guarantee a purity, an honesty, an honourableness in the working of our Government seems to be killed by a strange conspiracy of silence. I trust that this is a matter, at least when we are dealing with the Ministers, that the draftsman will take note. It is not a matter of changing a comma or a semi-colon; it is not a matter of substituting ministers for Council of Ministers; it is a matter, Sir, which goes to the very foundation of the actual working of the governmental machinery; and, as such, Sir, I hope that those who have it in their power to mould, form, and shape this Constitution, to put it into a proper wording, and to give it a sound working character, will appreciate the desire with which the principle is placed before them from one angle and another, with a view to make them realise that we do stand in need of some such provision in our Constitution.

I was advised, Sir, yesterday from a high authority, that if I had not taken upon myself this unnecessary task of putting forward amendments to every clause, and if I had concentrated myself on a few principles, I might have proved more useful. Sir, I do not measure the usefulness of my amendments

[Prof. K. T. Shah]

by the number of them which are carried. I measure the usefulness of my amendments merely by the degree of thought and interest or opposition I provoke; and, as such, I feel perfectly satisfied, whether or not they are accepted, if the honourable Members, including Ministers of the Government of India, are given furiously to think in the matter; and have to reply specifically to points of that character. Here, however, Sir, is a case in which I seem to have, whether consciously or unconsciously, accepted and acted up to such an honourable and exalted advice; and appear to have concentrated myself on this principle. On this I have been labouring time and again, from one angle and another. And yet what is the fate? Failure, of course, to persuade the drafting and piloting block to see eye to eye with me. There is no possibility of an effective reply. There is no gainsaying the desirability of the points I am making. And yet not only do I get no reply; the very point I urged is suppressed or blacked out even in the press. And this conspiracy of silence, to say the least, is amazing. I trust on this occasion the silence will be broken; I trust on this occasion I will be given, what has been called "a crushing reply". And I trust this time, at any rate, the reply will be so crushing that I will cease to put forward, at least to this House, this kind of amendment.

Mr. Vice-President : There is an amendment to this amendment. It is No. 51 of List No. IV and stands in the name of Mr. H. V. Kamath.

Shri H. V. Kamath : Sir, I move:—

That for amendment No. 1332 just moved by my honourable Friend, Prof. K. T. Shah, the following be substituted:—

"That after clause (6) of article 62, the following new clause be inserted:

'(7) Every minister including the Prime Minister shall, before he enters upon his office, make a full disclosure to Parliament of any interest, right, share property or title he may have in any enterprise, business or trade, directly owned or controlled by the State, or which is in any way aided, protected or subsidised by the State; and Parliament may deal with the matter in such manner as it may, in the circumstances, deem necessary or appropriate.' "

My amendment, Sir, does not go as far my honourable Friend, Prof. K. T. Shah's goes. I only seek through this amendment that a minister before he enters upon his office shall disclose to Parliament whatever share, interest or title he may have in any business or enterprise that may be owned, controlled or subsidised by Government and I leave it to Parliament to deal with the matter as best as it can. It may call upon him to sell it to Government; Parliament may call upon him to make it over to be administered in trust for him or the Reserve Bank may hold it in safe trust. I leave it to Parliament as our sovereign legislature to decide the best course that may be adopted in the circumstances for dealing with this particular matter.

I would, by your leave, Sir, like to read from the Factory Act, to which I referred in a previous occasion, the Act which we passed during the last session of the Legislative Assembly. There is a section, Section 8 in this Factory Act, of 1948, which provides for the appointment of Factory Inspectors and one clause of this section is to the effect:—

"No person shall be appointed as Factory Inspector or having been so appointed shall continue to hold office, who is or becomes directly or indirectly interested in the Factory or in any process or business carried on therein, or in any patent or machinery connected therewith."

Sir, there is another section, Section 10, providing for the appointment of Factory Doctors, Certifying Surgeons. That also provides that:

"Certifying Surgeon. No person shall be appointed to be or authorised to exercise the powers of a Certifying Surgeon, or having been so appointed or authorised, continue to exercise such powers, who is or becomes an occupier of a factory or is or becomes directly or indirectly interested therein or in any process or business carried on therein or in any patent or machinery connected therewith or is otherwise in the employ of the factory."

Now, it is obvious, it is plain as a pike staff, that the relationship of a Minister of State is far more intimate, is fraught with far greater possibilities for good or for evil than the relationship of a Factory Inspector or Certifying Surgeon to his particular factory or any connected business. What is sauce for the goose must be sauce for the gander as well. If this principle is applied on a larger scale, I do not see why this principle laid down for the Factory Inspector and Certifying Surgeon in the Factories Act should not be applied to Ministers of State.

You will permit, me, Sir, to remind the House of what Dr. Ambedkar told us a couple of days ago when replying to the debate on Article 47. I hope I have his leave as well to remind the House and remind him too about the words he used when replying to that debate. Referring to an amendment regarding a similar provision for the President to declare to Parliament and to divest himself of all right, interest, share or title in any business or enterprise owned or controlled, subsidised or aided by the State, Dr. Ambedkar said, "If at all such a provision is necessary, it should be with regard to the Prime Minister 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,—mark his words—such a provision ought to have been made—he did not say may be made, he said 'ought to have been' imposed—on their tenure and not on the President." I hope Dr. Ambedkar will reply to this particular amendment after great consideration and in detail and I hope he will not find a way out of the tangle that might have been caused by the words, by the language that he employed on a previous occasion. I hope he will stick to the views which he expressed only a couple of days ago, not a year or two ago; and I hope during these two days, he has not been prevailed upon, or he has not had the occasion or opportunity, or has not been persuaded to change his views in the matter. After reminding the House and Dr. Ambedkar about what he himself said a couple of days ago, I do not think there is anything more for me to say, but that Dr. Ambedkar will not hesitate to uphold his own view, not a very ancient view, but a very recent view and will see his way to accept this amendment.

(Amendment Nos. 1333, 1334 and 1335 were not moved.)

Mr. Vice-President : The article is now open for general discussion.

It is suggested that the next two amendment Nos. 1336 and 1337 also deal with similar matters and may be taken up here. Prof. Shah, will you please move your amendment No. 1336?

Mr. Naziruddin Ahmad : That is a new article.

Prof. K. T. Shah : It is a new article; it is not an amendment.

Mr. Vice-President : Just as you please.

Prof. K. T. Shah : I am in your hands. If you ask me to move it now, I shall do so.

Mr. Vice-President : I thought the general discussion may take place together. Today, as honourable Members are aware, we have to adjourn the House at 1 p.m. in order to afford facilities to our Muslim brethren to the Jumma prayers. If there is no objection, I would like Prof. K. T. Shah to move his amendment now.

Shri Amiyo Kumar Ghosh (Bihar: General): Sir, this is a new article. We may dispose of article 62 first, and then take up this new article.

Mr. Vice-President : Suppose we forget the niceties of law for one occasion.

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

"That after article 62, the following new article be inserted:

'62-A. No one shall be elected or appointed to any public office including that of the President, Governor, Minister of the Union or of any State of the Union, Judge of the Supreme Court or of any High Court in any State in the Union, who—

(a) is not able to read or write this express in the English language; or

(b) within ten years from the day when this Constitution comes into operation, is not able to read or write or express himself in the National language;

(c) or who has been found guilty at any time before such election or appointment of any offence against the safety, security or integrity of the Union; or

(d) of any offence involving moral turpitude and making him liable on conviction to a maximum punishment of two years imprisonment;

(e) or who has not, prior to such election or appointment, served in some public body, or done some form of social work, or otherwise proved his fitness, capacity and suitability for such election or appointment as may be laid down by Parliament by law in that behalf.' "

Sir, these are some of the points which, in my opinion, should be positively fulfilled; or they should negatively act as disqualification for any person to hold such exalted offices as that of the President, Minister, Governor, Judge and so on.

The points that I am making may seem at first sight to be so obvious that it may appear somewhat improper to put them in the Constitution. I am free to admit, however, that, for instance, the first item in my amendment seems to be of that category, namely ability to read or write and express himself in the English language. At the present time, Sir, however, constituted as we are, and with the absence of a national language of our own, it is important that members should be able to exchange, in some sort of a common medium of intercourse, their ideas on crucial matters in the Constitution or in any piece of legislation, or other legislative work that may come before Parliament hereafter. Judging from that point of view, and without wanting to provide that English should for ever continue to be the medium of intercourse of this country, or over this Sub-Continent, I think it but right to require that, unless persons who choose to be or who are elected to be members of either House of Parliament, are able to express themselves in some common language that others of their fellows may understand, it would be improper, it would be against the interest of the country to do so.

Opinion, Sir, I quite realize, may differ on this subject, honestly differ, perhaps very hotly differ. But I submit, Sir, that very often we are all familiar with the phenomenon in this House of speeches delivered in one language which fall absolutely meaningless upon the ears or minds of other Members of this House. It is but fair not only to those Members who cannot follow the language, but it is also in fairness to the speakers themselves, that, I submit, some common medium of expression should be used, so that everybody should be in a position to follow and do justice to the remarks. I at least do not think that any Member of this House is intended merely to raise his hands. I do believe that every member intelligently and carefully follows all that is said: and, as such, it would be a loss to the House if anything said in this House is not, for mere lack of following the language or understanding the idiom in which some idea is expressed, it should be lost upon any section of the House. It is for this reason, Sir, that I make this provision in the Constitution, at least for ten years to come.

In the next clause I require a similar provision to be made for the national language. I am equally strong on the subject that once we have got over this initial hurdle, once we have been able to fix upon a national language, within the given period of ten years—and I think that period is sufficiently long for this purpose,—every member should be expected to know, or be able to read and

write and express himself in the national language. Once again, the basic logic is the same in this case as in the former, *viz.,* that people should be able to express themselves in some common medium of speech that is understood by all their fellow members. It must therefore be made a categorical requirement that, not only we must have a national Language which is, so to say, a statutory provision more often broken than observed, but it should be a living force, so that in this House or its successor, or in the Parliament, we should be able to exchange in our own language all the thoughts, in all the fineness and technicality that such legal documents require. I think, therefore, that no further argument is necessary to support the provision of such a positive qualification from those who aspire to hold high offices in the country that I have enumerated or described in my amendment in the first or governing clause.

As regards the clause with reference to moral cleanliness of those who aspire to such offices that, again, is almost self-evident and I trust there can be and will be no opposition to accept such a provision as this. I fear that if we take things for granted, as it might be urged that in a case like this it must be taken for granted, we may land ourselves into difficulties, or embarrassments, to put it mildly, which it might be as well for us to avoid from the beginning.

Here, again, is may I say, Sir, another of those fundamental principles on which I seem to have concentrated myself as I was advised the other day on high authority, but to no avail, at least as regards some people who are otherwise convinced.

Finally, Sir, I insist upon the qualification that those who aspire to be members of such legislature, or to hold such high offices, must themselves have some positive qualifications. I am not just now thinking of purely academical qualifications. I am thinking of those more mature, deeper, fuller indices or measures of qualifications, which might be provided by constructive work, or social service, or some other work that is much more tangible evidence of fitness and suitability of such people for the posts, than mere academical qualifications. Those latter are very often the work merely of a good memory rather than of a good character, or a good general outlook on the part of the person concerned, not a means or index of judging his real, objective fitness for such responsibilities. The criteria—or indices—I am suggesting will provide better, more reliable means of judging the suitability of particular individuals for the posts they aspire to, or which they may be asked to fill.

With these words, Sir, I commend this motion to the House.

Mr. Vice-President : There are two amendments to this amendment. One is No. 52 of List IV in the name of Mr. Naziruddin Ahmad.

Mr. Naziruddin Ahmad : Mr. Vice-President, Sir, I beg to move:

"That in amendment No. 1336 of the List of Amendments, in the proposed new article 62-A the words 'Judge of the Supreme Court or of any High Court in any State in the Union' be deleted."

Sir, the proposed new article 62-A is of a very comprehensive character. In fact through this amendment Prof. Shah, with his characteristic thoroughness, has sought to introduce certain conditions as to public servants and specially Ministers, Presidents and even Judges of the High Court and of the Supreme Court. The test he would lay down for them are (a) that they must be able to read and write and express themselves in the English language; then perhaps alternatively, (b) they must know the national language, and (c) and (d) that they must not have been found guilty of any offence, and (e) they must be of proved fitness.

Sir, with regard to the idea behind this amendment, I have nothing to say, I also support the idea. But I do consider that the Judges of the High Court

[Mr. Naziruddin Ahmad]

and of the Supreme Court should be outside these tests—not that I desire that they should be illiterate or be incapable of expressing themselves in English or in the national language, or that they should have been connected of offences involving moral turpitude or that they need not have any provable fitness—far from it. But I do submit that in this very Draft Constitution itself we have provided certain standards by which the Judges of the High Court and of the Supreme Court are to be appointed. In clause (2) of article 193 we have clearly provided that a person can be appointed a Judge of the High Court only if he has been a judicial officer or an Advocate of a certain standing, and under clause (3) of article 103, no person can be appointed a Judge of the Supreme Court unless he has been a Judge of the High Court or an Advocate for a period. I believe that Advocates are at least expected to be, for any length of time that we can now foresee, literate or be capable of expressing themselves in English. At present we have a galaxy of lawyers in the House—Dr. Ambedkar, Mr. K. M. Munshi, Mr. Ananthasayanam Ayyangar and a lot of others, Alladi Krishnaswamy Ayyar (A voice: And yourself) of course my humbleself. There are a lot of Advocates in the country and I believe that they will, at least for a long time to come, be literate.

It could perhaps be safely assumed that, with the spread of compulsory primary education, lawyers would be literate, and if one is not literate, he cannot be a lawyer. To be a lawyer and also an Advocate, one has to pass certain tests in literacy and common sense. So that if one is not literate he could not be an Advocate and so he could not be appointed a Judge of a High Court and he could not also be appointed Judge of the Supreme Court.

Then with regard to expressing themselves in the national language, I think if and when English is to be discarded, Advocates and Judges must necessarily possess the minimum literacy qualifications which are required of them and they ought to be able to express themselves in the national language. With in a foreseeable period of time, an Advocate, a Judge of the High Court or of the Supreme Court must necessarily be able to express themselves in the English language, so long as it is current, and thereafter, of course, in the national language.

I also believe that no person who is guilty of any offence involving moral turpitude can be appointed Judge of a High Court or of the Supreme Court. He would initially cease to be an Advocate and therefore cannot be appointed a Judge. A provision like this for Judges is therefore absolutely unnecessary, though we are indebted to the indefatigable labours of Mr. Kamath who disclosed here yesterday, that a Minister has been appointed in a certain area who had a previous conviction relating to black-marketing. Although Ministers of this type may be appointed, Judges cannot possibly be so appointed. I devoutly hope that we should rather cease to be a free country than contemplate even the possibility of Judges being appointed who have previous convictions for offences involving any moral turpitude or be illiterate.

Shri H. V. Kamath : Is my honourable Friend of the view that a person convicted of black-marketing may be appointed a Minister? I am astonished.

Mr. Naziruddin Ahmad : I did not express any personal view. I was careful to state that we were indebted to the labours of Mr. Kamath himself for the discovery. In fact, it was he who said yesterday that a Minister had been appointed at a certain place who had been convicted of an offence involving moral turpitude relating to black-marketing. So such an event is conceivable. Such considerations may be applicable to a Minister but not to a Judge. I therefore submit that these words relating to Judges should be deleted. In fact it would be highly insulting to the Judges of the High Court and of the Supreme Court themselves to be told that no one should be appointed a Judge

who had no literacy qualifications or who had previous convictions. These words should therefore be deleted.

Mr. Vice-President : The next amendment to this amendment is No. 73 in List V. But it is disallowed because it has previously been covered.

Then amendment No. 1337, standing in the name of Mr. Bharati.

(Amendment No. 1337 was not moved.)

Now, the article is open for general discussion. Mr. Sidhwa.

Shri R. K. Sidhwa (C. P. & Berar : General): Mr. Vice-President, Sir, this article has created a lot of discussion by way of amendments, particularly as regards clauses (1), (2) and (5). The rest of them are formal. Clause (1) relates to the appointment of the Prime Minister by the President and the former appointing his colleagues as other ministers. Several amendments have been moved which state that the President should call the person who enjoys the confidence of the House and who could form a stable ministry. Sir, this is really a very good suggestion undoubtedly and from our past experience we know that the Governors of some provinces have intentionally called, for their own convenience and for their own purpose, a person who did not enjoy the confidence of the House, and who had hardly a following of a small minority, to form a cabinet. We have got the instances of Bengal, of Assam, of Orissa, of Sind and of the Punjab. And these Governors created hell and created mischief by appointing a person who did not at all enjoy the confidence of the House. And what was the other aspect of it? When a ministry was thus formed under the 1935 Act, no session could be called, until the next budget session came, once in a year. So the man enjoyed the benefits of his Ministry for full one year, and then when the budget came, he had consolidated his position by offering various kinds of bribes and jobs to members, and showed that he enjoyed the confidence of the House. Of course, I do realise under the new constitution, conditions have changed, and in the Instrument of Instructions it is stated that the Prime Minister should be such and such who enjoys the confidence of the House—that is in Schedule IIIA. I know that the Schedule also forms part of the Constitution. Therefore, I say this is a good suggestion. Keeping in mind all that has happened in the past, I support this motion, for this reason that our Governors and our Presidents will not be irresponsible persons. If a President were to call a person who really did not enjoy the confidence of the House that President would be subject to impeachment under these clauses and the Prime Minister also to dismissal.

Sir, I know that in the past, requisitions were sent to a Governor to call a session of the legislature for the purpose of a no-confidence in the ministry, but the Governor did not call such a session. But today the position is quite different. If such a mistake is committed, the President shall have to call for a session, otherwise he will be subject to many disqualifications that we have passed in the various articles. Therefore, fearing in my own mind the same apprehensions that are in the minds of honourable Members, still I do not want to take that view which existed in the past, and I support clause (1) as stated in the draft article.

The other important clause is No. (5) which states that a minister who, for any period of six consecutive months, is not a member of either House of Parliament shall at the expiration of that period cease to be a minister. Such a clause existed in the 1935 Act, and it has been borrowed from there. I wish that such a clause should not exist in our Constitution, for the simple reason that in our new legislature there will be about five hundred members, and if we cannot secure a minister with technical or expert knowledge that may be necessary it would be a slur on the legislature if it does not contain a single person with the requisite expert knowledge. Apart from that, Sir, our whole Constitution is based on the Parliamentary system of Great Britain and in

[Shri R. K. Sidhwa]

Great Britain elections are run on the party system. There they take care to see that persons who are likely to be Ministers, with special knowledge and who are experts, are given party tickets, and they see to it that those candidates are returned. We also shall be running, under this Constitution, similar party elections, and care should be taken to see that persons with special knowledge are given tickets to contest the seats. Sir, I do not understand why, except probably in the case of the Ministry of Law and that of Finance, where knowledge of certain special subjects is required, the other Ministers should have any special expert qualifications, except commonsense, practical knowledge, ability, perseverance, strong will, tenacity of purpose and a pushing nature. These are the qualifications that a Minister should possess, rather than mere theoretical knowledge. These are the qualifications the Ministers should possess. A man with theoretical knowledge fails as we know, in practical politics. In my opinion a man with practical knowledge is far superior to one who possesses only theoretical knowledge. Sir, even assuming that we want a person with theoretical knowledge, I am sure that the party running the elections will take care to see that such a person is given a party ticket. Further I consider it a slur on the Legislature that we should have to go outside the ranks of members for filling post of a particular Minister. Such things have happened in the past. But hereafter it will be unnecessary to have in the Cabinet, as we have in the Legislatures, a combination of Members some of whom do not necessarily advocate the policy of the party in power. I therefore feel that this matter should be really considered from that point of view. In the British Cabinet I have not seen anyone who is not a Member of Parliament is taken in the cabinet. Whatever may have happened in the past, today this is the case. It may be argued that a non-Member would be in the Cabinet only for six months. I object for even one day an outsider to be a member of the Cabinet. Why should we have for six months a non-Member who should hold office when we can find among Members suitable person? I therefore do contend that this clause should be deleted.

Now coming to the last amendment of my friend Prof. Shah, I may say it is a laudable one. There could be no objection to it. But I do feel that he has given great prominence to the English language by saying that the office of Governor, President and Ministers should be given to those persons in the first instance who know English and who, within ten years, learn the national language. My reaction to such a clause is that the President, the Governors and the Ministers should be only those who know both English and the national language at the very outset. The term of office of these dignitaries is five years and we have passed a clause laying down that the Governor shall be elected once and only once more, that is to say for ten years in all. If the Professor's amendment is accepted, it will mean that by the time a President or Governor is expected to learn the national language he would have retired. Of course I do not think it is appropriate to insert it in the Constitution. Even on merits, such a provision would be defective in that it is the national language that should be given importance and not English. We cannot, I agree, summarily reject the English language. Therefore we may provide that if a person does not know the national language along with English he should not be deemed to be qualified to hold the office of President, Governor, etc.

As far as the other clauses are concerned, particularly those relating to honesty, integrity, maximum punishment for moral turpitude and so on are concerned, I know that in the 1935 Act such provisions exist. They may well find a place in the disqualification clause for those who contest elections. It is not enough to lay down these things for the big offices only. No man who has been convicted or punished for moral turpitude would be chosen as a candidate for election. From that point of view, while the other clauses of

the amendments are commendable, I do feel, this has no place here. This may find a place in the general disqualification clause which we shall be providing in the case of the Governors, the President and even the Ministers.

With these words I support the article except clause (5) for which I have stated that the Chairman of the Drafting Committee will again reconsider in view of my suggestions. Unfortunately he was not present when I presented forceful arguments in support of my contention. Otherwise he would have certainly considered, this matter. I hope he will bear in mind my point and agree that such a clause in a Free India Constitution should not exist. With these words I commend the article for acceptance.

Shri Mahavir Tyagi (United Provinces : General): Sir, I rise to oppose this amendment. There is some misunderstanding in the minds of some of my friends here. They feel, as my friends Kazi Karimuddin, Mr. Pocker Sahib and others feel, that the Prime Minister and his Cabinet are the representatives of the House. Politically speaking, and speaking from the point of view of democracy, they are not liable to represent the House. No Prime Minister represents the House. The House is represented by the Chair here. It is only the Chair through whom the House can express itself. The Prime Minister represents the majority party in the House and therefore the Prime Minister cannot be elected by the whole House. Any person who is elected by the whole House has to represent the whole House. So, if the Prime Minister were to be elected by the whole House, then morally he would have to be responsible to the whole House. The Prime Minister is not responsible to the whole House. He is responsible only for the majority outside that has sent him here. Though he keeps in view the views of the opposite party also, he cannot be elected by the whole House. If he is to be elected by the whole House, then his position as party Leader will be gone altogether, because even those who have cast their votes in the ballot against him will claim him as their representative. Just as in the case of a constituency which elects a Member, the member thus elected is expected to represent even the views of those who voted against him, the Prime Minister also, if the whole House were to elect him, would have to represent even the party in opposition. Such an election is against the principles of a party-systemed democracy. He represents the general will of the masses outside, the vast bulk of the population who have voted his party as the party of their choice. Though he, of course, protects the minorities as a matter of duty yet he continues to represent the majority party only. The case of the President is quite different. He is elected by all the parties, which means by all the elected representatives of the people. He therefore acts as the guardian of all alike. As the head of the State, it is only through him that the general will of the people is expressed. The ministers should be made to invoke the general will. The President contains the biggest representation in him. Such a President shall therefore have the right of appointing the Ministers. We have already clarified the issue by providing in the Constitution, further on, as Instrument of Instructions to the President that when he appoints the Ministers he will see to it that they shall enjoy the confidence of the House. But the appointment should be made by the President because he is the only one person in whom the whole nation has invested its sovereignty and therefore the amendment of Mr. Pocker Sahib goes against the whole set up of democracy.

Then another amendment has been moved in which it is said that the Ministers will hold office so long as they enjoy the confidence of the House. In the Draft Constitution the position virtually comes to the same. The Ministers are appointed by the President and when that sole representative of the people appoints the Ministers, it is only he who will dispense with their services if circumstances so demand. The House is always at liberty to pass a vote of confidence or no-confidence. A vote of no-confidence in the Cabinet passed by the House is always a recommendation to the President to see that the

[Shri Mahavir Tyagi]

Ministry should go and another appointed in its place. This point is further on enunciated in the Constitution. I therefore oppose this amendment also.

Then there is the amendment of Prof. Shah in which he says that Ministers should know the English language for ten years, and Hindi after the next ten years. I happen to be an anarchist by faith so far as literacy is concerned. I do not believe in the present-day education. I am opposed to the notion of literacy also, even though it has its own value. If I were a boy now, I would refuse to read and write. As it was, I practically refused to read and write and hence I am a semi-literate. The majority in India are illiterate persons. Why should they be denied their share in the administration of the country? I wonder, why should literacy be considered as the supreme achievement of men. Why should it be made as the sole criterion for entrusting the governance of a country to a person, and why Art, Industry mechanics, Physique or Beauty be not chosen as a better criterion, Ranjit Singh was not literate. Shivaji was not literate. Akbar was not much of a literate. But all of them were administering their states very well. I submit, Sir, that we should not attach too much importance to literacy. I ask Dr. Ambedkar, does he ever write? Probably he has got writers to write for him and readers to read to him. I do not see why Ministers need read and write. Whenever they want to write anything, they can use typists. Neither reading nor writing is necessary. What is necessary is initiative, honesty, personality, integrity, intelligence and sincerity. These are the qualifications that a man should have to become a Minister. It is not literacy which is important.

Shri H. V. Kamath : Does my redoubtable friend want to keep India as illiterate as she is today?

The Honourable Dr. Ambedkar : Have you any conscientious objection against literacy?

Shri Mahavir Tyagi: No, Sir.

Shri B. H. Khandekar (Kolhapur): I wish to raise my small voice in support of the lone and indefatigable fighter, Prof. K. T. Shah. I am here to support particularly his amendment No. 1332. I want complete elimination of the possibility of corruption as far as the Ministers are concerned. I differ from him in the case of the President. I make a very great distinction between the President and the Ministers for the following reasons: The President has no executive power. Sir, the President is the one, only one, the best and the highest citizen of the country. He is the delight of crores of eyes and he is the balm of the people's heart. It is not proper to have any suspicion with regard to this real idol of the people. I am not being superstitious at all. But the Ministers are on a different footing and are very different persons. They have executive authority and they are too many comparatively. In this country, Sir, you know that some men are very great but they are very few. I remember having seen a cartoon the day before in one of the weeklies—I believe it is Shankar's—that now-a-days two persons are always found doing all the work—Pandit Jawaharlal Nehru and Sardar Patel. One or two may be added to this class but the rest are what I may call comparatively very ordinary persons.

Now, I wish honourable Members to revive their memory of their college days and to think of a very great book on political philosophy—the Republic of Plato. Plato in trying to give us an ideal state, makes it incumbent on the Governors to have absolutely no personal interest in any property. He goes even further and says that Governors should not have even families. We in this country talk a lot of idealism, of very high ideals, but when it comes to actual practice, it seems to me that we fall deplorably low. If it is impossible

to carry out Plato's utopian ideas, at least we should go as far as possible to approach the ideal. I would not have been so suspicious but for the singular service rendered by my honourable Friend Mr. Kamath in giving a particular example, a deplorable case, a scandalous case from a certain State in this country where a person, although convicted for blackmarketing, became a Minister. That is really most scandalous. It is not only in the States but also in the provinces that there are so many rumours about widespread corruption. These might be rumours but you cannot have smoke without fire: as the Sanskrit saying goes:

"Yatra yatra dhoomah
Tatra tatra wahnih."

When we talk of Gandhiji and bring his name every time, let us try to be in a small measure worthy of that great man and if I were to bring in an amendment to Prof. Shah's amendment at this late hour I would go so far as to say that ministers should not only make a declaration of their interests and their property but they should also make a declaration of their relatives and friends. There is so much of favouritism, nepotism and partiality that we seem to be going down and down though we have achieved great things. I do wish to support to a certain extent the amendment moved by Prof. Shah with regard to the ministers or high officials having a knowledge of English during the transition period. It was very interesting to listen to the animated talk of Mr. Mahavir Tyagi. He was almost for the elimination of literacy and he reminded us of Shivaji and others. I merely wish to remind the House about the skit that a French King had when he heard about Abraham Lincoln's definition of democracy as being "the government of the people, by the people and for the people." The French King immediately blurted "Democracy is government of the cattle by the cattle and for the cattle." If we are going to have democracy by illiterate men, it will be a democracy as described by the French King.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, of the amendments that have been moved I am prepared to accept amendment No. 1322 and 1326 as amended by No. 71 on List V. As to the rest of the amendments I should just like to make a sort of running commentary.

These amendments raise three points. The first point relates to the term of a minister, the second relates to the qualifications of a minister and the third relates to condition for membership of a cabinet. I shall take the first point for consideration, *viz.*, the term of a minister. On this point there are two amendments, one by Mr. Pocker and the other by Mr. Karimuddin. Mr. Pocker's amendment is that the minister shall continue in office so long as he continues to enjoy the confidence of the House, irrespective of other considerations. He may be a corrupt minister, he may be a bad minister, he may be quite incompetent, but if he happened to enjoy the confidence of the House then nobody shall be entitled to remove him from office. According to Mr. Karimuddin, the position that he has taken, if I have understood him correctly, is just the opposite. His position seems to be that the Minister shall be liable to removal only on impeachment for certains specified offences such as bribery, corruption, treason and so on, irrespective of the question whether he enjoys the confidence of the House or not. Even if a minister lost the confidence of the House, so long as there was no impeachment of that minister on the grounds that he has specified, it shall not be open either to the Prime Minister or the President to remove him from office. As the Honourable House will see both these amendments are in a certain sense inconsistent, if not contradictory. My submission is that the provision contained in sub-clause (2) of article 62 is a much better provision and covers both the points. Article 62, (2) states that the ministers shall hold office during the pleasure of the President. That means that a minister will be liable to removal on two

[The Honourable Dr. B. R. Ambedkar]

grounds. One ground on which he would be liable to dismissal under the provisions contained in clause (2) of article 62 would be that he has lost the confidence of the House, and secondly, that his administration is not pure, because the word used here is "pleasure". It would be perfectly open under that particular clause of article 62 for the President to call for the removal of a particular minister on the ground that he is guilty of corruption or bribery or maladministration, although that particular minister probably is a person who enjoyed the confidence of the House. I think honourable Members will realise that the tenure of a minister must be subject not merely to one condition but to two conditions and the two conditions are purity of administration and confidence of the House. The article makes provision for both and therefore the amendments moved by my honourable Friends, Messrs. Pocker and Karimuddin are quite unnecessary.

With regard to the second point, namely the qualifications of ministers, we have three amendments. The first amendment is by Mr. Mohd. Tahir. His suggestion is that no person should be appointed a minister unless at the time of his appointment he is an elected member of the House. He does not admit the possibility of the cases covered in the proviso namely that although a person is not at the time of his appointment a member of the House, he may nonetheless be appointed as a minister in the cabinet subject to the condition that within six months he shall get himself elected to the House. The second qualification is by Prof. K. T. Shah. He said that a minister should belong to a majority party and his third qualification is that he must have a certain educational status. Now, with regard to the first point, namely, that no person shall be entitled to be appointed a Minister unless he is at the time of his appointment an elected member of the House, I think it forgets to take into consideration certain important matters which cannot be overlooked. First is this,—it is perfectly possible to imagine that a person who is otherwise competent to hold the post of a Minister has been defeated in a constituency for some reason which, although it may be perfectly good, might have annoyed the constituency and he might have incurred the displeasure of that particular constituency. It is not a reason why a member so competent as that should be not permitted to be appointed a member of the Cabinet on the assumption that he shall be able to get himself elected either from the same constituency or from another constituency. After all the privilege that is permitted is a privilege that extends only for six months. It does not confer a right to that individual to sit in the House without being elected at all. My second submission is this, that the fact that a nominated Minister is a member of the Cabinet, does not either violate the principle of collective responsibility nor does it violate the principle of confidence, because if he is a member of the Cabinet, if he is prepared to accept the policy of the Cabinet, stands part of the Cabinet and resigns with the Cabinet, when he ceases to have the confidence of the House, his membership of the Cabinet does not in any way cause any inconvenience or breach of the fundamental principles on which Parliamentary government is based. Therefore, this qualification, in my judgment, is quite unnecessary.

With regard to the second qualification, namely, that a member must be a member of the majority party, I think Prof. K. T. Shah has in contemplation or believes and hopes that the electorate will always return in the election a party which will always be in majority and another party which will be in a minority but in opposition. Now, it is not permissible to make any such assumption. It would be perfectly possible and natural, that in an election the Parliament may consist of various number of parties, none of which is in a majority. How is this principle to be invoked and put into operation in a situation of this sort where there are three parties none of which has a majority?

Therefore, in a contingency of that sort the qualification laid down by Prof. K. T. Shah makes government quite impossible.

Secondly, assuming there is a majority party in the House, but there is an emergency and it is desired both on the part of the majority party as well as on the part of the minority party that party quarrels should stop during the period of the emergency, that there shall be no party government, so that government may be able to meet an emergency—in that event, again, no such situation can be met except by a coalition government and if a coalition government takes the place, *ex hypothesi* the members of a minority party must be entitled to become members of the Cabinet. Therefore, I submit that on both those grounds this amendment is not a practicable amendment.

With regard to the educational qualification, notwithstanding what my Friend Mr. Mahavir Tyagi has said on the question of literary qualification, when I asked him whether in view of the fact that he expressed himself so vehemently against literary qualification whether he has any conscientious objection to literary education, he was very glad to assure me that he has none. All the same, I wonder whether there would be any Prime Minister or President who would think it desirable to appoint a person who does not know English, assuming that English remains the official language of the business of the Executive or of Parliament. I cannot conceive of such a thing. Supposing the official language was Hindi, Hindustani or Urdu—whatever it is—in that event, I again find it impossible to think that a Prime Minister would be so stupid as to appoint a Minister who did not understand the official language of the country or of the Administration, and while therefore it is no doubt a very desirable thing to bear in mind that persons who would hold a portfolio in the Government should have proper educational qualification, I think it is rather unnecessary to incorporate this principle in the Constitution itself.

Now, I come to the third condition for the membership of a Cabinet and that is that there should be a declaration of the interests, rights and properties belonging to a Minister before he actually assumes office. This amendment moved by Prof. K. T. Shah is to some extent amended by Mr. Kamath. Now, this is not the first time that this matter has been debated in the House. It was debated at the time when similar amendments were moved with regard to the article dealing with the appointment and oath of the President and I have had a great deal to say about it at that particular time and I do not wish to repeat what I said then on this occasion. My Friend Mr. Kamath reminded me of what I said on the occasion when the article dealing with the President was debated in this House and I do remember that I did say that such a provision might be necessary.....

Shri H. V. Kamath : May I remind Dr. Ambedkar of what exactly he said? I am reading from the official type-script of the Assembly Secretariat. These are his very words:

> "If any person in the Government of India has any opportunity of aggrandizing himself, it is either the Prime Minister or the Ministers of State and such a provision *ought* to have been imposed upon them for their tenure but not upon the President."

The Honourable Dr. B. R. Ambedkar : That is what I was saying. What I said was that such a provision might be necessary in the case of Ministers, and my friend Mr. Kamath also read some section from the Factory Act requiring similar qualifications for a factory inspector. Now, Sir, the position that we have to consider is this: no doubt, this is a very laudable object, namely, that the Ministers in charge should maintain the purity of administration. I do not think anybody in this House can have any quarrel over that matter. We all of us are interested in seeing that the administration is maintained at a high level, not only of efficiency but also of purity. The question really is this : what ought to be the sanctions for maintaining that purity? It seems to me there are two

[The Honourable Dr. B. R. Ambedkar]

sanctions. One is this, namely, that we should require by law and by Constitution,— if this provision is to be effective— not only that the Ministers should make a declaration of their assets and their liabilities at the time when they assume office, but we must also have two supplementary provisions. One is that every Minister on quitting office shall also make a declaration of his assets on the day on which he resigns, so that everybody who is interested in assessing whether the administration was corrupt or not during the tenure of his office should be able to see what increase there is in the assets of the Minister and whether that increase can be accounted for by the savings which he can make out of his salary. The other provision would be that if we find that a Minister's increases in his assets on the day on which he resigns are not explainable by the normal increases due to his savings, then there must be a third provision to charge the Minister for explaining how he managed to increase his assets to an abnormal degree during that period. In my judgment, if you want to make this clause effective, then there must be three provisions as I stated. One is a declaration at the outset; second is a declaration at the end of the quitting of this office; thirdly, responsibility for explaining as to how the assets have come to be so abnormal and fourthly, declaring that to be an offence followed up by a penalty or by a fine. The mere declaration at the initial state.....

Mr. Naziruddin Ahmad : How could you trace or check invisible assets or secret assets?

The Honourable Dr B. R. Ambedkar : The whole thing is simply good for nothing, so to say. It might still be possible, notwithstanding this amendment, for the Minister to arrange the transfer of his assets during the period in such a manner that nobody might be able to know what he has done and therefore, although the object is laudable, the machinery provided is very inadequate and I say the remedy might be worse than the disease.

Shri H. V. Kamath : May I, Sir, presume that Dr. Ambedkar at least accepts the amendment in principle and that he has not resiled from the view which he propounded the other day, that he has not recanted?

The Honourable Dr. B. R. Ambedkar : I do not resile from my view at all. All I am saying is that the remedy provided is very inadequate and not effective, and therefore, I am not in a position to accept it.

Prof. Shibban Lal Saksena : Make it more comprehensive.

The Honourable Dr. B. R. Ambedkar : I cannot do it now. It was the business of those who move the amendment to make the thing fool-proof and knave-proof, but they did not.

Now, Sir, I was saying that nobody has any objection; nobody quarrels with the aim and object which is behind this amendment. The question is, what sort of sanction we should forget. As I said, the legal sanction is inadequate. Have we no other sanction at all? In my judgment, we have a better sanction for the enforcement of the purity of administration, and that is public opinion as mobilised and focussed in the Legislative Assembly. My honourable Friend, Mr. H. V. Kamath cited the illustration of the Factory Act. The reason why those disqualifications had been introduced in the case of the Factory Inspector is because public opinion cannot touch him, but public opinion is every minute glowing, so to say, against the Ministry, and if the House so desires at any time, it can make itself felt on any particular point of maladministration and remove the Ministry; and my submission, therefore, is that there is far greater sanction in the opinion and the authority of the House to enforce purity of administration, so as to nullify the necessity of having an outside legal sanction at all.

Shri Lokanath Misra (Orissa: General): Is that not a more impossible task?

The Honourable Dr. B. R. Ambedkar : Democracy has to perform many more impossible tasks. If you want democracy, you must face them.

Now, Sir, I come to the amendment of my honourable Friend, Mr. Naziruddin Ahmad. He wants the deletion of the latter part of the amendment which I moved. His objection was that if the latter part of my amendment remained, it would nullify the earlier part of my amendment, namely, the obligation of the minister to follow the directions given in the Instrument of Instructions. Yes, theoretically that is so. There again the question that arises is this. How are we going to enforce the injunctions which will be contained in the Instrument of Instructions? There are two ways open. One way is to permit the court to enquire and to adjudicate upon the validity of the thing. The other is to leave the matter to the legislature itself and to see whether by a censure motion or a motion of no confidence, it cannot compel the Ministry to give proper advice to the President and impeachment to see that the President follows that advice given by the Ministry. In my judgment, the latter is the better way of effecting our purpose and it would be unfair, inconvenient, if everything done in the House is made subject to the jurisdiction of the court, so that any recalcitrant Member may run to the Supreme Court and by a writ of injunction against the Speaker prevent him from carrying on the business of the House, unless that particular matter is decided either by the Supreme Court or the High Court as the case may be. It seems to me that that would be an intolerable interference in the work of the Assembly. Even in England the Parliament is not subject to the authority of the Court in matters of procedure and in the conduct of its own business and I think that is a very sound rule which we ought to follow, especially when it is perfectly possible for the House to see that the Instrument of Instructions is carried out in the terms in which it is intended by the President and by the Ministry. Sir, I oppose this amendment.

Prof. Shibban Lal Saksena : What about nominated members being in the Cabinet?

The Honourable Dr. B. R. Ambedkar : I have dealt with that.

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

The question is:

"That for clause (3) of article 62, the following clauses be substituted:

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

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

The amendment was negatived.

Mr. Vice-President : The question is:

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

The amendment was negatived.

Mr. Vice-President : The question is:

"That after clause (5) of article 62, the following new clause be inserted:

'5(a) In the choice of his Ministers and the exercise of his other functions under this Constitution, the President shall be generally guided by the instructions set out in Schedule III-A, but the validity of anything done by the President shall not be called in question on the ground that it was done otherwise than in accordance with such instructions.' "

The amendment was adopted.

Mr. Naziruddin Ahmad : There is an amendment to this amendment which should be put to vote first.

Mr. Vice-President : The question is:

"That in amendment No. 1329 of the List of amendments, in the proposed new clause (5a) all the words commencing with 'but the validity' to the end be deleted."

The amendment was negatived.

Mr. Vice-President : The question is:

"That after clause (1) the following new clause be inserted as clause (2) and the existing clauses be re-numbered:

'(2) In chosing his Ministers the President shall be generally guided by the instruction set out in Schedule 4 (A).' "

The amendment was negatived.

Mr. Vice-President : The question is:

"That for clause (2) of article 62, the following be substituted:

'(2) The ministers shall hold office so long as they enjoy the confidence of the House of the People.' "

The amendment was negatived.

Mr. Vice-President : The question is:

"That in amendment No. 1319 of the List of amendments, for the words 'People's House of Parliament' (in the words proposed to be substituted), the words 'House of the People' be substituted."

The amendment was negatived.

Mr. Vice-President : Amendment No. 1319 standing in the name of Professor K. T. Shah.

The question is:

"That in clause (2) of article 62, for the words 'during the pleasure of the President' the words 'such time as they possess the confidence of a majority in the People's House of Parliament' be substituted."

The amendment was negatived.

Mr. Vice-President : Amendment No. 49 in List IV standing in the name of Mr. Naziruddin Ahmad.

The question is:

"That in amendment No. 1320 of the List of amendments, for the word 'maintains' the word 'enjoys' be substituted."

The amendment was negatived.

Mr. Vice-President : Amendment No. 1320 standing in the name of Mr. Mohamed Tahir.

The question is:

"That the following be inserted at the end of clause (2) of article 62: 'and till such time as the Council of Ministers maintains the confidence of the Parliament.' "

The amendment was negatived.

Mr. Vice-President : Amendment No. 1322 standing in the name of Shri Mihir Lal Chattopadhyay.

The question is:

"That in clause (3) of article 62, after the word 'Council' the words 'of Ministers' be inserted."

The amendment was adopted.

Mr. Vice-President : Amendment No. 1325 standing in the name of Mr. Mohamed Tahir.

The question is:

"That for clause (5) of article 62, the following be substituted:

'(5) A minister shall at the time of his appointment as such, be a member of the Parliament.' "

The amendment was negatived.

Mr. Vice-President : Amendment No. 1326 as amended by amendment No. 71 of List V as further amended by Shri Krishnamachari and Shri Kamath.

The question is:

"That in clause (5) of article 62, for the words 'for any period of six consecutive months is' the words 'from the date of his appointment, is for a period of six consecutive months', be substituted."

The amendment was adopted.

Mr. Vice-President : Amendment No. 1328 as modified by amendment No. 72 of List V.

The question is :

"That in clause (5) of article 62, for the words 'is not a member' the words 'is not an elected member' be substituted."

The amendment was negatived.

Mr. Vice-President : Amendment No. 1332 standing in the name of Prof. K. T. Shah.

The question is:

"That after clause (6) of article 62, the following new clause be inserted:

'(7) Every Minister shall, before he enters upon the functions and responsibilities of his office, make a declaration and take steps in regard to any right, title, corresponding to those provided in this Constitution for the President and Vice-President, and shall take an oath—or make a solemn declaration—in the presence of the President and of his colleagues in the following form.' "

The amendment was negatived.

Mr. Vice-President : Amendment No. 51 of List IV standing in the name of Mr. Kamath:

The question is:

"That for amendment No. 1332 of the List of amendments the following be substituted.

That after clause (6) of article 62, the following new clause be inserted :

'(7) Every minister including the Prime Minister shall, before he enters upon his office, make a full disclosure to Parliament of any interest, right, share, property or title he may have in any enterprise, business or trade, directly owned or controlled by the State, or which is in any way aided, protected or subsidised by the State; and Parliament may deal with the matter in such manner as it may, in the circumstances, deem necessary or appropriate.' "

The amendment was negatived.

Mr. Vice-President : Amendment No. 52 of List IV, standing in the name of Mr. Naziruddin Ahmad.

The question is:

"That in amendment No. 1336 of the list of amendments, in the proposed new article 62-A, the words 'Judge of the Supreme Court or of any High Court in any State in the Union' be deleted."

The amendment was negatived.

Mr. Vice-President : Amendment No. 1336 standing in the name of Professor K. T. Shah.

The question is:

"That after article 62, the following new article be inserted:

'62-A. No one shall be elected or appointed to any public office including that of the President, Governor, Minister of the Union or of any State of the Union, Judge of the Supreme Court or of any High Court in any State in the Union, who—

(a) is not able to read or write and express in the English language; or

(b) within ten years from the day when this Constitution comes into operation, is not able to read or write or express himself in the National language;

(c) or who has been found guilty at any time before such election or appointment of any offence against the safety, security or integrity of the Union; or

(d) of any offence involving moral turpitude and making him liable on conviction to a maximum punishment of two years imprisonment;

(e) or who has not prior to such election or appointment, served in some public body, or down some form of social work, or otherwise proved his fitness, capacity and suitability for such election or appointment as may be laid down by Parliament by law in that behalf.' "

The amendment was negatived.

Mr. Naziruddin Ahmad : There is an amendment to this amendment. That should be put to vote first.

Mr. Vice-President : That was put to vote before. Probably, the honourable Member did not follow the proceedings closely.

The question is:

"That article 62, as amended, stand part of the Constitution."

That motion was adopted.

Article 62, as amended, was added to the Constitution.

Mr. Vice-President : We shall now pass on.....

Shri T. T. Krishnamachari : Mr. Vice-President, may I suggest that the House do take up article 67 in view of the fact that it is the desire of a number of Members of this House that these articles which relate to elections should be disposed of first, so that the election machinery might be got ready?

B. Pocker Sahib Bahadur : Mr. Vice-President, I very strongly object to the procedure suggested. As a matter of fact Members are entitled to know what is the order in which the business of the House would proceed. If all of a sudden, for the whim of any particular Member, some particular article should be taken at once, I submit, that it will put the honourable Members of this House to a great deal of inconvenience and it will be impossible for them to get on. Article 67 is a very important article and if that is to be dealt with first, it ought to be announced by you and honourable Members should have sufficient notice of such advancement and therefore, I strongly object to the suggestion made by my honourable Friend Mr. T. T. Krishnamachari.

Mr. Vice-President : I should like to remind honourable Members that the suggestion made by Mr. T. T. Krishnamachari cannot be given effect to without securing the permission of the House, which I would take in due course.

Secondly, so far as the technical objection is concerned, I should like to remind the honourable Member that in the agenda that has been sent, we have distinctly stated that a particular Part would be taken up. There is no such specification. Lastly, I should remind him that grouping of the amendments in question has been forwarded to honourable Members. That objection, I overrule.

The real objection is whether the House as a whole wishes to take up article 67. I should like to inform the House that it has been intimated to me that in several provinces the electoral rolls are almost complete and in some provinces the rolls have been completed. It is up to us to facilitate the passing of these articles because if any serious modification is made, then, the work of the provincial Governments would be seriously interfered with. We have to keep that in mind. But it is for the House to decide whether it will stand on its dignity and go on increasing the difficulties of the provincial Governments.

Pandit Hirday Nath Kunzru (United Provinces : General) : Sir, may I put a consideration before you in this connection? So far as I remember, the Drafting Committee has suggested an amendment to this clause. This amendment requires that instead of the proportion of elected seats assigned to the States in this article, the number assigned to each State should be substituted. I think therefore, that it would be desirable that this article should be taken up not now, but on Monday next. That would not involve practically any delay at all. We are very near one o'clock and as it is Friday, I suppose in accordance with our ordinary convention, the House will disperse at one o'clock.

Mr. Vice-President : Yes.

Pandit Hirday Nath Kunzru : If we take up the clause on Monday, we shall have time to consider the matter more fully and also to acquaint ourselves with what was done on a previous occasion in connection with the representation of the States here. We shall have time to consult Dr. Ambedkar himself on the point.

Mr. Vice-President : That seems a more reasonable objection. I am quite prepared.....

Mr. Naziruddin Ahmad : Sir, I have got a more important consideration to submit.

Mr. Vice-President : We shall now go on with article 62-A. We shall take up article 67 on Monday. In that connection, I would remind the House that there are other articles also dealing with election provisions. These are articles 149, 150, 289, 290 and 291. Information as to the way in which the various amendments are proposed to be grouped by me will be given to honourable Members in due time so that as soon as article 67 is finished, we can proceed to article 149, and then article 150 and so on.

Mr. Naziruddin Ahmad : Will that lead to acceleration of business at all? If article 67 is passed, it will not be operative because until we pass the whole Constitution after the third reading and it is signed by the President.....

Mr. Vice-President : We shall consider that question when we pass article 67. Probably, the ingenuity of some lawyers will be able to find some way by which we can obviate this difficulty.

Article 62-A

We come to articles 62-A and 62-B. Amendment No. 1338.

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

"That after article 62, the following new article 62-A, be inserted:—

'62A. No one selected to be a Minister shall be a member of Parliament in either House, and if already a member of either House, he shall, before accepting the office of a Minister, resign his seat in the Legislature. The provisions of article 48-A shall apply to every Minister *mutatis mutandis.*

62-B. A Minister shall have the right to sit in either House of Parliament, and to address the House or any of its committees, at any time he deems necessary, but not vote on any issue coming before any such body.' "