

Mr. Vice-President : Is there the necessary permission of the House not to put it to the vote?

The amendment was, by leave of the Assembly, withdrawn.

Mr. Vice-President : The question is:

“That in clause (2) of article 55, for the words ‘either of Parliament or’ the words ‘of either House of Parliament or of a House’, for the words ‘member of Parliament or’ the words ‘member of either House of Parliament or of a House’, and for the words ‘in Parliament or such Legislature, as the case may be’ the words ‘in that House’ be substituted respectively.”

The amendment was adopted.

Mr. Vice-President : The question is

“That in sub-clause (c) of clause (3) of article 55, after the words ‘Council of State’, the following be added:—

‘and is not disqualified by reason of any conviction for treason, or any offence against the safety, security or integrity of the State, or any violation of the Constitution, or has been elected and served more than once as President or Vice-President of the Union.’ ”

The amendment was negatived.

Mr. Vice-President : The question is:

That in clause (4) of article 55, for the words “or position of emolument” wherever they occur the words “of profit” be substituted.

The amendment was adopted.

Mr. Vice-President : The question is:

That for sub-clause (a) of the Explanation to clause (4) of article 55, the following be substituted:

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

The amendment was adopted.

Mr. Vice-President : The question is:

That article 55, as amended, stand part of the Constitution.

The motion was adopted.

Article 55, as amended, was added to the Constitution.

Article 56.

Mr. Vice-President : We now proceed to article 56.

The motion is:

That article 55 form part of the Constitution.

The first amendment is 1258. The first alternative is disallowed as being verbal. The second alternative may be moved.

(Second alternative of amendment No. 1258 was not moved.)

Prof. Shah—Amendment No. 1259.

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

That article 56 be numbered as clause (1) of the article and the following new clauses be added after that:

- (2) The Vice-President shall have an official residence and there shall be paid to the Vice-President such emoluments and allowances, not exceeding those granted to the President, as may be determined by Parliament by law, and until provision in that behalf is made by Act of Parliament, the Vice- President shall be paid a monthly salary of Rs. 4,500.

- (3) The emoluments and allowances of the Vice-President shall not be diminished during his term of office.
- (4) Every Vice-President, on completion of his term of office and retirement shall be given such pension or allowance during the rest of his life as Parliament may by law determine, provided that, during the life time of any such Vice-President in retirement and pensioned, such pension or allowance shall not be diminished.' "

In presenting this motion to the House, I have to put forward three grounds which I hope will commend themselves to the House. The provision of an official residence for the Vice-President is no less important than that for the President. I hold it, Sir, that high officers of Government should not be obliged to rent their premises, and be in anyway obliged to the landlord by hiring accommodation from them. Not only is the great evil of Pegree system that is going on at the present time under the Rent control system in itself a source of great temptation, and so must be condemned, and kept out of access to such exalted dignitaries. The relationship of landlord and tenant, where under quite possibly such important officials may fall into a position of undue influence being exercised upon them, and their conduct in their office be affected thereby, is by itself a source of evil.

It is therefore a simple proposition which I trust no one would take exception to, *viz.*, that high Government officials, who have in their power executive or other influence to wield, should not be at the mercy or under the influence of any private individual who may seek his own advantage through that influence.

I am aware that the Vice-President is, under this Constitution, not given any position of executive power or patronage; and, as such, it is quite arguable that in his case, at any rate, the main ground on which I urge this will not be applicable. But on the other hand, I would submit that after all the Vice-President would be the second personage in the country in point of social status and importance. Even if he has no executive authority or political patronage to give, he is a personage and dignitary who should be safe guarded against all temptation. It is but right that he should be saved from any chance even of a possible misuse of his position to the disadvantage of public service, and to the advantage of some private individual having his ear, so to say.

The second point is in regard to the Vice-President's salary and allowances. This, under my amendment, may be provided for by Act of Parliament. It is not that it is to be provided either by a motion in Parliament where the motion may be carried by simple force of party majority; or that it is an *ad hoc* decision to be varied from time to time. I want this also to be fixed by law; and I want the law to be quite clear that during the tenure of the office of the Vice-President, the salary, allowances and emoluments, shall not be varied to his prejudice or diminished.

The terms I have used are some what different from being "varied to his prejudice". I simply suggest that they shall not be diminished in figures. This, again, is a proposition which ought not to be taken exception to. The Vice-President will be the President of the Council of States; and he would have other active duties or possible functions, and a social position of high eminence to maintain. He would be, however, ornamental, a whole-time officer. He should not be, therefore, allowed or permitted to engage in any private trade, business, industry, occupation or profession, whereby he may be obliged to neglect any part of his duties. It is, therefore, necessary that a reasonable salary or emoluments should be provided for him.

I add the limiting clause also that such salary, etc., should not exceed that of the President. It must, however, be sufficient to enable the Vice-President

[Prof. K. T. Shah]

to maintain his place with the dignity and status that we associate with such high offices.

Finally, I have asked that a pension, or retirement allowance, be given to the Vice-President, as I had proposed it should be given to the President as well. I urged on a former occasion that, in this country, these high offices should not be the exclusive monopoly of the rich, who may not need any allowance or any provision for them in retirement. They are in such a position because by other means they are able to make sufficient provision for themselves not to care for the pittance that may be allowed by the State by way of pension.

I hope our Government, under this Constitution, will not be charged with the accusation, which has been hurled against it that it is intended to be a Government of the Rich, for the Rich, by the Rich. Let it be, at least in theory, a Government under a Constitution which has provided equal opportunities for all, and which will, therefore, make it possible,— even if it is theoretically possible only,— for the poorest in the land to a spire to such offices and to do so without any risk of being further impoverished or burdened with debt.

I accordingly desire that a proper provision be made for such officers on their retirement, so that they may be free from temptation, from want, and from penury; so that they may end their days, after a life-time in the country's service, in peace and comfort, if not in luxury.

I do not, of course, desire that any "luxury" should be available to these personages, which is not available to the rest of the country. But I do not want, also, to conceal the view that, even if the holder of such office has held it only once for the full period, he should be given a retirement pension.

An argument was urged on a previous occasion, when a similar proposition was put forward to the House by me, that I had not been particularly careful as regards what would happen if the same person should once again hold a similar office, or any other office, and was as such in receipt of the salary etc., attached there to, I trust commonsense will enable those who object in this manner to perceive that, such pension would not be paid or payable, if there is concurrently any other office held. It is distinctly and exclusively a pension or allowance payable only on retirement, and while in retirement. I was, therefore, amazed to hear the argument put forward the other day that I had not mentioned whether the President, for example, if he retired and was in possession of a national pension, whether he would be allowed any other salary; or, if he was reelected, whether any such salary would be continued side by side with pension. I can only characterise such opposition as arising merely out of prejudice, and not out of any reasoned, rational perception of the point I have been urging. I am powerless to fight against such prejudice, and, therefore, trust to the good sense of the House, and commend my motion to the House as such.

Mr. Vice-President : There are two amendments standing in the name of Pandit Thakur Dass Bhargava. Is the honourable Member going to move them?

Pandit Thakur Dass Bhargava (East Punjab: General): I am not moving these two amendments.

Mr. Vice-President : Amendments 1260, 1261 and 1262 are verbal amendments and as such they are disallowed.

Amendment 1263 stands in the name of Prof. K. T. Shah. This may be moved.

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

“That in paragraph (b) of the proviso to article 56, after the words “be removed from his office for” the following be added:

‘reason duly proved, or for any violation of the Constitution duly established, or for conviction for any offence constituting a disqualification for election to the office of a President, Vice-President or member of Parliament, or for physical or mental incapacity duly certified, or for bribery and corruption, duly proved.’ ”

This amendment also embodies very simple propositions, which however, need to be stated. I hold the view, Sir, that if you leave the Constitution,— and, at that, a written Constitution, unbacked by any conventions or precedents, without clear statements of such possibilities, then you open the door wide to great abuses of the clauses, or of the practices that may prevail in the actual working of the Constitution.

It is a different matter in a country, where, even though the Constitution is not a written document, there are well-established conventions or precedents, which guide the conduct of public men in office. In this country, we are, for ourselves and by ourselves, making a Constitution for the first time. In this country we are taking the responsibility of shaping public morality, and the canons of governance for the first time in our hands. At this time, with a written Constitution. I for one do not think it right, that we should leave such important matters merely to the so-called commonsense, the sense of propriety of the public at large or public opinion to regulate. I, for one, think it is necessary that, categorically, the Constitution must expressly state these matters.

The result would be that the holders of big offices may be removed from their offices for given reasons. All the items on which I desire that such office holders may be removed from their office, or may be declared unqualified, are those which occur not in one but in several Constitutions of leading nations, and several more of subordinate bodies like Municipalities even in this country.

That being so, I think no exception should be taken to this proposition namely, that anybody convicted of treason, or of an offence against the Constitution, or for violation of the Constitution or involving moral turpitude like bribery and corruption, should continue in his office, despite such a thing being urged and proved against him.

The question of bribery and corruption involving moral turpitude is a much more serious as well as a much more difficult proposition to establish. It is difficult, not only because those who take bribes take jolly good care that they are not easily caught. The evidence will not be quite easily obtainable, I would not, of course, say that, merely on suspicion of high officers taking bribes, they should be condemned. On the contrary, they must be properly placed before the duly constituted courts of justice. They must be duly tried. They must be fully heard in their defence; and every facility should be given to them to exculpate themselves from any such charge, if they have means of doing so. I am perfectly aware that those who enjoy high position, and who hold high offices, live in glass houses. Their every act, every utterance, every movement, is liable not only to public comment, but also to public misinterpretation.

I would accordingly not throw them to the wolves so summarily or unreservedly to say that on a mere charge or suspicion they should be condemned. But if, after proper trial under proper procedure, before a competent court of law, unsuspected of any partiality for, or any favour to, anybody, they are proved guilty of having taken bribes, or in any way of having been liable to undesirable influences, then it is but right and proper that they should be removed from their high office and prevented from further misgoverning the country.

[Prof. K. T. Shah]

The same argument applies to mental and physical incapacity. Sir, if we are indifferent, if we do not insist upon this, also, it is not that the individual holding such office may benefit; it is that those concerns, those departments, those interests which are placed in his charge may suffer. It is, therefore, purely in the interests of public service, in the interests of public morality and efficiency of the administration that I am suggesting the inclusion in the Constitution in express and unambiguous terms that those proved unfit, those suffering from mental or physical disability should be removed from their offices. This, I trust Sir, will not be taken exception to, and would be accepted, if not by the draftsman, at least by the general good sense of the House.

Mr. Vice-President : Amendment No. 1264 standing in the name of Mr. Kamath, and 1266 standing in the names of Mr. Tahir and Saiyid Jafar Imam, and 1269 standing in the name of Mr. Mahboob Ali Baig, are of similar import. Of these amendment No. 1264 seems the most comprehensible and Mr. Kamath may move it. Is the honourable Member moving it?

Shri H. V. Kamath (C. P. & Berar : General): Yes, Sir. But it has been my misfortune again that four separate amendments which I sent in have been lumped together as one amendment, and so I am labouring under a handicap. I wish to move only the third part of this amendment. There are four amendments lumped together in this one. I do not blame the office for that.....

Mr. Vice-President : Does the honourable Member propose to move the other three also?

Shri H. V. Kamath : Only the third one.

Sir, I move:

“That in clause (b) of the proviso to article 56, for the words ‘agreed to by the House of the People’, the words ‘agreed to by a similar resolution of the House of the People’ be substituted.”

I wonder why the Drafting Committee preferred to be so delightfully vague as they have been in this part of the proviso. The draft on this article merely says that the resolution should be agreed to by the House of the People. It is admitted on all hands that brevity, clarity and precision should be the hallmarks of a sound Constitution. Nobody will however say that our Constitution is noted for its brevity. We take pride in the fact that our Constitution is the bulkiest in the world. Some are more proud of this fact than others. Yet, in parts of the Constitution, I find that the Drafting Committee have been seized by a strange affection for brevity, but unfortunately at the expense of clarity and precision. Here for instance they have not laid down what majority should be required for the resolution. Whether it should be unanimously agreed to, or whether it should be two-thirds majority or three-fourths majority or a simple majority has not been laid down in the proviso. I hope Dr. Ambedkar will pay some attention to this point and reply to it.

I would like to draw the attention of the House to article 50 regarding the impeachment and removal from office of the President, which we passed yesterday. There we laid down that the majority of the House in either case is required for the removal on impeachment of the President. Here is a similar article regarding the removal of the Vice-President of the Indian Republic. But strangely enough it is not stated therein clearly whether the resolution passed by a majority of all the then members of the Council of States should be agreed to by the entire House of the People or passed by a bare majority. If this article and proviso are left as they are, it will certainly be difficult later on; difficulties will be encountered. Suppose for instance the resolution is

passed by a bare majority in the Council of States. As regards the House of the People, the article is silent on the point as to what majority is required for the passing of the resolution. It is essential in my judgment that the article must specify as to what majority is required for the resolution of the Council of States to be agreed to by the House of the People. Unless this is specified this might land us in trouble later on.

May I point out another defect in this proviso? Yesterday we passed article 50 regarding the removal of the President from office upon impeachment. There we deemed it sufficient that a Resolution of the House investigating the charge preferred by the other House should be adopted for the removal of the President from Office. But here, so far as the removal of the Vice-President is concerned, we lay down that the Resolution passed by the Council of States must be agreed to by the House of the People. Yesterday I pleaded in support of Prof. Shah's amendment to the effect that the President should be removed on a resolution or vote of both Houses of Parliament and not on the vote of a single House of Parliament. As regards the removal of the Vice-President, we lay down that the resolution for removal should be adopted by both Houses of Parliament, but for the President we think it sufficient if only one House adopts a resolution for removing him from office. This is a strange anomaly which signifies that we are attaching greater importance to the removal of the Vice-President than to the removal of the President from office.

By your leave, Sir, I will just say a word about the amendment just now moved by Prof. Shah. I am afraid my Friend has not read article 79 which provides for the emoluments, the salary and allowances of the Chairman of the Council of States who is in our Constitution the Vice-President of India. Had he read that article he would not have moved that part of his amendment No. 1259 which relates to this question.

Mr. Vice-President : To the next amendment there is an amendment standing in the name of Pandit Thakur Das Bhargava. He is not moving it I understand. The main amendment is also not moved.

Does Mr. Mohd. Tahir want his amendment No. 1266 to be put to vote?

Mr. Mohd. Tahir (Bihar : Muslim) : Sir, as Mr. Kamath has moved only a part of amendment No. 1264, I hope you will permit me to move my amendment.

Mr. Vice-President : That cannot be done. We have established a convention on those lines. I now want to know whether the honourable Member wants me to put it to vote or not?

Shri H. V. Kamath : He is right, Sir. As I did not move my entire amendment which consists of four parts his amendment may be allowed to be moved. I moved only the third part of my amendment. His amendment relates to another matter and therefore it is not blocked.

Mr. Mohd. Tahir : May I move all three amendments Nos. 1266, 1267 and 1268 together?

Mr. Vice-President : You may move No. 1266 only. No. 1267 will fall under another group as will be seen from the copy of the notice regarding grouping of amendments sent to honourable members.

Mr. Mohd. Tahir : I beg to move:

“That in clause (b) of the proviso to article 56, for the words ‘all the then members of the Council’ the words ‘the members of the Council present and voting’ be substituted.”

Now, Sir, if my amendment is accepted the clause will read thus:

“The Vice-President may be removed from his office for incapacity or want of confidence by a resolution of the Council of States passed by a majority of the Members of the Council present and voting”.

Now, Sir, in this connection I want to submit that the existing provision says “by a resolution of the Council of States passed by a majority of all the then members of the Council”. I want to make a distinction between “all the then members of the Council” and “the members of the Council present and voting”. Now, the provision “all the then members of the Council” also includes those members who, although they are members of the Council, may be absent from the Council, but the intention evidently is that the resolution should be moved and passed by those members who are present and voting Sir, Dr. Ambedkar is not attending to this.

Mr. Vice-President : Dr. Ambedkar, Mr. Tahir wants your attention.

Mr. Mohd. Tahir : I was saying that the provision “by a majority of all the then members of the Council” also includes those members who, although they are members of the Council, may not be present in the Council, while the intention evidently is that the resolution should be passed by a majority of the members who are present and voting. Therefore I submit that the wording “members of the Council present and voting” will be more suitable than the existing words “all the then members of the Council”. With these words, I move.

Mahboob Ali Baig Sahib Bahadur (Madras : Muslim) : Mr. Vice-President, Sir, I move :

“That in clause (b) of the proviso of article 56, for the words “all the then members of the Council and agreed to by the House of the People”, the following be substituted:

‘not less than two-thirds of the total membership of the Council and agreed to by the House of the People by a majority of not less than two-thirds of its total membership.’ ”

Sir, the Constitution provides for the election of a Vice-President who discharges the functions of the President in the absence of the President for any reason whatever, for instance, if he is absent on account of illness or other causes. He also discharges the functions of the President when the office of the President falls vacant. Therefore the office is a sufficiently important one. That he is also asked to preside over the Council of States is only an incidental thing. He is the *ex officio* Chairman of the Council of States. Therefore, Sir, this office of Vice-President has been made sufficiently important. Now, the method of election to the Office has been made simpler, even though I would have wished that it were also made as elaborate as the election of the President, but we have accepted his election to be made by the members of both Houses. The occupant of such an important Office, who discharges the very important functions of the President and is entitled to all the powers and immunities of the President as is stated in clause (3) of article 54,—should he be dispensed with by a simple majority of the Council of States and to be agreed to by the House of the People in a light manner? That is the question to be considered. I submit that I am in agreement with those members who moved an amendment that his removal also should be done in a similar manner and in the same way by which the President is removed for incapacity, for treason and other things. I support those amendments which say that he should be treated in the same footing as the President in the matter of his removal from office, but if for any reason the Chairman of the Drafting Committee is not prepared to go to that length, it is but fair that the Vice-President should be removed from office for incapacity or for want of confidence by a double majority of

two-thirds. It may be said that if the Council of States has no confidence in the Vice-President, he should be removed by a simple majority because the words that are used are “for his incapacity or for want of confidence”, but we are forgetting one thing. He is not only the person who presides over the Council of States but he is also the person who discharges the very important functions of the President. I agree that when the Council of States is not in favour of his continuance as its Chairman, no doubt there is some reason for saying that he should be removed, but we are forgetting, as I said, that he will be functioning as the President also during his absence for whatever reason and during a vacancy. This is a very important function and therefore, Sir, if the Chairman of the Drafting Committee is not agreeable to his removal on the same footing as the President is to be removed, at least he should be removed from office only by a double majority of two-thirds of both the Houses. Sir, I move.

Mr. Vice-President : Amendment No. 1265 is disallowed as being verbal.

Amendment No. 1268 is disallowed for a similar reason.

Then we come to the four amendments which have been grouped together in the papers circulated to honourable members—1267, 1270—1272. Of these 1270 is the most comprehensive and may be moved. It stands in the names of Shri Nand Kishore Das and Shri Biswanath Das.

(Amendment No. 1270 was not moved.)

Then amendment No. 1267 can be moved. Mr. Mohd. Tahir.

Mr. Mohd. Tahir: Mr. Vice-President, Sir, I beg to move :

“That in clause (b) of the proviso to article 56, for the words ‘fourteen days notice’ the words ‘fourteen days notice in writing signed by not less than thirty members of the Council of States’ be substituted.”

I will be very short in this matter as we have already adopted in respect of the President that such resolutions should be submitted, signed by one-fourth of the total members of the House. Now, as regards the Vice-President, I do not understand why we should not adopt this provision also that a notice like this must be signed by at least 30 members of the Council of States and then only it can be admitted. I hope Dr. Ambedkar will give due consideration to this and will agree to adopt this amendment.

(Amendments Nos. 1271 and 1272 were not moved.)

Mr. Vice-President : Amendment No. 1273 stands in the name of Mr. Naziruddin Ahmad. This is verbal and is therefore disallowed.

Amendment No. 1274 can be moved.

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

“That in proviso (c) of article 56, after the word ‘term’, the words, ‘or resignation or removal as the case may be’ be inserted.”

Proviso (c) provides that the Vice-President must continue in office notwithstanding the ‘expiration of his term’. I want to make the passage read as follows: “the expiration of his term or resignation or removal as the case may be”. The ‘expiration of his term’ usually means the usual efflux of time for which he holds the office. ‘Resignation or removal’ must also be included to make the passage complete. It was only to clarify this that I have suggested this amendment.

Mr. Vice-President : The article is now open for general discussion. Mr. Sidhwa and after him Mr. Tajamul Husain will speak. I give the two names together.

Shri R. K. Sidhwa (C. P. & Berar : General) : Mr. Vice-President, Sir, with regard to amendment No. 1259 moved by my honourable Friend, Prof. K. T. Shah, he states that an official residence should be provided for the Vice-President and that his emoluments and allowances should be fixed in the Constitution; and while suggesting that, he gave his reasons that if we do not fix the emoluments and if we do not give him a reasonable salary and also provide him with a house, it is likely that he would be tempted to many kinds of vices; he gave certain illustrations. Now, Sir, I shall deal with these matters.

As regards the Vice-President's post, as we all know, we have passed article 53, which states that the Vice-President shall be *ex-officio* Chairman of the Council of States, and as such his salary will certainly be fixed. The Chairman of the Council of States, who will be holding a very responsible post will certainly get a salary as is definitely stated in article 79. Article 79 states, Sir, that all the salaries of the President, Chairman of Council of States, the Speaker, the Deputy Speaker will be fixed. My honourable Friend, Prof. K. T. Shah feels that it should be laid down in the Constitution. I do not think, Sir, that in the Constitution we should lay down a salary for the post of Vice-President. The President's and the Governors' salaries have been fixed for certain reasons that we know very well, that their salaries should not be changed from time to time but it is only fair—the Vice-President is after all a subordinate to the President—his salary should be subject to the vote of the House.

Prof. K. T. Shah goes further and says that his salary should not exceed those granted to the President, as if he feels that the Vice-President is superior to the post of the President, and therefore we must fix a bigger salary than what the President is likely to get. From this point of view, it will be seen that while we all admit that the Chairman of the Council of States and the Vice-President should be given a salary—there is also provision to this effect—I do not agree with him and I hope the House will not agree with him that the salary should be laid down in the statute.

Now, Sir, coming to the residence, my honourable Friend, Prof. Shah, stated that in this rent control business, if we do not allow him a residence, it is likely that he might come in conflict and then he would be tempted to many kinds of vices. I do not accept such a proposition for this reason. Today we have a Speaker of this Constituent Assembly. He is not provided with any house and yet the Government have requisitioned a house for him. Similarly for the State Ministers, who do not get official residences and the Deputy Ministers. Still the Government have requisitioned houses for them for that purpose. I do not know what rent they are charged, but ordinarily, it is the custom that the Government officials are charged 10 per cent of their salaries. And, therefore, Sir, it is an exaggeration to say that if we do not provide an official residence, an officer will have to go to the Rent Controller [*sic*] and say: "If you give me this house, I will pay you so much." I do not think any Vice-President would ever condescend to do such a thing and it would be a sorry day if we have a Vice-President, who really would go to that length. From this point of view, Sir, I consider Prof. Shah's fears are uncalled for.

Prof. Shah laid great stress upon corruption. He said he wants to pay the Vice-President and all the officials and all our Ministers a reasonably high salary, so that they may not be tempted to any kind of corruption or bribe. If we accepted that argument and pay more salary to make a man honest, well, I think, Sir, that proposition looks to me as most absurd and ridiculous. An honest man is an honest man. An honest man, even if he draws a salary of Rs. 20, is honest. A dishonest man, if he draws a salary of Rs. 20,000, is dishonest, Sir. I know that some of the Executive Councillors in the past drawing a salary of Rs. 5,000 have been found to be corrupt. I know some of the Governors drawing a salary of Rs. 10,000 and I know that some of the

Viceroy drawing a salary of Rs. 20,000 have been known to be corrupt and many of my friends in this House and in this country know that there had been Viceroy drawing salaries of Rs. 20,000 who have been proved to be corrupt and have taken bribes and some of the Governors too. Sir, I would not like to mention their names; but I know the House will share the view with me. Therefore it is wrong to state,—it is a fallacy and I will never accept it—that you must pay a man more to make him honest. I know of men who draw Rs. 15 and Rs. 20 being honest although they could not make both ends meet in the maintenance of their families. If a man gets a smaller salary, he adjusts his household budget accordingly. If you merely want to pay a higher salary to make him honest, I will never accept that proposition. Wherever it has been tried, it has simply failed. Therefore, I am sorry I cannot accept the argument advanced by my honourable Friend Prof. K.T. Shah while moving his amendment, although in theory it looks laudable that you should give more salary to make a man honest. I have seen in my public life what has happened in the case of public servants drawing more salaries, and I know how corrupt they have been. With these words, Sir, I oppose very strongly the amendment moved by my honourable Friend Prof. K. T. Shah.

Mr. Tajamul Husain (Bihar : Muslim) : Mr. Vice-President, Sir, I will take up first the amendment moved by my honourable Friend Prof. K.T. Shah, that is, amendment No. 1259. His amendment says that there should be an official residence for the Vice-President of the Indian Republic, that there should be fixed by Parliament emoluments and allowances to the Vice-President, and till that is fixed, his pay should be Rs. 4,500 and that his pay should not be diminished during his term of office, and also that he should get a pension after retirement to maintain the dignity of the high office which he had held during the term of his office of five years. I have come to support this amendment. The Speaker just before me, my honourable Friend Mr. Sidhwa, said, what is the use of mentioning the salary of the Deputy President when it is mentioned in article 79 of the Constitution? I at once looked up article 79 and found that the salary of the Deputy President is not mentioned at all. The salary of the Chairman, the Deputy Chairman, Speaker and Deputy Speaker of the Upper Chamber and the Lower Chamber, the Council of States and the House of the People has been mentioned. Sir, these are two distinct things. He is the Vice-President as well as the Chairman of the Council of States. He is elected as Vice-President and by virtue of his office, *ex-officio* he becomes the Chairman of the Council of States. Now, Sir, what do we find in England? We have got the Lord Chancellor who is the Chairman of the House of Lords. At the same time, the Lord Chancellor holds office as the supreme head of the judiciary. He is supposed to be higher than the Lord Chief Justice of England. He gets a salary as the Chairman of the House of Lords £4,000 and as the highest Judge in the land, he gets a salary of £6,000, total, £10,000. When he retires from office, he gets a pension of £4,000. Now, Sir, in order to maintain the dignity of such a high office, these things should be allowed to him and what should be the salary of the Vice-President of the Indian Republic should be mentioned in the Constitution. That is the reason why I have come to support this amendment.

I take up next the amendment moved by my honourable Friend Prof. K.T. Shah. I again support this amendment. That amendment says as follows. I will just read from the article 56 with which we are dealing, only a few words: “(b) A Vice-President may be removed from his office for incapacity or want of confidence,” and for no other reason, the amendment moved by my honourable Friend Prof. K.T. Shah mentions that apart from these two things, there must be something else and this is how he has worded his amendment. The clause as amended would read this way. “A Vice-President may be removed from his office for reason duly proved or for any violation of the Constitution duly established, or for conviction for any offence constituting a disqualification

[Mr. Tajamul Husain]

for election to the office of a President, Vice-President or member of Parliament, or for physical or mental incapacity duly certified, or for bribery and corruption duly proved.” I think, Sir, no argument is needed for this simple matter. All these things are very important and they should be inserted in this Constitution in article 56 (b). Therefore, I support this amendment of Prof. K.T. Shah.

I next take up the amendment moved by my honourable Friend Mr. Kamath. I regret, Sir, I have to oppose it. I want your ruling, Sir, on this point. Here we find that my honourable friend Mr. Kamath has sent in five distinct and separate amendments in one amendment.

Shri H.V. Kamath : I am sorry that my honourable Friend Mr. Tajamul Husain did not follow what I said before I moved the amendment. I said that I had sent them as four separate amendments, but unfortunately they have appeared as one in the book of amendments, for no fault of mine. I moved only one of the four.

Mr. Vice-President : Mr. Kamath moved the third part of his amendment only. He did not move the other parts.

Mr. Tajamul Husain : Unfortunately, when Mr. Kamath was moving his amendment, I was not in the House. So I did not know what he actually moved. I want to know whether he moved only one amendment or all the amendments.

Mr. Vice-President : Only the third part.

Mr. Tajamul Husain : Only one amendment? Then, I have nothing to say against it. If he had moved all the amendments, I would have asked for your ruling. It may be the mistake of the office. I have nothing to do with that. Each amendment must be moved distinctly and separately.

Now, coming to amendment No. 1269 moved by my honourable Friend Mr. Mahboob Ali Baig, I oppose this amendment. He says that in clause (b) of the proviso of article 56 for the words “all the then members of the Council and agreed to by the House of the People”, the following be substituted: “not less than two-thirds of the total membership of the Council” etc. He wants that when a censure motion is being brought against the Vice-President, there must be a majority of two-thirds. Yesterday, Sir, as regards the censure motion against the President, I said that the President must not be a mere tool in the hands of the majority party and there must be a two-thirds majority. Today I am saying that a bare majority is quite sufficient. My reason is different from what I said yesterday. My reason here is that he is only acting as the Speaker of the House. He is the Chairman of the Council of States and everywhere in the civilized world you will find and also in India you will find in the Parliament here and in all the Provincial Legislatures, the Speaker can be removed by a simple vote of majority. Therefore he must have the confidence of the majority of the people. Therefore I oppose. Otherwise he will become too autocratic. He must protect the whole House proved by a majority of a single vote. Therefore I oppose.

The next is No. 1274 by Mr. Naziruddin Ahmad who wants to add the words “or resignation or removal as the case may be in proviso (c) of article 56. The clause will then read—

“The Vice-President shall, notwithstanding the expiration of his term or resignation or removal as the case may be, continued to hold office until his successor enters upon his office.”

I strongly oppose this. This clause (c) simply means that when his term has expired and another election is being held and his successor has not been found, he must continue in office till his successor is duly found and duly

installed in his place but when the Deputy President or the Chairman of the Council of States has been removed, removed for certain reasons like bribery etc., we do not want him to continue even for one minute. I would not like to sit in a house where the Presiding Officer has been found guilty of bribery. He must go at once. As regards resignation, he resigns as he becomes incapable or has been compelled to do so and we do not want him even then. I quite agree that when his term expires after five years, then he must remain till his successor is found but if he has been removed, he must get out at once. I therefore oppose strongly the amendment of Mr. Naziruddin Ahmad.

Pandit Thakur Dass Bhargava : Sir, the Vice-President as such will have two capacities—No. 1, while he is acting as President and No. 2, while acting as the President of the Council of States. Now in regard to his capacity as President, it is clear that if he violates the Constitution he would come under the purview of article 50 and will be impeachable and removable from his office as President. So far as the question of his removal is concerned in regard to article 56 as President of the Council of States, the provisions are exactly the same as are applicable to the Speaker of the House of People. Perusal of article 77 (c) would show that the language is almost the same for the Speaker of the House of People as for the Vice-President who will fill the office of President of the Council of States and I do not think that any change is necessary at all. My apology for taking the time of the House only consists in my anxiety to emphasise one point which struck me and that was that the Vice-President should lose his office as such *ipso facto* if he is successfully impeached under article 50. In regard to this I have been assured that the position is clear and it will be done in some other manner except by providing under article 56. I tabled an amendment which I have not moved because I have been assured that the rules will provide for it. When I speak on this point, it is only to bring it to the notice of the authorities that some provision should be made so that by virtue of successful impeachment under article 50 the Vice-President may be removed without any want of confidence being shown by a Resolution as provided under Clause (b). The mere fact that he has been successfully impeached is in my opinion, quite sufficient for his removal from the position of Vice-President and therefore this should be made clear. I only wanted to bring out this point and, get an assurance that the rules will provide for it.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, Sir, I regret my inability to accept any of the amendments that have been moved to article 50. I should, however, like to meet some of the points that have been made by those who have moved the amendments. Sir, the first amendment was by Prof. Shah which laid down that provision should be made for pay and pension for the Vice-President. This is a matter which Prof. Shah has also raised in connection with the office of the President and I had stated my objection to making any such provision in the Constitution itself.

The Honourable Shri K. Santhanam (Madras : General): May I point out that in Second Schedule express provision has been made?

The Honourable Dr. B. R. Ambedkar : Having explained my position with regard to that point, I shall not repeat what I have said then. Coming to sub-clause (b) of article 56, various points have been raised. First of all a point has been raised that the words 'bribery, corruption etc.' should be added. Personally I do not think that any such particular phrase is necessary. Want of confidence is a very large phrase and is big enough to include any ground such as corruption, bribery etc. Therefore that amendment, in my judgment, is not necessary. The second point that has been made is that the removal of the Vice-President should be governed by the same rules as the removal of the President *viz.*, that there should be a majority of two-thirds. Now, Sir, with regard to that point, I would like to draw the attention of the House that although the Constitution

[The Honourable Dr. B. R. Ambedkar]

speaks of Vice-President, he really is a Chairman of the Council of States. In other words, so far as his functions are concerned, he is merely an opposite number of the Speaker of the House of People. Consequently in making a comparison or comment upon the provisions contained in sub-clause (b) of article 56 those provisions should be compared with the articles dealing with the removal of the Speaker and they are contained in article 77 (c). If this article 56 (b) is compared with the article 77 (c), members will find that the position is exactly identical. The same rules which are made applicable to the removal of the Speaker are also made applicable to the removal of the Vice-President who, as I have stated, is really another name for the Chairman of the Council of States. Consequently, the requirement of two-thirds majority is unnecessary.

And then my friend Mr. Kamath has raised what I might call a somewhat ticklish question. He said that sub-clause (b) of this article speaks of a majority, while when the reference is made to the House of the People, no such phraseology is used. Now, the matter is quite simple. Whenever we have said that a certain resolution has to be passed, it is understood that it has to be passed by a majority of the House. It is only when a special majority is mentioned that a reference is made to a majority and not otherwise. Now, I quite agree that his argument is that although we do not mention or specify any particular majority with respect to the Council of States, we have still used the phraseology—passed by a majority. Why is this distinction made? Why is this distinction between the phraseology used in regard to the Council of States and in regard to the House of the People? Now, the difference has been made because of the word “then” occurring there. That word “then” is important. The word “then” means all members whose seats are not vacant. It does not mean members sitting or present and voting. It is because of this provision, that all members who are members of Parliament and whose seats are not vacant, that their votes also have to be counted, that we have said—passed by a majority of the then members.

Shri H. V. Kamath : Does it mean the total number of members of the Council of States?

The Honourable Dr. B. R. Ambedkar : Yes, the word ‘then’ is necessary.

Shri H. V. Kamath : On a point of clarification, Sir. Yesterday in article 50, we used the phraseology ‘passed by a majority’ in place of the two-thirds majority. Should we not do the same thing here, to make the meaning clearer?

The Honourable Dr. B. R. Ambedkar : I shall explain it presently. The reason is due to the fact that we have to use the word ‘then’ which is intended to distinguish the case of members present and voting, and members who are members of the House whose seats are not vacant, and voting.

Shri H. V. Kamath : Am I to understand that unless otherwise specified, when you say a resolution is passed or adopted, it means that it is by a simple majority?

The Honourable Dr. B. R. Ambedkar : Yes.

Now, coming to the point raised by my friend Mr. Tahir, amendment No. 1266. If I understood him correctly, what he says is that the resolution of no-confidence should require to be passed by two-thirds. This may be good or it may be bad. I cannot say. All I can say is that this provision is also on a par with the provision regarding the want of confidence in the Speaker. There also we do not require that it should be passed by two-thirds majority or two-thirds of the members of the House.

Then, coming to the amendment of my friend Mr. Naziruddin Ahmad, who wants that in clause (c) after the word “term” words such as resignation etc.

should be inserted. This amendment is absolutely unnecessary, because this article does not make any provision for filling casual vacancies. There is no necessity for making any provision for casual vacancies because under article 75, sub-clause (1) there is always the Deputy Chairman who is there to step in whenever there is any casual vacancy. Consequently such an amendment is unnecessary.

Sir, I hope that with this explanation, the House will accept the article as it stands.

Mr. Vice-President : I may now put the amendments, one by one to vote. The question is:

“That article 56 be numbered as clause (1) of the article and the following new clauses be added after that:

- ‘(2) The Vice-President shall have an official residence and there shall be paid to the Vice-President such emoluments and allowances, not exceeding those granted to the President, as may be determined by Parliament by law, and until provision in that behalf is made by Act of Parliament, the Vice-President shall be paid a monthly salary of Rs. 4,500.
- (3) The emoluments and allowances of the Vice-President shall not be diminished during his term of office.
- (4) Every Vice-President, on completion of his term of office and retirement shall be given such pension or allowance during the rest of his life as Parliament may by law determine, provided that, during the life time of any such Vice-President, in retirement and pensioned, such pension or allowance shall not be diminished.’ ”

The amendment was negatived.

Mr. Vice-President : The question is:

“That in paragraph (b) of proviso to article 56, after the words “be removed from his office for” the following be added:

‘reason duly proved, or for any violation of the Constitution duly established, or for conviction for any offence constituting a disqualification for election to the office of a President, Vice-President or member of Parliament, or for physical or mental incapacity duly certified, or for bribery and corruption, duly proved.’ ”

The amendment was negatived.

Mr. Vice-President : The question is:

“That in clause (b) of the proviso to article 56, for the words “agreed to by the House of the People” the words “agreed to by a similar resolution of the House of the People” be substituted.”

The amendment was negatived.

Mr. Vice-President : The question is:

“That in clause (b) of the proviso to article 56, for the words ‘all the then members of the Council’ the words ‘the members of the Council present and voting’ be substituted.”

The amendment was negatived.

Mr. Vice-President : The question is :

“That in clause (b) of the proviso of article 56, for the words ‘all the then members of the Council and agreed to by the House of the People’, the following be substituted:

‘not less than two-thirds of the total membership of the Council and agreed to by the House of the People by a majority of not less than two-thirds of its total membership.’ ”

The amendment was negatived.

Mr. Vice-President : The question is:

“That in clause (b) of the proviso to article 56, for the words ‘fourteen days’ notice’ the words ‘fourteen days’ notice in writing signed by not less than thirty members of the Council of States’ be substituted.”

The amendment was negatived.

Mr. Vice-President : The question is:

“That in proviso (c) of article 56, after the word ‘term’, the words, ‘or resignation on removal as the case may be’ be inserted.”

The amendment was negatived.

Mr. Vice-President : The question is:

“That article 56 stand part of the Constitution.”

The motion was adopted.

Article 56 was added to the Constitution.

Article 57

Mr. Vice-President : Now we come to article 57.

The motion before the House is that article 57 form part of the Constitution.

There are only two amendments tabled so far, Nos. 1275 and 1276. No. 1275 standing in the name of Mr. Naziruddin Ahmad is disallowed as it has the effect of a negative vote.

No. 1276 standing in the name of Prof. K. T. Shah may be moved.

Prof. K. T. Shah : Mr. Vice-President, Sir, I beg to move that in article 57 after the words “the functions of the President” the words “or Vice-President” be added.

The article as amended would then read as follows:—

“Parliament may make such provision as it thinks fit for the discharge of the functions of the President or Vice-President in any contingency not provided for in this Chapter.”

Sir, I am at a loss to understand why while providing for “*any contingency*” the words Vice-President should have been omitted, in laying down provision for the discharge of the functions entrusted to the President. Such a contingency might quite possibly occur when the President, for one reason or other,—let us say, for having lost confidence of the House, or having been impeached successfully,—is unable to discharge his functions; and the Vice-President has gone insane. That is a contingency which is not utterly out of possibility; and as such I do not really see why this simple contingency has not been foreseen by the draftsmen. The draftsman has been quick enough in many cases, to propose amendments of his own to his own Draft, and to see to it that others support him also, when he finds that certain matters have been omitted in the first Draft, they subsequently occur to him in the amendments proposed by others, and, taking the hint from them, he tables his amendments, which, of course have the unanimous support of the House except one. But here I find a case in which I do not think the draftsman will be well advised to say that this amendment is unnecessary.

I have just now mentioned a particular contingency and said that when both these high officers may not be able to, or may not be permitted, under the Constitution, to perform or discharge their functions, in that contingency it is but necessary that some such provision be made.

As this is an article of the Constitution, I take it that the ordinary legislature would not be allowed to step in, and rectify the omission by making provision, should that contingency occur. You may say that there will be the Parliament, and Parliament will make the necessary provision for such a contingency. But if a provision is made expressly by the Constitution—and the Constitution has presumably deliberately left out the addition of the word “Vice-President”—then I put it to the House that it is an omission which, at this stage, we ought to