

Mr. Vice-President : Amendment No. 1140, standing in the name of Prof. K. T. Shah.

“That the following new clause be added to article 48:—

‘(5) Every President on completion of his term of office, and retirement, shall be given such pension or allowance during the rest of his life as Parliament may determine, provided that during the life time of any such President in retirement, the pension or allowance granted to him shall not be varied to his prejudice’.”

The amendment was negatived.

Mr. Vice-President : The question before the House is that article 48, as amended, form part of the Constitution.

The motion was adopted.

Article 48, as amended, was added to the Constitution.

New Article 48-A

Mr. Vice-President : Now we come to the new article 48-A and amendment No. 1141 standing in the name of Prof. K. T. Shah. It will be seen that this amendment is similar to amendments No. 1125 and No. 1126 which have been negatived. Therefore it is disallowed.

Article 49

Mr. Vice-President : We now come to article 49.

The motion before the House is:

“That article 49 form part of the Constitution.”

We will go through the amendments, one by one.

First is amendment No. 1142, standing in the name of the Honourable Shri G. S. Gupta; it is a verbal amendment and is disallowed.

Amendments Nos. 1143, 1144 and 1145 are of similar import. No. 1144 may be moved, standing in the name of Shri T. T. Krishnamachari.

Shri T. T. Krishnamachari : Mr. Vice-President, Sir, I move:

“That in article 49, after the words ‘Chief Justice of India’ the words ‘or, in his absence the senior-most Judge of the Supreme Court available’ be inserted.”

Sir, this is only making a provision in case the Chief Justice of India is not present, some other Judge should do his function, and it is but proper that the senior-most judge of the Supreme Court should do this function. Sir, I trust the House will accept the amendment because it needs no further explanation.

Mr. Vice-President : Dr. Ambedkar, do you accept that amendment?

The Honourable Dr. B. R. Ambedkar : Yes, I do.

Mr. Vice-President : Then I need not put No. 1143 to vote.

Then comes amendment No. 1145, standing in the name of Shri Jaspat Roy Kapoor.

(Amendment No. 1145 was not moved.)

Mr. Vice-President : Then comes amendment No. 1146, standing in the name of Mr. Kamath.

Shri H. V. Kamath : Mr. Vice-President, Sir, by your leave, I move this amendment No. 1146 in a slightly amended form, as follows:—

“That in the affirmation or oath in article 49, for the words ‘I, A. B. do solemnly affirm (or swear)’, the following be substituted:—

‘In the name of God, I, A. B, do swear’

or alternatively,

‘I, A. B. do solemnly affirm’.”

Sir, as I read the Constitution carefully I was left with a sadly uncomfortable feeling that there was a void in the Constitution, that there was a vacuum in the Constitution.

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

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

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

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

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

and so he goes on : then he says:

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

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

Sarva Dharman Parityajya, Mamakam Sharanam Vraja !

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

यत्करोषि यदश्नासि यज्जुहोषि ददासि यत्।
यत्तपस्यसि कौंतेय तत्कुरुष्व मदर्पणम्॥

yat karoshi yadashnasi yajjuhoshi dadasi yat
yattapasyasi kaunteya tatkurushva madarpanam

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

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

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

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

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

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

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

Sardar Patel recently in Bombay declared:

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

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

“Ishwar ke nam par main pratigy karta hun.”

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

“Ishwar Allah tere nam

Sabko sanmati de Bhagvan.”

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

[Shri H. V. Kamath]

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

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

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

swear in the name of God

‘do————’,”

solemnly affirm.

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

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

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

Shri L. Krishnaswami Bharathi : What is the distinction?

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

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

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

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

[Kazi Syed Karimuddin]

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

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

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

Shri H. V. Kamath : Sometimes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Hamko Darshan Pura Hogia.”

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

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

An Honourable Member : Which party has accepted?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“That article 49 be deleted.”

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

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

[Rev. Jerome D'Souza]

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

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

Mr. Vice-President : Dr. Ambedkar.

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

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

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

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

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

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

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

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

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

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

Mr. Vice-President : The question is:

“That in article 49, after the words ‘Chief Justice of India’ the words ‘or, in his absence the senior-most Judge of the Supreme Court available’ be inserted.”

The amendment was adopted.

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

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

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

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

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

The question is:

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

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

The amendment was adopted.

Mr. Vice-President : The question is:

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

The amendment was negatived.

Mr. Vice-President : The question is:

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

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

The amendment was negatived.

Mr. Vice-President : The question is:

"That article 49 as amended, be adopted."

The motion was adopted.

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

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