

Mr. President : The question is :

“That in amendment No. 445 of List XX, in the proposed sub-clause (b) of clause (1) of article 59, after the words ‘offence under any law ‘ the words ‘made by Parliament’ be inserted.”

The amendment was negatived.

Mr. President : The question is:

“That for sub-clause (b) of clause (1) of article 59, the following sub-clause be substituted :-

- (b) in all cases where the punishment or sentence is for an offence under any law relating to matter to which the executive power of the Union extends;”

The amendment was adopted.

Article 62

Shri T. T. Krishnamachari: Sir, I move:

“That in clause (5) of article 62, for the words ‘who from the date of his appointment is. for a period of six consecutive months, not a member’, the words ‘who for any period of six consecutive months is not a member ‘ be substituted.”

This is a purely verbal alteration in regard to the qualification, or rather the disqualification, of Ministers. If my memory is correct, I think this wording was pointed out to us as being more suitable by my honourable Friend Mr. Gupte at the time we passed this article. And I think Dr. Ambedkar had in mind examining the position. We feel this is the more appropriate wording and therefore we have suggested this amendment.

Incidentally I might mention that there is an amendment tabled by my honourable Friend Mr. Santhanam which may be quite correct, but it is only a matter of variation again of the language. Really the amendment is not a matter of substance but putting the thing in the precise form so as to avoid any mistaken interpretation that may arise in the future.

The Honourable Shri K. Santhanam: It is quite correct as my Friend Mr. Krishnamachari has said that my amendment is only to make matters clear because, as the official amendment stands, there is no clear indication where to begin the period of six months and how to count it. It may also be construed—though it may not appear a very correct interpretation—that the period may be counted even before he became a Minister, because it may be said that if a person is not a member of Parliament he cannot be appointed a Minister. Our object is that a person who is not a member of Parliament may be appointed Minister, but after that appointment he must become a member within six months and must continue to be a member afterwards. Therefore my amendment is:

“That in amendment No. 446 of List XX, in clause (5) of article 62, for the proposed words ‘who for any period of six consecutive months is not a member’ the words ‘who, after the date of his appointment, is for any period of six consecutive months not a member’, be substituted.”

When we changed from the wording of the Government of India Act 1935, I remember this was discussed by us and we put the words “from the date of appointment” as the beginning of the period. But in interpretation it may mean that afterwards he may cease to be a member after six months and such a case may not be covered. So I agree that the amendment is desirable. But if the words “after the date of appointment” are put in it will become much more precise.

Shri H. V. Kamath: (C. P. & Berar: General): May I suggest that for the word “after” which Mr. Santhanam suggests, the word “from” would be more appropriate? “After” is not correct.

The Honourable Shri K. Santhanam: “From” may mean that for the first six months he should be member and afterwards if he ceases to be member he may continue to be minister. That is the lacuna which we are trying to fill up.

Shri T. T. Krishnamachari : There is only one point I would like to mention in respect of Mr. Santhanam’s amendment. His amendment is practically the same, except for a minor difference, namely, in a position where a person is a Minister who after having been elected duly and later on during four or five months after the original election some irregularity is found in the election and the election is set aside. Mr. Santhanam’s amendment would not cover such a case. So I would suggest that we should err on the safe side and that the House should accept the amendment moved by me.

The Honourable Shri K. Santhanam: I do not press my amendment.

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

Mr. President : Then I put No. 446. The question is :

“That in clause (5) of article 62, for the words ‘who from the date of his appointment is, for a period of six consecutive months, not a member’ the words ‘who for any period of six consecutive months is not a member be substituted.’”

The amendment was adopted.

Article 147

Shri T. T. Krishnamachari: I move No. 447, which reads thus:

“That in article 141, for the words ‘with respect to which the Legislature of the State has power to make laws.’ the words ‘to which the executive power of the State extends’ be substituted.”

I have already explained the position while moving amendment No. 445 which the House was good enough to accept. This merely seeks to remedy the position so far as the Governor’s powers of granting pardon are concerned.

Mr. President : The question is ;

“That in article 141, for the words ‘with respect to which the Legislature of the State has power to make laws’ the words ‘to which’ executive power of the State extends’ be substituted.”

The motion was adopted.

Article 175

Shri T. T. Krishnamachari : Sir, I move:

“That to article 175 the following proviso be added—

‘Provided further that the Governor shall not assent to, but shall reserve for consideration of the President any Bill which in the opinion of the Governor would, if it law, to derogate from the powers of the High Court as to endanger the position which that court is by this Constitution designed to fill’.”

The reason why we have to bring in this amendment at this stage is this. An amendment had been tabled by Dr. Ambedkar—No. 3406 of Volume II of amendments to amendments—seeking to recast the 4th Schedule, which the House has now decided to drop. and therefore Dr. Ambedkar could not move it. In that amendment. in clause (7) provision had been made in regard to the substance of the proviso which I have now moved. If the 4th Schedule had been there, this amendment would not have been necessary. At the time we considered article 175 we were not quite sure whether the 4th Schedule will be a part of the Constitution or not. That is my explanation for bringing forward this amendment.