

**Article 157**

**Mr. President** : There is no amendment, to this article as far as I can see, which is of a very substantial nature. All are verbal amendments. This article is similar to article 76 relating to the Union.

The question is:

“That article 157 stand part of the Constitution.”

The motion was adopted.

Article 157 was added to the Constitution.

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**Mr. President** : Then there is notice of another amendment to insert a new article-157-A, given by Prof. Shah.

**Prof. K.T. Shah** : Sir, this matter has been discussed in the past and it has been rejected. Therefore, I do not wish to move it.

(Amendment No. 2359 was not moved.)

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**Article 158**

**Mr. President** : The motion is:

“That article 158 form part of the Constitution.”

**Mr. Mohd. Tahir** : Mr. President, I beg to move:

“That in article 158, for the words ‘A member holding office as’ the word ‘The’ be substituted and in clause (b) of article 158, for the words ‘such members’ the word ‘he’ and for the words ‘to the Deputy Speaker’ the words ‘the member of the Legislative Assembly’ be substituted respectively.”

If the amendment is accepted, it will run as follows:

“The Speaker or Deputy Speaker of an Assembly—

- (a) shall vacate his office if he ceases to be member of the Assembly;
- (b) may at any time by writing under his hand addressed if he is the Speaker to the members of the Legislative Assembly and if he is the Deputy Speaker, to the Speaker, resign his office, and .....

I will say a few words in this connection. The Speaker of the Assembly must necessarily be a member of the House. He is resigning or vacating the office, not as a member, but as the Speaker of the Assembly. Therefore, the wording, “A member holding office as”, I think is redundant and it should be, “Speaker or Deputy Speaker of the Assembly.” So far as the addressing of the resignation is concerned, I would submit that the Speaker of the Assembly is elected by the members of the House. The Speaker is the highest official in the Assembly. If he resigns he must address to the members of the Assembly and not to the Deputy Speaker. He may hand over the resignation letter to the Deputy Speaker: that is a different matter. So far as the addressing of the application for resignation is concerned, he must address it to the members of the Assembly who have elected him as such. Therefore, I think that this provision should be amended like this. With these few words, I commend this amendment to the House for acceptance.

(Amendment No. 2361 was not moved.)

**Mr. President** : Amendment No. 2362.

**Shri H.V. Kamath** : A similar amendment has been lost earlier, Sir, and I am not anxious to see the same fate overtake this amendment as well.

(Amendment Nos. 2363 and 2364 were not moved.)

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

“That in clause (c) of article 158, for the words ‘all the then members of the Assembly’ the words ‘the members of the Assembly present and voting’ be substituted.”

Clause (c) runs as follows:

“(c) may be removed from his office for incapacity or want of confidence by a resolution of the Assembly passed by a majority of all the then members of the Assembly.”

Sir, so far as I can understand the meaning of the wording, “all the then members of the Assembly”, it includes all the members of the Assembly. Supposing a House is composed of 300 members then, it will mean all the members of the Assembly, that is 300. Supposing fifty members of the House are not present in the House, then, those members will not have the right to give their votes so far as this question is concerned. Therefore, I think that it would be better that this matter should be considered by only those members who are present in the Assembly and who can vote in the matter. If this phrase “all the then members of the Assembly” means the members who are present in the Assembly, then, I have no objection. If it means all the members of which the House is composed, I think it is not desirable to keep the clause as it stands.

With these few words, I move my amendment.

(Amendment Nos. 2366, 2367 and 2368 were not moved.)

**Mr. President :** Amendment No. 2369.

**Shri T. T. Krishnamachari** (Madras: General): May I ask, Sir, if Mr. Jaspat Roy Kapoor is going to move another amendment which stands in his name, article 159-A, which is another version of the amendment which is now before the House. If he is going to move that amendment, I think there is no point in moving this amendment. I think the latter amendment will serve the purpose he has in mind more adequately.

**Shri Jaspat Roy Kapoor** (United Provinces: General): I may assure my honourable Friend Mr. T.T. Krishnamachari that I will move all the relevant amendments. In order to enable me to move the final amendment, I think it is necessary that I should move amendment No. 2369. Otherwise it will not be permissible for me to move any other amendment which is an amendment to this amendment.

**Mr. President :** You may formally move this and then go to the amendments to this amendment.

**Shri Jaspat Roy Kapoor :** Is it your suggestion, Sir, that I need not read this?

**Mr. President :** Yes.

**Shri Jaspat Roy Kapoor :** Mr. President, I beg to move amendment No. 2369 in the printed List of Amendments, Volume I:

“That at the end of article 158, the following new clause be inserted :—

- ‘(2) When a resolution for the removal of the Speaker is under discussion the Deputy Speaker shall preside and when the resolution for removal of the Deputy Speaker is under consideration and the Speaker is absent such other person shall preside as under the rules of procedure of the Assembly is authorised to preside during the absence of the Deputy Speaker.’ ”

To improve upon this amendment I have given notice of amendments to this amendment. I will first move amendment No. 138 which runs thus :

“That for amendment No. 2369 of the List of Amendment, the following be substituted :—

“That after article 158, the following new article be inserted :—

- 158-A. At any sitting of the Legislative Assembly of a State, while any resolution for the removal of the Speaker from his office is under consideration, the Speaker, or while any resolution for the removal of the Deputy Speaker from his office is under consideration, the Deputy Speaker, shall not, though he is present, preside, and the provisions of clause (2) of the next succeeding article shall apply in relation

[Shri Jaspat Roy Kapoor]

to every such sitting as they apply in relation to a sitting from which the Speaker or, as the case may be, the Deputy Speaker, is absent.”

There is yet another amendment to this amendment, No. 195:

“That with reference to amendment No. 2369 of the List of Amendment and No. 138 of List II (Third Week), after article 159, the following new article be inserted :—

<p>‘159-A. At any sitting of the Legislative Assembly of a State, while any resolution for the removal of the Speaker from his office is under consideration, the Speaker, or while any resolution for the removal of the Deputy Speaker from his office is under consideration, the Deputy Speaker, shall not, though he is present, preside, and the provisions of clause (2) of the last preceding article shall apply in relation to every such sitting as they apply in relation to a sitting from which the Speaker or, as the case may be, the Deputy Speaker, is absent.</p>	<p>The Speaker and the Deputy Speaker not to preside at sittings of the Assembly while a resolution for his removal from office is under consideration.</p>
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Perhaps it is unnecessary to read amendment No. 195. The only change that it seeks to make in amendment No. 138, is that the location of this new article should be after 159 and not after 158.

Sir, the principle and propriety of the procedure suggested in this amendment has already been agreed to by this House on a previous occasion in dealing with the procedure in respect of the two Houses of Parliament. This amendment is on the same lines as article 75-A and 78-A which the House has already adopted. This amendment only seeks to lay down the same procedure as we have laid down in the case of the two Houses of Parliament. Obviously it would be unfair to the Legislative Assembly and it would be embarrassing to the Speaker and the Deputy Speaker to preside over the deliberations in the Assembly when a motion of no-confidence is being moved against him, and I think that, in order to be fair to the House and also to relieve the Speaker or the Deputy Speaker of the embarrassing position in which he would find himself when such a motion of no-confidence against him is being discussed in the House, it is necessary that the Speaker or the Deputy Speaker, as the case may be should not preside over the sitting of the Assembly and somebody else should preside in his place as is provided in this amendment. I need not say anything more on this subject because it has already been discussed on a previous occasion and I simply commend it for the acceptance of the House.

**Mr. President :** I think this should come after 159. It is moved and we shall reserve voting after article 159 is disposed of.

I will put article 158 to vote. I will first put the amendments of Mr. Tahir to vote.

**Mr. President :** The question is:

“That in article 158, for the words ‘A member holding office as’ the word ‘The’ be substituted and in clause (b) of article 158, for the words ‘such member’ the word ‘he’ and for the words ‘to the Deputy Speaker’ the words ‘the member of the Legislative Assembly’ be substituted respectively.”

The amendment was negatived.

**Mr. President :** The question is:

“That in clause (c) of article 158, for words ‘all the then members of the Assembly’ the words ‘the members of the Assembly present and voting’ be substituted.”

The amendment was negatived.

**Mr. President :** The question is:

“That article 158 stand part of the Constitution.”

The motion was adopted.

Article 158 was added to the Constitution.