

**Pandit Thakur Das Bhargava :** Sir, with your permission, I wish to bring to your notice that so far as this new provision is concerned, no notice of it was given before and we did not know if such a provision was going to be brought before the House. In the printed book which has been circulated to us, this does not appear there. This is the first time that we are informed of its existence. I beg of you under these circumstances to kindly hold this section over, so that we may be able to table proper amendments to this article. So far as the provision of article 67-A go, they appear, on a cursory examination, to be extremely wide. We have just heard that the powers of these persons who will be nominated will be co-terminous with the proceedings of a particular Bill, but there is nothing in this section to indicate that. Similarly I understand that the words “ In relation to the said Bill” are too wide. I can understand if the House agrees to the appointment of experts and then their powers should be limited to the time when the Bill is on the anvil of the Legislature and only in so far as the Bill is being considered. These words “in relation go to the said Bill” might mean that whenever a provision of this kind is taken up any of those matters in regard to.....

**Pandit Hirday Nath Kunzru** (United Provinces: General): The honourable Member is not audible.

**Mr. President :** Does the honourable Member want that the discussion of this article be held over?

**Pandit Thakur Das Bhargava :** Exactly.

**Mr. President :** Is that the wish of the House that it should be held over?

**Shri T.T. Krishnamachari** (Madras: General): We may go on with the discussion now and if the Drafting Committee want to reconsider it, we can do so later on.

**Mr. President :** The suggestion is that this thing was not circulated before and Members wish to have time.

**The Honourable Dr. B.R. Ambedkar :** I have no objection if the House wants that the consideration of this matter be postponed.

**Mr. President :** We shall postpone it today and we shall take it up later.

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### Article 68

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

“That article 68 form part of the Constitution.”

We shall now take up the amendments to this article.

(Amendment Nos. 1453 and 1454 were not moved.)

Amendment No. 1455 stands in the name of Mr. Naziruddin Ahmad. I think that is a verbal amendment. Will you like to move it? With regard to these verbal amendments, I was going to make a suggestion to the Honourable Dr. Ambedkar. With regard to them, he might consider them in consultation with the Members who have given notice of such verbal amendments and such of them as would be accepted could be taken up at the time when the motion is placed before the House as having been accepted and we would save the time of the House in that way, but with regard to those which are not acceptable, of course, we shall have to consider what to do with them.

**The Honourable Dr. B. R. Ambedkar :** The Drafting Committee may be very glad to follow that procedure.

**Mr. President :** It will save a lot of time and I will leave out all these verbal amendments or amendments which are of a drafting nature, and which do not touch the substance of the article.

Amendment No. 1456 stands in the name of Mr. Naziruddin Ahmad. It is also of a drafting nature.

**Mr. Naziruddin Ahmad :** No, Sir. It is not of a drafting nature.

**Mr. President :** The amendment is for substituting the word “third” for the word “second”.

**Mr. Naziruddin Ahmad :** Sir, I do not move it.

(Amendment Nos. 1457, 1458, 1460 and 1461 were not moved.)

**Mr. President :** Amendment No. 1459 is more or less of a drafting nature. Amendment No. 1462 is verbal. Amendment No. 1463 is of a drafting nature.

**The Honourable Dr. B.R. Ambedkar :** Sir, I move:

“That in the proviso to clause (2) of article 68, for the words ‘by the President’ the words ‘by Parliament by law’ be substituted.”

It is not necessary to offer any explanation for the amendment which I have moved. It will be seen that the clause as it stands vests the power of extending the life of Parliament in the President. It is felt that this is so much of an invasion of the ordinary constitutional provisions that such a matter should really be vested in Parliament and that Parliament should be required to make such a provision for extending the life of itself by law and not by any other measure such as a resolution or motion.

(The amendment to Amendment No. 1460 was not moved.)

**Mr. President :** Amendment No. 1465: that is covered by Dr. Ambedkar’s amendment. It is not necessary to take it up.

**Prof. K.T. Shah (Bihar: General):** Mr. President, I move:

“That in the proviso to clause (2) of article 68, the full-stop at the end of the sentence be substituted by a semi-colon and the following be added :—

‘provided further that the People’s House, elected after the Proclamation has ceased to operate, shall hold office only for the balance of the period of 4 years for which it would have been elected if the dissolution had taken place in the normal course under this section. The same provision shall apply to any Parliament elected after the dissolution of its predecessor if it had been dissolved before the completion of the normal term of 4 years.’ ”

In suggesting this amendment, I want to emphasise two principles: one that any Parliament elected after or immediately after a great national emergency is likely to be influenced very much by the very fact of that emergency. If, therefore it is elected for the full period and not for the balance of the period that would then be remaining, it is likely that such a Parliament may be called upon to deal with issues that may never have figured, or figured in a minor key at the general election which elected that Parliament. I think, if Parliament is to represent and reflect the popular sentiments of the issues that come before it from time to time, its length should be not so long that it might cease to be in full harmony with popular sentiment that may be changing under changing circumstances from time to time. It is therefore, of the utmost importance that the life of the Parliament should not be too long.

By a previous amendment, I had tried to make the life four years. That however being merely a matter of relatively small importance, I did not choose to move that amendment. But, here, I should like to emphasise that the fact that Parliament has to be elected after the Proclamation has

[Prof. K. T. Shah]

ceased, but the effect of the emergency has not passed away, is of importance, and that we should elect that Parliament only for the balance of the period for which its predecessor had been elected, and a balance still remains unexpired.

My reason, as I have already stated is that a Parliament elected under the stress of a grave emergency, influenced by the effect of that emergency sufficient to cause a Proclamation or even a suspension of the Constitution, would not be reflecting the normal sentiment of the people. It is, therefore, best that, in order to secure continued representation of the people properly and the popular opinion fully Parliament should be elected only for the balance of the period.

If that principle is accepted, then, I think the next clause follows as a mere corollary. That is to say, in every case, after a Proclamation of a state of emergency, any Parliament elected should be elected only for the balance of the period and not for the full period that would normally be prescribed under the Constitution.

It would also serve, I think, though I do not attach much magic to that, the purpose of maintaining a certain symmetry in our constitutional development, a period of five years being selected as the normal life of a popular legislature, and as such that quinquennial period should go on repeating from time to time in regular series, any interruption caused by the occurrence of an emergency such as has been provided for in this section being guarded against by permitting the new Parliament to be elected only for the balance of the period remaining unexpired at the time of the emergency.

I think this is a very simple matter, and if accepted, it would make Parliament always more fully in accord with the popular sentiment than it would be if you allow it to be elected for a full period even though elected under the stress of a great national emergency which has passed, but whose effects are not over.

I commend the motion to the House.

**Mr. President :** There is one difficulty. You have not moved the other amendment which stood in your name fixing the period to four years.

**Prof. K.T. Shah :** I am quite willing to make that five.

**Mr. President :** Could you do that at this stage!

**Prof. K.T. Shah :** I am in your hands. I deliberately did not move it.

**Mr. President :** We shall consider that later. Mr. Mihir Lal Chattopadhyaya.

**Mr. Mihir Lal Chattopadhyaya** (West Bengal: General): I am not moving my amendment.

**Mr. President :** Two amendments have been moved, one by Dr. Ambedkar and the other by Prof. K. T. Shah. Both of them and the article are open for discussion.

**Mr. Tajamul Husain** (Bihar: Muslim): Mr. President, I rise to oppose the amendment moved by the Honourable Dr. Ambedkar. My reason for opposing it is this. His amendment is that after the word 'President' the words 'with the consent of the Parliament' be inserted. Article 68 says:

"That the period may, while a Proclamation of Emergency is in operation, be extended by the President for a period not exceeding one year, etc."

Supposing the Parliament is not in session, then what are we to do in that case? After all the President represents the whole of India. He must have some very wide powers and this power should, in my opinion, be left in the hands of the President specially when the Parliament may not be in session and it is a matter of emergency. Therefore I oppose the amendment and I want the proviso to remain as it is in the Draft Constitution.

The next is the amendment of Professor Shah. I have two objections to it. It may be a verbal objection. After, all, this is an amendment and if it is passed, it will go down in the Statute Book. So every word must be correct. Here he uses the words 'People's House.' There is no such thing as 'People's House' in the Draft Constitution. It is the House of the People. Another thing is as you yourself have pointed out to my Friend Mr. K.T. Shah that the period he mentions is 4 years while we have already accepted that the period should be five years. With these two objections to this amendment, I trust the House will agree with me and not accept either of these two amendments and let the words as mentioned in the Draft Constitution remain.

**Shri R. K. Sidhwa** (C.P. & Berar: General): Mr. President, with regard to my Friend Professor Shah's amendment, he desires that in the event of an emergency when the House is dissolved, the term of the Parliament should be not five years but the remaining period from which the original House was dissolved. To me it seems peculiar. If the House is to be dissolved, it will be dissolved, under extraordinary conditions and the House is not going to be dissolved on a mere petty issue. When there is a deadlock in the House, when the Ministry is not stable or the House is not functioning alright, then somebody would step in to dissolve so that a new House could be formed, and for that purpose surely the electorate has to be told that the members who have been returned have not functioned well and therefore there had been a deadlock and the proceedings of the House could not be carried out and therefore the full period of five years should be given to that new House. Professor Shah has not quoted any instance whereby he could have told the House that in the event of dissolution there have been instances of this nature that he desired that had been introduced. I know of an instance in India when an Assembly was dissolved after the election within one year when there was a deadlock and the electorates returned absolutely 50 percent new members, and the House functioned for the full period. It should be so because if in the past members had not behaved well, it was no reason why the new members should be deprived of the full period. I therefore contend that the full period should be allowed to the new House as is prevalent everywhere in the world and the right of the new members should not be deprived because of the mistake or misbehaviour of the previous members. I therefore oppose this amendment.

**Prof. Shibban Lal Saksena** (United Provinces: General): Sir, I am thankful to Dr. Ambedkar for the amendment which he has moved. But I personally felt that the proviso itself should go. It will mean that under some emergencies the House which is elected for five years may last even up to ten years. Suppose a war intervenes and an emergency is declared, and there are no elections. The war may be prolonged one—such a thing occurred in England only recently and the Parliament then continued for nine years. America even in the midst of war had her elections and after four years they had a new House of representatives as well as a New Senate at the very height of war. I feel that the people must have an opportunity of electing their representatives every five years and no emergency should be permitted to take away this right of the people. If in certain circumstances the life of the Parliament has to be extended, some limit should be placed on the period upto which its life may be increased. This limit should not exceed one year.

**Mr. President :** The honourable Member has given no notice of any amendment for omitting the proviso.

**Prof. Shibban Lal Saksena :** I am speaking on the motion.

**Mr. President :** You are opposing the whole proviso. That is your speech. Dr. Ambedkar could not move an amendment to that effect even at this stage. I do not think that question arises.

**Prof. Shibban Lal Saksena :** This is a lacuna in the Constitution and it will deprive the people of the right to elect their representatives after every five years.

**Shri T.T. Krishnamachari :** Mr. President, Sir, so far as the amendment No. 1464 is concerned, I think the House will pass it without demur, but in regard to Professor Shah's amendment I must say that I perfectly sympathise with him in that he has taken considerable pains to visualise a contingency that might occur; but there are certain aspects of the matter which defeat the very purpose that he has in mind. Actually his amendment has not been very carefully worded to suit contingencies where the period of emergency might be say for four and a half years. If the period of emergency is for four and a half years, is the new House to be elected only for six months and if the emergency continues for five years, for how long is the new House to be elected? These are the absurdities that arise if the amendment is accepted, because when we meticulously look for contingencies which will arise in the future we are apt to overlook certain other contingencies which will make our ideas perhaps infructuous as we are not able to provide for all possible things that might arise. So while I perfectly sympathise with Professor Shah's idea that elections like a Khaki election should be avoided if possible and the House that has been elected on that basis should not be perpetuated, I think human ingenuity is powerless against such things happening. So I would appeal to him not to press his amendment because it contains in itself germs which defeat the purpose for which he has tabled his amendment. So I think, barring Dr. Ambedkar's amendment which I hope the House will accept, the article can go in as it is.

**The Honourable Dr. B.R. Ambedkar :** Mr. President, Sir I do not think that anything has been said in the course of the debate on my amendment No. 1464, which calls for a reply. I think the amendment contains a very sound principle and I hope the House will accept it.

With regard to the amendment moved by my friend Prof. Shah, I think some of the difficulties which arise from it have already been pointed out by my Friend Mr. T.T. Krishnamachari. Election after all, is not a simple matter. It involves a tremendous amount of cost, and I think it would be unfair to impose both upon the Government and upon the people this enormous cost of too frequent elections for short periods. I, quite sympathise with the point of view expressed by Prof. Shah, that it has been the experience throughout that whenever an election takes place immediately after a war, people sometimes become so unbalanced that the election cannot be said to represent the true mind of the people. But at the same time, I think it must be realised that war is not the only cause or circumstance which leads to the unhinging, so to say, of the minds of the people from their normal moorings. There are many other circumstances, many incidents which are not actually wars, but which may cause similar unbalancing of the mind of the people. It is no use, therefore, providing for one contingency and leaving the other contingencies untouched, by the amendment which Prof. Shah has moved. Therefore, it seems to me that on the whole it is much better to leave the situation as it is set out in the Draft Constitution.

**Mr. President :** I will now put the amendment No. 1464.

The question is:

“That in the proviso to clause (2) of article 68, for the words ‘by the President’ the words ‘by Parliament by law’ be substituted.”

The amendment was adopted.

**Mr. President :** Then there is the further proviso suggested by Prof. Shah in his amendment No. 1466.

The question is:

“That in the proviso to clause (2) of article 68, the full-stop at the end be substituted by a semi-colon and the following be added :—

‘Provided further that the People’s House, elected after the Proclamation has ceased to operate, shall hold office only for the balance of the period of 4 years for which it would have been elected if the dissolution had taken place in the normal course under this section. The same provision shall apply to any Parliament elected after the dissolution of its predecessor if it had been dissolved before the completion of the normal term of 4 years.’ ”

The amendment was negatived.

**Mr. President :** Then I put the whole article as amendment by Dr. Ambedkar’s amendment.

The question is :

“That article 68, as amended, stand part of the Constitution.”

The motion was adopted.

Article 68 as amended, was added to the Constitution.

#### Article 68-A

**Mr. President :** Now I come to the new article sought to be put in article 68-A Dr. Ambedkar.

**The Honourable Dr. B.R. Ambedkar :** Mr. President, Sir, I beg to move:

“That the following new article be inserted after article 68 :—

‘68-A. A person shall not be qualified to be chosen to fill a seat in Parliament unless he—

- (a) is a citizen of India;
- (b) is, in the case of a seat in the Council of States, not less than thirty-five years of age and, in the case of a seat in the House of the People, not less than twenty-five years of age; and
- (c) possesses such other qualifications as may be prescribed in this behalf by or under any law made by Parliament.’ ”

Sir, the object of the article is to prescribe qualifications for a person who wants to be a candidate at an election. Generally, the rule is that a person who is a voter, merely by reason of the fact that he is a voter, becomes entitled to stand as a candidate for election. In this article, it is proposed that while being a voter is an essential qualification for being a candidate, a voter who wishes to be a candidate must also satisfy some additional qualifications. These additional qualifications are laid down in this new article 68-A.

I think the House will agree that it is desirable that a candidate who actually wishes to serve in the Legislature should have some higher qualifications than merely being a voter. The functions that he is required to discharge in the House require experience, certain amount of knowledge and practical experience in the affairs of the world, and I think if these additional qualifications are accepted, we shall be able to secure the proper sort of candidates who would be able to serve the House better than a mere ordinary voter might do.