

**Maulana Hasrat Mohani :** Unless and until all the members take the oath I should like to know how the Speaker can delegate his authority to any other person :

**Mr. President :** I will now put the amendments one by one to vote. The question is—

“That in article 81, for the words ‘President, or some person appointed in that behalf by him’ the words ‘Speaker of the House of Representatives or Chairman of the Council of States, or some person appointed in that behalf by the Speaker or the Chairman of the Council of State’ be substituted.”

The amendment was negatived.

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

“That in article 81, for the words ‘a declaration’, the words ‘an affirmation or oath’ be substituted.”

The amendment was adopted.

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

“That article 81, as amended, stand part of the Constitution.”

The motion was adopted.

Article 81, as amended, was added to Constitution.

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## Article 82

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

“That article 82 form part of the Constitution.”

(Amendment No. 1555 was not moved.)

**Mr. President :** I suggest that 1556 and 1557 are covered by 1558. If it is moved and if Prof. Shah is not satisfied, he can move Amendment No. 1556.

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

“That after clause (1) of article 82, the following new clause be inserted :—

‘1.(a) No person shall be a member both of Parliament and of the Legislature of a State for the time being specified in Part I or Part III of the First Schedule, and if a person is chosen a member both of Parliament and of the Legislature of such a State, then at the expiration of such period as may be specified in rules made by the President that person’s seat in Parliament shall become vacant unless he has previously resigned his seat in the Legislature of the State.’”

Sir, it requires no comment. It is the ordinary rule.

**Mr. President :** I think that covers amendments Nos. 1556 and 1557. Mr. Naziruddin Ahmad may move his amendment No. 1559 if he thinks that it is not of a drafting nature.

**Mr. Naziruddin Ahmad :** Sir, I move :

“That in sub-clause (a) of clause (2) of article 82, for the words ‘becomes subject to any disqualifications mentioned in’, the words ‘is disqualified under’ be substituted.”

Article 82(2) says :

“If a member of either House of Parliament—(a) becomes subject to any of the disqualifications mentioned in clause (1) of the next succeeding article;”

For these, I would substitute the words ‘is disqualified under clause (1) of the next succeeding article’. The next succeeding article is to this effect that

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a person "shall be disqualified" under certain contingencies. If those contingencies really happen the disqualification is automatic and absolutely complete. The text says; if a member becomes "subject to any of the disqualifications." I say, "if he is disqualified under sub-clause (1)" of the next succeeding article, the expression 'subject to any disqualification' implies that the event is likely to happen and therefore I suggest 'is disqualified' which indicates a completed fact. The real clause which deals with disqualification is very absolute and deals with this matter as a completed fact. I suggest therefore that my amendment be accepted. I do not deny that the amendment is somewhat of a drafting nature. But I submit that the implications would be different. If you do not think that this should be considered by the Drafting Committee, I desire that it should be put to vote.

**Shri H. V. Kamath :** Mr. President, I move :

"That in clause (2) of article 82, the following new sub-clause be added :—

- '(c) or if he is recalled by the electors in his constituency for failure to properly discharge his duties,
- (d) or if he dies.' "

As regards (d) I do not think much need be said. I fail to see why this contingency was not provided for in this article. It may be that Dr. Ambedkar may say that when a member dies, it naturally follows that his seat will be vacant. But you may remember that this Constituent Assembly laid down in rule 2 or 3 that a seat will be declared vacant either on account of resignation, death or otherwise of a member. Therefore I feel that nothing would be lost if we provide in this article that upon a member's death his seat will fall vacant.

As regards the first part of my amendment, I may say that all democracies, at least in theory, and some of them in actual practice, have provided for the recall of members or perhaps Ministers, in the event of their failing to discharge their duties to the constituency concerned. I think the Swiss Federal Constitution has incorporated a provision to this effect and some of the American States have also a similar provision. This provision, Sir, goes a long way to fulfil what, to my mind, an ideal democracy should be. I am not sure that we in this country will have an ideal democracy and you, Sir, yesterday rightly observed that there are many dangers inherent under the new dispensation. I feel and I am sure the House will agree that since adult franchise is being introduced by this Constitution, we should take early steps, vigorous steps, towards adult education also, because, to my mind, adult franchise without adult education will not work efficiently—I will not say it will be a failure—but it will not be in the best interests of the country. If it is visualised that there will be adult franchise with a duly and properly educated electorate, then it is desirable that a member of Parliament should fulfil his duties to the satisfaction of his constituents, and the electorate must have the right, must have the feeling, must have the satisfaction, the conviction that, if their elected member does not so fulfil his duties, they have the right to recall him. It is common knowledge that in modern Parliamentary democracies, a member once elected has no responsibility to his constituents and he continues to sit in Parliament till the next election arrives and then he goes to the electorate asking for their votes. This is hardly a satisfactory state of affairs and I feel that there is no harm if an educated electorate is invested with the power to recall a member elected by them. I perfectly agree that as long as the electorate is not properly educated, there is every danger that the electorate, on consideration other than the right ones, out of pique or ignorance or malice or some such motive, might decide to recall him; but

on the whole, by and large, the electorate that we are going to create is a huge electorate and if this principle is accepted, we might devise some sort of machinery to implement it, and we might also fix the proportion, whether two-thirds, three-fourths or four-fifths of the electors should be necessary before a member is recalled. This is a matter of detail which can be decided later on. I move this amendment and commend it for the acceptance of the House.

**Mr. President :** Amendment Nos. 1561 and 1562 are covered by the amendment moved by Mr. Kamath.

(Amendment No. 1563 was not moved.)

Amendment No. 1564 is of a drafting nature and therefore disallowed.

(Amendment No. 1565 was not moved.)

**Prof. K. T. Shah :** Sir, I do not wish to move Amendment Nos. 1566 and 1567, but if you would permit me, I would like to move the latter part of Amendment No. 1568.

**Mr. President :** Yes.

**Prof. K.T. Shah :** I move :

“That after clause (3) of article 82, the following new clause be inserted :—

‘(4) No one who is unable to read or write or speak the National Language of India after ten years from the day this Constitution comes into operation shall be entitled to be a candidate for, or offer himself to be elected to, a seat in either House of Parliament.’ ”

This, I think, is very important from the point of view of developing and universalising the use of the national language. Whatever our professions with regard to the need for building up and popularising the national language at the present time, for such technical purposes as law or the constitution, we have yet to develop it. That cannot be developed unless we introduce some form of compulsion, at least in the Legislatures; so that no one who is unable to understand or speak or write in the national language should be entitled to be a candidate or be elected to the national legislature. I realise that all at once such a thing would be difficult and therefore I am suggesting that only within a period of ten years, or after ten years from the day on which the Constitution comes into operation, everyone who offers himself as a candidate for election to either House of Parliament shall be expected to know the national language sufficiently to read and write that language. I think that in the situation in which we are, it is important and necessary that some such provision should be introduced in the Constitution and hence my proposal. I hope it will prove acceptable to the House.

**Mr. President :** There is notice of an amendment No. 89 by Mr. Lakshminarayan Sahu to amendment No. 1568. But that does not arise since 1568 has not been moved. Amendment No. 1569 by Mr. Sahu is covered by the amendment moved by Mr. Kamath, and it is not necessary to move it separately. Now the amendments and the original proposition are open to discussion.

**Mr. Tajamul Husain :** Mr. President, Sir, I first take up the amendment of Dr. Ambedkar. His amendment says that no one shall be a member of two legislatures at the same time. That is a very sound principle. If a member is elected to two legislatures, he must resign his seat in one or the other. That is what has happened now. Some Members of this House are also members of provincial legislatures. That is an anomaly which this amendment seeks to remove. Therefore I support it.

[Mr. Tajamul Husain]

Then amendment No. 1559 by Mr. Naziruddin Ahmad. I support that also. The words used by the Drafting Committee are “subject to any disqualifications”. Now, “subject to any disqualification” is quite different from “is disqualified”. “Is disqualified” is a definite thing that a member has become disqualified. “Subject to any disqualifications” is an indefinite thing. I think that this amendment should be supported. Now comes Amendment No. 1560 of my honourable Friend, Mr. Kamath, which I oppose, Sir. He says that the seat shall be declared vacant if the member is recalled by the constituency for failure to properly discharge his duties. Now, Sir, what happens in politics? Supposing there is an election and there are three candidates for one seat and supposing there are 1,000 voters. Two candidates, who have not succeeded, secure 300 votes each and the person who has succeeded has secured 400 votes, although 600 voters are against him, and in spite of that, he has succeeded. Now when he becomes a member of the House those 600 voters may join against him and say : “Well, you have failed to properly discharge your duty and we recall you.” I think it is a very dangerous provision, Sir, and I think it should not be accepted. The second provision is that the seat should be declared vacant if the member dies. Naturally if he dies, the seat must be declared vacant; it cannot but remain vacant when the member is dead and my honourable Friend will pardon me if I think his amendment is absurd.

**Shri H.V. Kamath :** May I remind my honourable Friend that he was himself a party to the rule which we passed in this Assembly?

**Mr. President :** He remembers all that. We need not remind him.

**Mr. Tajamul Husain :** With these words, I resume my seat.

**Shri R. K. Sidhwa (C.P. & Berar : General) :** Mr. President, Sir, with regard to Mr. Kamath’s amendment, it is neither workable nor practicable. He says : “or if he is called by the electors in his constituency for failure to properly discharge his duties”. Now who is to decide? ‘Electors’ means that a referendum has to be actually taken by some authority just as he is elected by an authority through the ballot box. I know, Sir, some constituencies disapproving the actions of a member have passed resolutions against a member in a public meeting. 5,000 or 10,000 or 500 can make a declaration that a member has lost the confidence of the electorate and he should be recalled. May I ask whether it is the view of the electorate? Out of that 4,000 or 5,000 three-fourth members may not be voters. They may be simply other as public men. It is therefore not possible unless it is stated that it must be by the same process by which he is elected, by the regular process of voting in a ballot-box; if such a system is adopted, I can understand, but that is not possible, that is nowhere workable and, therefore, Sir, I contend on the face of it, this amendment should not be accepted. As for the member dying, even today if a member dies, under the present Act, new elections take place. The office knows that. I, therefore, feel that this amendment should not be accepted.

**The Honourable Dr. B. R. Ambedkar :** I do not accept any of the amendments of Mr. Naziruddin Ahmad or of Mr. Kamath either.

**Mr. President :** I shall now put the amendments to vote one after another.

The question is :

“That after clause (1) of article 82, the following new clause be inserted :—

‘1.(a) No person shall be a member both of Parliament and of the Legislature of a State for the time being specified in Part I or Part III of the First Schedule, and if a person is chosen a member both of

Parliament and of the Legislature of such a State, then at the expiration of such period as may be specified in rules made by the President that person's seat in Parliament shall become vacant unless he has previously resigned his seat in the Legislature of the State.' "

The amendment was adopted.

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

"That in sub-clause(a) of clause (2) of article 82, for the words 'becomes subject to any disqualifications mentioned in', the words 'is disqualified under' be substituted."

The amendment was negatived.

**Mr. President :** As regards Mr. Kamath's amendment, I shall put the clauses separately because there is another amendment which I did not allow to be moved.

The question is :

"That in clause (2) of article 82, the following new sub-clause be added :—

'(c) or if he is recalled by the electors in his constituency for failure to properly discharge his duties.' "

The amendment was negatived.

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

"That in clause (2) of article 82, the following new sub-clause be added :—

'(d) or if he dies.' "

The amendment was negatived.

**Mr. President :** Then we come to Amendment No. 1568, the second paragraph.

The question is :

"That after clause (3) of article 82, the following new clause be inserted :—

'No one who is unable to read or write or speak the National Language of India after 10 years from the day this Constitution comes into operation shall be entitled to be a candidate for or offer himself to be elected to, a seat in either House of Parliament.' "

The amendment was negatived.

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

"That article 82, as amended, stand part of the Constitution."

The motion was adopted.

Article 82, as amended, was added to the Constitution.

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### New Article 82-A

**Mr. President :** There is Amendment No. 1570 in the name of Prof. Shah and Mr. Jhunjhunwalla. That relates to the qualification of candidates and I think we have already dealt with this question. It is covered by a decision already taken.

**Prof. K. T. Shah :** I do not move, Sir.

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### Article 83

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

"That article 83 form part of the Constitution."