

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.

Mr. President : There are certain amendments to this: No. 80 in the list of amendments to amendments, by Mr. Naziruddin Ahmad. This also seems to be a drafting amendment, and I would leave it to the Drafting Committee to settle it, in consultation with the mover.

Then No. 81 also looks like a drafting amendment. It seeks to add the words “and voter” at the end. I leave it also because it is more or less of a drafting nature.

(Amendments No. 82, No. 83 and No. 84 were not moved.)

Then we come to the other list which has been circulated today. Amendment No. 4 of that list, by Sardar Hukam Singh and Mr. Lakshminarayan Sahu.

(The amendment was not moved.)

(Amendment Nos. 5 and 6 were also not moved.)

I have got notice today of another amendment by Shrimati Durgabai.

Shrimati G. Durgabai : Sir, I beg to move :

“That in the new article 68-A proposed for insertion after article 68, in clause (b) for the word ‘thirty-five’ the word ‘thirty’ be substituted.

The object of this is to lower the age to 30 from 35 for a seat in the Council of States. It was held for some time that greater age confers greater wisdom on men and women, but in the new conditions we find our boys and girls more precocious and more alive to their sense of responsibilities. Wisdom does not depend on age. It was also held that the upper House consisted of elders who should be of a higher age as it was a revising chamber which would act as a check on hasty legislation. But that is an old story and the old order has been replaced by the new. As I said our boys and girls are now more precocious and the educational curriculum is now so broad-based that it will educate them very well in respect of their civic rights and duties. I therefore think we should give a chance to these younger people to be trained in the affairs of State. I said wisdom does not depend on age. Our present Prime Minister became President of the Congress before he was 40 and Pitt was 24 when he became Prime Minister of England. Therefore we have no reason to fear that because a man is only 30 he will not be able to perform his functions in relation to the State. I hope the House will accept this amendment. Sir, I move.

Mr. President : The amendment and the original proposition are both open to discussion now.

Shri H.V. Kamath (C.P. & Berar: General): Sir, I was happy to hear my honourable friend Shrimati Durgabai say that wisdom does not depend on age; I hope she will agree that it is irrespective of sex as well. (Several honourable Members: “Question”.) Those friends who question this will answer their own question by coming here and convincing this House. This constitution does not discriminate against sex and I hope that with our traditions of philosopher women like Gargi, Maitreyi and Ubhayabharati, wisdom will not discriminate against sex. Our greatest epic, the Mahabharata—has recognised this in a well-known shloka which runs as follow :—

न तेन वृद्धो भवति मेनास्य पलितं शिरः
यो वै युवाप्यधीयानस्तं देवाः स्थविरं विदुः

*Na tena Vriddho bhavati Yenasya palitam shirah
Yo Vai yuvapyadhiyanastam devah sthaviram vidhu.*

It means

A person is not old or wise, merely because his hair has turned white.

I have therefore no hesitation in supporting Shrimati Durgabai's amendment lowering the age limit for membership of the Council of States. I would have gone further and made the age limit the same for both Houses and reduced it to 21. It was said that Pitt became Prime Minister of England at an early age. I think he entered Parliament at 21 or a little over 21, and became Prime Minister at 24. These are of course exceptions and we cannot legislate on the basis of exceptions. But on the whole I think it is wise to lower it from 35 to 30. There may, however be one difficulty about this. I shall invite your attention to article 152, under which, in the case of the legislature of a State, the age is 35 for membership of the upper House. I hope that when we come to that article this amendment will be borne in mind, and what we have done for the upper House in the Centre will apply to the upper Houses of the provinces or States, and the age limit there also will be lowered to 30 years. When a person below 35 can fill a seat in the upper House in the Centre there is no reason why he cannot do it in the States. Another difficulty, which perhaps is not of much moment, is article 55(3) which we have passed already and cannot now amend, wherein it is laid down that in order to be Vice-President a person must have completed 35 years. Now the Council of States will be presided over by a person who is a member of the Council. In Shrimati Durgabai's amendment the age limit is proposed to be lowered from 35 to 30. It means that we are reduced to this position, that every member of the Council of State will not be qualified to contest or stand for the election of the Vice-President of the Council of State, because if a person is between 30 and 35 he will not be eligible for election. Merely because he is below 35 he will not be able to fill the office of Vice-President. This is an anomaly which is rather distasteful to me. The person is elected to the Council of State, and the Council of State can elect a Vice-President from among themselves but this age bar comes in the way, which is to my mind unfortunate. If this article is adopted I see no way of getting over this difficulty unless the article already passed is amended suitably. A person who is a member of the House must be *ipso facto* eligible for any election that may be held by the House. But under the amendment of Shrimati Durgabai this is made an impossibility simply because a man happens to be between 30 and 35. If a man is fit to occupy a seat in the upper House. I see no reason why he should not be competent to fill the office of the Vice-President of the Council of State, but should be debarred merely because of age. I hope the wise men of the Drafting Committee will into this anomaly and try to rectify it as far as their wisdom permits them to do so.

Mr. President : I do not think there is any inconsistency or contradiction between the two. This question may be considered by the Drafting Committee.

Prof. Shibban Lal Saksena : Sir, I frankly confess that I am not happy over the amendment of Dr. Ambedkar. I do not think it improves the constitution. As has been pointed out there have been cases in the world where younger men than 25 years of age have occupied the highest positions. The case of the younger Pitt was just cited: Shankaracharya became a world teacher when he was 22 and died when he was only 32. Alexander had become a world conqueror when less than 25 years of age and died when he was 32. Our country of 300 millions may produce precocious young men fit to occupy the highest positions at an age younger than 25 and they should not be deprived of the opportunity.

Part (2) of this amendment unnecessarily restricts young voters from becoming candidates. This clause will disqualify persons for election who state their age as being less than 35. This question of age should have no connection with the qualification of a man to become a candidate for election.

The third part is even more dangerous. A Parliament of today may impose such restrictions as might enable the party in power to defeat its opponents.

[Prof. Shibban Lal Saksena]

The party in power by their majority may pass laws and prescribe qualifications for candidates which might help the party against their opponents. This power which is being given to the parliament to prescribe qualifications for candidates by a simple majority is dangerous. I therefore think that the whole amendment is not very happy and I would urge Dr. Ambedkar to see whether he cannot withdraw it.

Mr. Tajamul Husain : Sir, I rise to support the amendment to the amendment moved by my honourable Friend Shrimati Durgabai. The amendment which Dr. Ambedkar has moved is that the age of a person who wants to be a candidate for a seat in the Council of State must be at least 35. The amendment to that amendment is that the age should be 30. In fact I am of opinion that it should be less than 30. When a person has attained his majority he should be eligible. As there is no amendment to this effect I have no alternative but to support the amendment moved by Shrimati Durgabai.

Sir, I am reminded of a Persian couplet which says:

Bazurgi ba aql ast na ba sal. Kawangri ba dil ast na ba mal.

The first part means that seniority is not according to age but according to wisdom. I shall not translate the second part. If a person is a genius, why prevent him from entering the Council of State though he may be under 30? Mr. Kamath mentioned the example of the younger Pitt. There was the case of Shankaracharya who died at the age of 33 but before that he had attained the position of a world teacher. There were the instances of Rama, Krishna and Buddha, who attained enlightenment when very young. There are many other instances in history. Sir, I strongly support the amendment moved by Shrimati Durgabai.

As regards the amendment of Dr. Ambedkar I do not see eye to eye with it. There are three qualifications mentioned. I am of opinion that the qualification of a person to fill a seat in the Parliament is that he should be a voter on the list. The moment a man's name is on the voters' list you cannot prevent him from either standing for election or voting. The election Officer will be there and after the identification is completed nobody can prevent him from voting. If he is not 35 but 25 why prevent him from standing as a candidate? The ordinary principle of law is that if a person can vote he can also stand for election. This amendment will go against a well recognised principle as it will mean that a voter cannot stand for election. This should be withdrawn by Dr. Ambedkar. Once a man is a voter he should be eligible for election and therefore Sir, I oppose the amendment of Dr. Ambedkar with the request that he should make a suitable change in it.

Mahboob Ali Baig Sahib Bahadur (Madras: Muslim): Sir, the amendment moved by my Friend Dr. Ambedkar is not an innocent one. It is a dangerous one and is opposed to democratic principles.

In the previous article, No. 67, clause (6), the qualification for a person to become a voter are mentioned. It is definitely stated there under what circumstances he can be a voter and under what circumstances he cannot be a voter. You have clearly stated that he must be a man of 21 years of age. Such a person not otherwise disqualified under this constitution or any Act of Parliament on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practices shall be entitled to be registered as a voter at such elections. So, Sir, in this clause you have definitely laid down the principles on which this Constitution or any Act of Parliament might disqualify a person from becoming a voter. But what do we find in this amendment now? In this amendment, clause (3) is an omnibus clause which gives power to the future Parliament to disqualify a person from becoming a

member of Parliament for any reason whatsoever. You have not circumscribed the circumstances with regard to which a disqualification may be legislated for, as we have done in the case of a voter. So, a reactionary Parliament, a capitalist Parliament might legislate saying that in order that a person may be enabled to stand for election he must own 5,000 acres of land or pay one lakh of rupees as income-tax. You can imagine, Sir, how a reactionary Parliament in future might restrict the membership of Parliament to such persons as they consider fit in their own view. Sir, what we have provided for in this Parliament, that is adult suffrage, might be taken away later. What is given by one hand might be taken away by the other by prescribing impossible proprietary qualifications, for instance. Thus a citizen may be deprived of his right to stand for election in these circumstances.

Further it is a recognised principle that when you are making a Constitution you should leave the future legislature to lay down the qualifications of persons who want to stand for election. It is surprising that while unnecessary provisions have been introduced in the Constitution, the most important provision which qualifies or disqualifies a man from becoming a member of this Parliament is sought to be left to the future Parliament. That is against principle; as Dr. Ambedkar himself has said, you are now preparing a machinery for qualifying a person to be a citizen and who, under certain circumstances, becomes a voter and a member of Parliament or a Minister or President or Vice-President. While you prescribed qualifications for a voter, while you prescribed qualifications for a man to become a President or Vice-President and so on and so forth, there is no reason why you should, in the case of a person who should be made eligible to stand for election, leave the matter to a future Parliament. It is dangerous and it is opposed to principle. That is the most important and dangerous provision in the first part of this amendment. As for clause (b) I am one with those who consider that when once you have been declared as a voter you must be entitled to stand for election. The very fact that you are broad-basing representation to Parliament by giving suffrage to persons of a certain age with certain qualifications must enable every voter to stand for election. I know there are Constitutions which provide different qualifications for persons to become members of Parliament. That is true. It is true more in the case of the Council of States than in the case of the House of the People. Whatever that might be, I might even consent to raising the age-limit for a member who seeks election, but I am opposed to the future Parliament being given the right to legislate with regard to the qualifications or disqualifications for a man becoming a Member of Parliament. I humbly submit that Dr. Ambedkar will take into consideration this serious objection and withdraw his amendment and bring it forward if necessary with suitable amendments.

Shri T. T. Krishnamachari : Mr. President, Sir, I have only to say a few words, about the amendment of Shrimati Durgabai to the amendment moved by Dr. Ambedkar. Objection has been taken to this amendment by my honourable friend Shri Kamath on the ground that while the qualifying age for a Vice-President who is Chairman of the Council of State happens to be 35, there is no point in reducing the age of the members of that body. I am afraid my honourable Friend has found an inconsistency in this particular amendment without really examining why the age of the Vice-President has been fixed 35. I would ask him to look into article 47 which fixes the age of the President at 35. Naturally, since the Vice-President is expected to take the place of the President when there is a vacancy, article 55 has fixed the age of Vice-President also at 35. This has no relation at all to the age of the members of the Council of State. So there is no anomaly at all, I would point out, in fixing a definite age as qualifying age for membership of the Council of State which is lower than the age fixed for its Chairman. I hope

[Shri T. T. Krishnamachari]

the House will appreciate that there is no anomaly and that the age of the Vice-President has been fixed at 35 for altogether different reasons. It has nothing to do with the qualifying age of the members of the Council of State. So far as the other points raised against Dr. Ambedkar's amendment are concerned, I think Dr. Ambedkar will adequately answer them, though I feel that the objections are trifling and beside the mark, for the reason that it does not necessarily mean that the qualifications of a candidate should also be the qualifications of the voter. They have in the past even in our own legislature been different and it is so in very many other countries. So there is no very great sin in having one set of qualifications for candidates and another set of qualifications less rigid for the voters. Much has been made about this rather trifling point by saying that the amendment of Dr. Ambedkar is mischievous and iniquitous. I do hope that the House would realise that these remarks really exaggerate the position and have really no bearing on the problem. I support the amendment of Dr. Ambedkar as amendment by Shrimati Durgabai's amendment.

The Honourable Dr. B.R. Ambedkar : I am prepared to accept the amendment of Shrimati Durgabai. I cannot accept any other amendment.

Mr. President : Do you wish to reply?

The Honourable Dr. B.R. Ambedkar : I do not think it is necessary for me to reply except to say that if I accept the amendment of Shrimati Durgabai, it would in certain respects be inconsistent with article 152 and 55, because in the case of the provincial Upper House we have fixed the limit at thirty five and also for the Vice-President we have the age limit at thirty-five. It seems to me that even if this distinction remains, it would not matter very much. Further it is still open to the House, if the House so wishes, to prescribe a uniform age limit.

Mr. President : I will now put the amendment to vote, and also the article if the amendment is accepted as amended. Before doing so, I desire to make an observation but not with a view to influencing the vote of the House. In this country we require very high qualifications for anyone who is appointed as a Judge to interpret the law which is passed by the legislature. We know also that those who are expected to assist Judges are required to possess very high qualifications, for helping the Judge in interpreting the law. But it seems that members are of opinion that a man who has to make the law needs no qualifications at all, and legislature, if we take the extreme case, consisting of persons with no qualifications at all may pass something which is nonsensical and the wisdom of all the lawyers and all the Judges will be required to interpret that law. That is an anomaly but it seems to me that in this age we have to put up with that kind of anomaly and I for one, although I do not like it, would have to put up with it.

The question is:

"That in the new article 68-A proposed for insertion after article 68, in clause (b) for the word 'thirty-five' the word 'thirty' be substituted."

The amendment was adopted.

Mr. President : The question is:

"That article 68-A, as amended, stand part of the Constitution."

The motion was adopted.

Article 68-A, as amended, was added to the Constitution.

Article 69

Mr. President : There are certain amendments. No. 1469 by Shri Brajeshwar Prasad.
(The amendment was not moved.)