

CONSTITUENT ASSEMBLY OF INDIA

Friday, the 3rd June 1949

The Constituent Assembly of India met in the Constituent Hall, New Delhi, at Eight of the Clock, Mr. President (The Honourable Dr. Rajendra Prasad) in the Chair.

DRAFT CONSTITUTION—(*Contd.*)

Article 168

Mr. President : We shall take up article 168.

Shri T. T. Krishnamachari (Madras: General): Before taking up article 168, Sir, I would like to draw the Chair's attention to the fact that there is an amendment seeking the introduction of new article 167-A. This arises out of the issue raised by two amendments to article 168, amendments Nos. 2440 and 2441. It is felt that it would be appropriate to have those issues put in a separate article 167-A. I feel, however, the House has not had the time to consider this proposed article and I would therefore suggest with the Chair's permission that this may be held over to a later date, so that the House may have enough time to digest the contents of this new article.

Mr. President : I was thinking of taking it up with amendment No. 2441. If it is to be held over, then it is all right.

Shri T. T. Krishnamachari : The point is, it more or less covers the purpose of amendment No. 2441; but the procedure outlined is different. I think it would be better to give the Members some time to digest it. Therefore, I suggest that it may be held over so that we can take it up on a later occasion.

Mr. President : If the Members have no objection, I shall hold it over.

There is notice of a fresh amendment that a new article should be added, article 167-A, which deals with the question of disqualification of members and suggests that the question whether a Member has incurred a disqualification or not will be dealt with in a particular way. The suggestion is that it should be held over. The notice is in respect of amendment No. 2441 which is to article 168; but it comes more properly here. In any case, the idea is that it should be held over for the present so that the Members may consider it.

We shall take up article 168 now.

The motion is:

"That article 168 form part of the Constitution."

The first three amendments 2434, 2435 and 2436 I think are of a drafting nature.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Yes, they are of a drafting nature.

Mr. President : Amendment 2437 : This is covered by this new article which is proposed, 167-A. We may leave that over.

(Amendments Nos. 2438 and 2439 were not moved.)

Mr. President : Amendments 2440 and 2441: these arise in connection with the new article proposed. We may leave these over.

There is no amendment moved to article 168. Does any one wish to say anything about the article?

Shri Lakshminarayan Sahu (Orissa: General): *[Mr. President, I do not think there is any particular necessity for retaining article 168 in our Constitution. There is already enough provision in the Constitution to deal with such persons as are not members or do not possess the necessary qualifications but enter the House and sit there as members. We can turn them out of the House, or can prosecute them for trespassing and thereby they would be awarded due punishment. Therefore, it does not appear proper to me, Sir, to have an exclusive article for this purpose. I do not think there is any advantage in providing for an additional article like the present one. My submission is that they should be treated as trespassers and punished accordingly.]

Mr. President : The question is:

“That article 168 stand part of the Constitution.”

The motion was adopted.

Article 168 was added to the Constitution.

Article 169

Mr. President : We take up article 169.

(Amendments Nos. 2442, 2443, amendment to amendment, No. 141, and 2444 were not moved.)

No. 2445.

Shri Jaspat Roy Kapoor (United Provinces: General): Sir, I beg to move:

“That in clause (4) of article 169, after words ‘a House of the Legislature of a State’ the words ‘or any committee thereof’ be inserted.”

Sir, after my amendment is incorporated in clause (4) of 169 it will read thus:

“The provisions of clause (1), (2) and (3) of this article shall apply in relation to persons who by virtue of this Constitution have the right to speak in, and otherwise take part in the proceedings of, a House of the Legislature of a State or any Committee thereof as they apply in relation to members of that Legislature.”

The object of this amendment is that any person, though not a member of the Legislative Assembly, if he is called upon to appear before or act in a committee set up by the Legislature, he shall have in respect of whatever he says or does there the same privileges as have been extended to members of the Legislature. Without such immunity being extended to persons who are invited to appear before or act on a Committee set up by the Legislature it would be very difficult for such persons to act freely, with absolute freedom and without any reservation. A similar amendment of mine in relation to the privileges of such persons when they were to appear before a Committee

*[] Translation of Hindustani Speech.