

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.

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.

Article 83

Mr. President : The motion is :

"That article 83 form part of the Constitution."

[Mr. President]

We have a number of amendments to this article.

(Amendments Nos. 1571, 1572, 1573 and 1574 were not moved.)

Amendment 1575—This is already covered by an article already adopted and relates to qualification of candidates. This need not be moved.

Mr. Naziruddin Ahmad : Sir, I beg to move :

“That in sub-clause (b) of clause (1) of article 83, for the words ‘is of unsound mind and’, the words ‘is declared by a competent court to be of unsound mind’ be substituted.”

Sir, the original text lays down the test of the qualifications if a man is of unsound mind. No test is indicated. Who is to find whether a man is of unsound mind or not? Under these circumstances, it is usual to lay down an objective test. That is the test of a finding of a court of law. It will be extremely dangerous to leave it as vague as this. I beg to submit that there is unsoundness of mind or less almost in every man. It depends on a question of degree or it depends upon the context. If a man is highly sound, he may say.....

Mr. President : If the honourable Member will refer to clause (b) of article 83, he will find : “if he is of unsound mind and stands so declared by a competent court;”

Mr. Naziruddin Ahmad : I need not press it.

(Amendments Nos. 1577, 1578, 1579 and 1580 were not moved.)

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

“That for sub-clause (d) of clause (1) of article 83, the following be substituted :—

‘(d) if he has ceased to be a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgment of allegiance or adherence to a foreign State and.’ ”

(Amendment to Amendment No. 1581 was not moved.)

(Amendments Nos. 1582, 1583 and 1584 were not moved.)

Mr. President : Amendment No. 1585, I think that is covered by amendment No. 1581. Do you think it is anything different from 1581?

Shri H. V. Kamath : I am asking for the deletion of some words, Sir. I move :

“That in sub-clause (d) of clause (1) of article 83, the words ‘or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power’ be deleted.’ ”

Sir, I am following the sound maxim which I laid down a few minutes ago that as far as possible, we might dispense with needless verbiage and try to be as brief as possible, of course, without sacrificing the meaning or significance or importance of an article, and to compress it into as few words as possible. Brevity is not merely the soul of wit; it is also the soul of truth. Here, I feel that in sub-clause (d) of article 83, the first part is adequate to cover any circumstance arising out of the second part of sub-clause (d). A person who is under any acknowledgment of allegiance or adherence to a foreign power, if he is disqualified, it stands to reason, it follows *ipso facto* that a person who is a subject or a citizen, which is a matter of graver moment than merely owing allegiance or adherence to a foreign power, must be disqualified. A subject or a citizen or one who is entitled to the rights or privileges of a subject or a citizen of a foreign power, certainly stands in

a category which in comparison with the first part of the sub-clause of this article, is of more serious import. If we disqualify a person who merely owes allegiance or adherence to a foreign power, we need not explicitly say that a subject or a citizen is disqualified. If one category is disqualified, in my humble judgment it must follow as the night doth the day, that a citizen or a subject must also be disqualified. I therefore move, in the interests of brevity and elimination of unnecessary verbiage, that this amendment be accepted.

(Amendment No. 1586 was not moved.)

The Honourable Shri Ghanshyam Singh Gupta (C.P. & Berar : General) : Amendment No. 1587 is merely of a drafting nature.

Mr. President : I would ask Dr. Ambedkar to consider this, because it might create some difficulty. The existence of the word 'and' at the end would mean that all the disqualifications should concur.

The Honourable Shri Ghanshyam Singh Gupta : That is what I fear, Sir.

Mr. President : Any one of them should be a sufficient disqualification. If you add the word 'and', it means that all the disqualifications must concur. In that sense, it is not merely verbal.

The Honourable Shri K. Santhanam : The word 'and' must be changed into 'or'.

The Honourable Shri Ghanshyam Singh Gupta : I considered that to be a verbal slip only. It becomes substantial if it is changed into 'or'.

Mr. President : If you add 'or', it would be clear.

The Honourable Shri Ghanshyam Singh Gupta : May I move it formally, Sir?

Mr. President : Yes.

The Honourable Shri Ghanshyam Singh Gupta : Sir, I move :

"That the word 'and' occurring at the end of sub-clause (d) of clause (1) of article 83 be deleted."

Sir, the meaning is quite clear and you have so well expressed it that, if we keep the word 'and', it may mean that all the disqualifications contained in sub-clauses (a), (b), (c), (d) and (e) may be necessary. It may just mean that if one suffers from one of these disqualifications, it may not be enough to disqualify him. Therefore, it is necessary that the word 'and' should be removed and it should be replaced by the word 'or'. Or, even if we do not keep the word 'or', then, too, it would be all right.

The Honourable Shri K. Santhanam : Mr. President, I think another verbal change is needed. The clause, as it is, says, "subject or citizen of a foreign power". I think it must be, "foreign State". I think there is some incoherence.

Mr. President : Dr. Ambedkar has moved amendment No. 1581. That alters the wording.

(Amendment No. 1588 was not moved.)

Mr. Naziruddin Ahmad : Mr. President, I beg to move :

"That sub-clause (e) of clause (1) of article 83 be omitted."

[Mr. Naziruddin Ahmad]

Clause (1) of article 83 deals with various disqualifications for being a member of either House. Sub-clause (b) deals with the ordinary well-known classes of disqualifications. Sub-clause (e) which I seek to delete is to this effect :

“If he is so disqualified by or under any law made by Parliament.”

I submit this delegates to the Parliament the power to disqualify a lot of people. Instead of this being clearly defined in the Constitution, it leaves the future Parliament to prescribe or invent new kinds of disqualifications. I submit that it may in certain circumstances be extremely dangerous and a political party may ban its opponents by a disqualification imposed by Parliamentary legislation. It may, in certain circumstances be dangerous to allow such a thing. Disqualifications should be very clearly defined in the Constitution itself and should not be left to be determined or invented by legislature. That is why I seek to delete this sub-clause.

Mr. President : No. 1590.

Shri R. K. Sidhva : Sir, he has referred to convictions, moral turpitude etc. in (e), (f) and (g), they will only form part of rules. Return of election expenses does not come in the Constitution. All these points have been discussed and covered.

Prof. Shibban Lal Saksena : Sir, I move :

“That sub-clause (e) of clause (1) of article 83 be omitted and the following sub-clauses (e), (f), (g) and clauses (2) and (3) be substituted in its place and existing clause (2) be re-numbered as clause (4) :—

‘(e) if after the commencement of this Constitution, he has been convicted or has in proceedings for questioning the validity or regularity of an election, been found to have been guilty, of any offence or corrupt or illegal practice relating to elections which has been declared by an Act of Parliament to be an offence or practice entailing disqualification for membership of this Legislature, unless such period has elapsed as may be specified in that behalf by the provisions of that Act.

‘(f) if after the commencement of this Constitution he has been convicted of any criminal offence involving moral turpitude by a court and sentenced to transportation or to imprisonment for more than two years unless a period of five years has elapsed since his release.

‘(g) if after the commencement of this Constitution having been nominated as a candidate for the Union and State Legislatures or having acted as an election agent of any person so nominated he has failed to lodge a return of election expenses within the time and in the manner required by any Act of Parliament or of any State Legislature, unless five years have elapsed from the date by which the return ought to have been lodged or the President has removed the disqualification :

Provided that a disqualification under paragraph (g) of this sub-section shall not take effect until the expiration of month from the date by which the return ought to have been lodged.

“(2) A person shall not be capable of being a member of Parliament while he is serving a sentence of transportation or of imprisonment for a criminal offence involving moral turpitude.”

“(3) When a person who, by virtue of a conviction or a conviction and a sentence becomes disqualified by virtue of paragraph (e) or (f) of sub-section (1) of this article is at the date of the disqualification a member of Parliament, his seat shall, notwithstanding anything in this article, not become vacant by reason of the disqualification until three months have elapsed from the date thereof or, if within those three months an appeal or petition for revision is brought in respect of the conviction or the sentence, until that appeal or petition is disposed of, but during any period during which his membership is preserved by this sub-section, he shall not sit or vote.”

As I stated yesterday, the Parliament should not be given power to lay down conditions which will disqualify men from being candidates. In fact even the

Government of India Act did not give this power to the Federal Parliament and there they had laid down certain definite conditions which disqualified a candidate. I think this provision is liable to be abused by any party in power which may like its opponents to be disqualified. I have therefore suggested this amendment. As was suggested by another Friend here yesterday the new Parliament may say 'Nobody can stand for election unless he pays income-tax or unless a high revenue is paid by him'. It is not quite impossible that sometimes reactionaries may come into power and they may not want any of their opponents to be elected. So I feel that this power of laying down qualifications and disqualifications of candidates should not be given to Parliament but the Constitution should provide these qualifications and disqualifications. The Constitution should definitely lay down the disqualifications of candidates. I hope that Dr. Ambedkar will include this in the draft.

(Amendments Nos. 1591 to 1608 were not moved.)

Mr. President : There is one point which I would like the Drafting Committee to consider in this case. If we refer to clause (2) of this article, there is no mention of Chairman or Vice-Chairman, Speaker or Deputy Speaker of the House of People. They also hold positions of profit. They are also paid officers.

The Honourable Dr. B. R. Ambedkar : Not under the Government. So they do not come under this.

Mr. President : That is all right.

All amendments have been moved. If anyone wishes to speak on these, he may do so.

Dr. P. S. Deshmukh : Mr. President, I wish to oppose the two amendments moved by my Friend Mr. Kamath and another by Professor Saksena. One refers to article 92, clause 1 (d) and the other to (e). Mr. Kamath has objected to the enumeration of the various categories of the connection of an individual citizen or resident of India with foreign powers and foreign States. He thinks and rightly so that the whole includes the part. Although that may be correct, I think so far as connection with foreign powers and States are concerned, it would be safer to define all the categories and to make the definition of this connection as exhaustive as possible. I agree with him that brevity should be our utmost concern and just as the Sanskrit Poets considered the omission of a single superfluous word as equivalent to the birth of a son, we might keep this high ideal before us. But so far as this particular sub-section is concerned, I think it should stand as it is. The second amendment moved by Prof. Saksena which has been supported by another honourable Friend refers to the clause 1 (e). The honourable Members are apprehensive that the Parliaments to come may, somewhat frivolously or to suit the party in power, introduce disqualifications which are unreasonable. I am sure no Parliament will act in a spirit which is not supported by the Constitution. These disqualifications again in their very nature are likely to be of an emergent character and I do not feel apprehensive that there is any likelihood of its being abused. In fact if there is no such provision, the hands of the Parliament would be tied and even if it is necessary to prevent a body of persons from interfering with the Indian Republic they will be powerless to do so. So it is very necessary that such a provision should be there and I have no fear that it is likely to be abused at any time. After all the party in power, if it has really the support of the people, should have perfect liberty to act in any particular manner and pass an enactment which would be necessary under the circumstances. If at any time the Parliament acts frivolously it shall be answerable to the people. So I feel, Sir, that both these amendments may be rejected by House.

Shri Rohini Kumar Chaudhuri (Assam : General) : Mr. President, Sir, I only wish to draw the attention of the House to one provision namely sub-clause (b) under article 83 (1) “if he is of unsound mind and stands so declared by a competent court,” and I hope the soundness of my mind will not be questioned if I say that this clause is not so happily worded as it should be. Sir, I presume that it is the desire of the authors of the Draft Constitution that no person of unsound mind should be allowed to be a member of this House, and I believe that the present House has been so selected, and that no person of unsound mind has been able to creep into this House. Sir, if you allow this clause to stand as it does, it will mean that there will be a large number of persons of unsound minds coming in, because the qualification is there that the man must be declared to be of unsound mind, by a competent court. This question was also raised on the last day of the previous session, and after that, I had tried to find out through the agency of the Government of India, that is to say, by putting questions in the Legislative section of the Constituent Assembly to find out how many of the lunatics who are actually in the different asylums in India have been declared by a competent court to be persons of unsound mind. If you make further investigations into this matter, you will find that not even ten per cent of all the persons who are now undergoing treatment in the different asylums and mental hospitals in India have been declared to be persons of unsound mind, by a competent court. My question is whether you will allow such persons who are actually in the asylums and mental hospitals to be enrolled as voters and also to stand for election. We know that in every village and in every town, there are a certain number of persons who go about like lunatics, and who are actual lunatics, and whom everybody, even the child who pelts stones at them, knows to be a lunatic. It is quite possible, and generally it is true that nobody has taken the trouble to declare them as persons of unsound mind, or to get them so declared by a competent court. Will you allow them all to be enrolled? Every villager, every citizen in a town knows that such and such person is of unsound mind, that he is a raving lunatic. Will there be any agency to prevent him from being enrolled as a voter, or standing for election?

Mr. President : But is there any chance of such a person being elected unless the whole electorate is of unsound mind?

Shri Rohini Kumar Chaudhuri : But, Sir, I can enrol him if I can get his vote. Unless a competent court declares him to be of unsound mind, he can enrol himself. This declaration is obtained only if the person is a moneyed man and has property and his relatives have to deal with his property. In other cases where do we find a person going in for such a declaration? There is no occasion to do so. It may also be that the person is so violent that he has got to be controlled by a court, but even in that case, he is only sent for observation for a few days and afterwards no such declaration is obtained. If you want to leave a loop-hole for persons of unsound mind to come in and have a voice in the selection of the members of the future House, you may leave the clause as it is. If you want to shut out such persons, the words “declared by a competent court” should be deleted. I say this because from my own experience, I know a vast majority of persons of unsound mind have not been so declared by any competent court.

Mr. President : Does anyone else want to speak? Has Dr. Ambedkar to say anything?

The Honourable Dr. B. R. Ambedkar : I do not accept any of the amendments, except amendment No. 1587, standing in the name of the Honourable Shri G. S. Gupta.

Mr. President : I will put the amendments, one by one, to vote.

The question is :

“That for sub-clause (d) of clause (1) of article 83, the following be substituted :—

‘(d) if he has ceased to be a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgment of allegiance or adherence to a foreign State and.’ ”

The amendment was adopted.

Mr. President : Then there is the amendment of Mr. Kamath No. 1585. But that does not arise now after accepting Dr. Ambedkar’s amendment.

There is then Mr. Gupta’s amendment No. 1587, that the word “and” should be deleted. Or has it to be substituted by “or”?

The Honourable Dr. B. R. Ambedkar : It is the same thing; either deleted “and” or substitute ‘or’ for ‘and’.

Mr. President : The question is :

“That the word ‘and’ occurring at the end of sub-clause (d) of clause (1) of article 83 be deleted.”

The amendment was adopted.

Mr. President : Then there is Prof. Saksena’s amendment No. 1590.

Prof. Shibban Lal Saksena : Sir, I request leave of the House to withdraw it.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President : There is then No. 1589, in the name of Mr. Naziruddin Ahmad.

The question is :

“That sub-clause (e) of clause (1) of article 83 be omitted.”

The amendment was negatived.

Mr. President : These are all the amendments. I will not put the article.

The question is :

“That article 83, as amended, stand part of the Constitution.”

The motion was adopted.

Article 83, as amended, was added to the Constitution.

Article 84

(Amendments Nos. 1609 to 1618 were not moved.)

Mr. President : The question is :

“That article 84 stand part of the Constitution.”

The motion was adopted.

Article 84 was added to the Constitution.

(Amendment No. 1619 was not moved.)

Article 85

Mr. President : The motion is :

“That article 85 form part of the Constitution.”

(Amendments Nos. 1620-1624 were not moved.)