

moved this amendment and therefore, it has to be put to vote or discussed, if any one wishes to say anything. (No Member rose)

I shall put it to vote.

The question is:

“That after article 103, the following new article be inserted:—

‘103-A. A person who is holding or has held the office of Judge of the Supreme Court shall not be eligible for appointment to any office of emolument under the Government of India or a State, other than that of the Chief Justice of India or the Chief Justice of a High Court:

Provided that the President may, with the consent of the Chief Justice of India. Depute a judge of the Supreme Court temporarily on other duties:

Provided further that this article shall not apply in relation to any appointment made and continuing while a Proclamation of Emergency is in force, if such appointment is certified by the President to be necessary in the national interest.’ ”

The amendment was negatived.

Article 164

Shrimati Purnima Banerji (United Provinces: General): Mr. President, I have a suggestion to make with regard to this article. This article refers to the method of voting in the Houses of the Legislature Assembly of a State and the Legislative Council of States and its right to function notwithstanding vacancies in these Houses. In article 164 there is also a passing reference to a joint sitting of both the Houses. I suggest, Sir, that article 172 where the question of “joint sitting” is taken up in greater detail, and which involves certain principles in which we are all interested should be taken up first. I therefore suggest that article 172 should be taken before this article is taken because once we pass this article dealing with the question of joint sittings we shall be committed to the principle of joint sitting and all the aspects of the problem will not be placed before the House.

Mr. President : Therefore, you suggest that this should not be taken now?

Shrimati Purnima Banerji : Yes, Sir.

An Honourable member : It should be taken after article 172.

Shri T. T. Krishnamachari : (Madras: General): While I appreciate Shrimati Purnima Banerji’s suggestion, the words relating to a “joint sitting” here come only by the way, and if we decide to alter the appropriate articles in a different way, the Drafting Committee might just delete the words occurring here that relate to a joint sitting. If there is no reference to a joint sitting in the appropriate article, this will automatically go. There is no substance attached so far as the reference to “joint sitting” is concerned in this particular article. It is left to the Chair. If you permit the Drafting Committee to make the changes at the appropriate time in the article this article might be discussed.

Mr. President : I think it does not really touch the question whether we should have a joint sitting or not. If the other parts of the Constitution do not provide for a joint Session, then, this article will not operate at all, so far as joint sitting are concerned, and the particular expression may even be dropped later on. There is no reason for holding it up. We may take it up and dispose of it.

Dr. Ambedkar, you may move amendment 2389, though it is a formal one.

Shri Mohan Lal Gautam (United Provinces: General): I take it, Sir, that your ruling is that even if we pass this article, it will have no prejudicial effect so far as article 172 is concerned.

Mr. President : Yes; That is what I have said.

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

“That in clause (1) of article 164 for the words ‘Save as provided’ the words ‘Save as otherwise provided’ be substituted”.

(Amendment Nos. 2390 to 2396 were not moved.)

Shri Jaspat Roy Kapoor : Sir, I beg to move:

“That with reference to amendment No. 2389 of the List of Amendments, in clause (1) of article 164, for the words ‘in a House’ the words ‘at any sitting of a House’ be substituted.”

To this there is another amendment;

Sir, I move:

“That with reference to amendment No. 61 above, in clause (1) of article 164 for the words ‘in a House or a’ the words ‘at any sitting of a House or’ be substituted.”

The object of this amendment is obviously to make a necessary improvement in the drafting of this article and I hope it will be appreciated by Dr. Ambedkar and that he will readily accept it.

Mr. President : The question is:

“That in clause (1) of article 164 for the words ‘Save as provided’ the words ‘Save as otherwise provided’ be substituted.”

The amendment was adopted.

Mr. President : Then, I shall put amendment 62 which will cover the other amendment also.

The question is:

“That in clause (1) of article 164, for the words ‘in a House or a’ the words ‘at any sitting of a House or’ be substituted”.

The amendment was adopted.

Mr. President : The question is:

“That article 164, as amended, stand part of the Constitution.”

The motion was adopted.

Article 164, as amended, was added to the Constitution.

New Article 167-A

Mr. President : We now take article 167-A, amendment No. 65. This arises out of amendment No. 2441 and this is for the addition of another article after article 167.

Shri B. A. Mandloi (C.P. & Berar: General): Mr. President, I beg to move amendment No. 2441 on page 247 of Volume I.—

“That after article 168, the following new article 168-A be inserted:—

‘168-A. On a question being raised or having arisen whether a member has incurred the penalty for the breach or breaches mentioned in article 168, the Chairman of the Legislative Council or the Speaker of the Legislative Assembly, as the case may be, shall refer the matter to the Committee of Privileges or to a sub-committee appointed by him for its report. The Chairman or the Speaker shall give his decision after the report has been discussed in the House-Council and the decision of the Chairman or Speaker, shall be final’.”

Sir, the House has passed article 167 and 168 regarding the disqualification for membership, and the penalty for sitting and voting before making the declaration prescribed in article 165 or when not qualified, or when disqualified.