

Mr. President : The question is:

“That in clause (3) of article 166, the following new sub-clauses be inserted:—

- ‘(c) or is recalled by the electors in his constituency for failure to properly discharge his duties;
- (d) of dies.’ ”

The amendment was negatived.

Mr. President : The question is:

“That article 166, as amended, stand part of the Constitution.”

The motion was adopted.

Article 166, as amended, was added to the Constitution.

Article 167

Prof. K. T. Shah : Sir, I move:

“That in sub-clause (a) of clause (1) of article 167, after the word ‘profit’ the following be inserted :—

- ‘or contract of building or of supply of any article, or is a shareholder in any joint stock company which has such a contract of building or of supply of any article.’ ”

The amendment portion would read :

“A person shall be disqualified for being chosen as, and for being, a member of the Legislative Assembly or Legislative council of State—

- (a) if he holds any office of profit or contract of building or of supply of any article, or is a shareholder in any joint stock company which has such a contract of building or of supply of any article under the Government, etc.....”

The old-time disqualification, arising out of the possibility of conflict of interests between one’s own private interests and that of public service, had led to the insertion as a disqualification the holding of any office of profit. Under present conditions, however, the mere holding of an office of profit, that is to say, any post carrying some salary or allowance attached to it is scarcely a temptation to at least many likely candidates who have attained prominence in their business or profession, and whose other source of income may be much greater than Government salaries can possibly be.

This, however, does not make holding of a post of profit under Government the less a disqualification. I want, however, to add certain other things, which are, as we notice, far more likely to be sources of temptation to sacrifice public interest to private advantage, than mere holding of an office of profit. Whatever may have been the conditions in the days of Walpole, today a Government office as such hardly suffices to tempt a legislator or a candidate for the Legislature, who has a flourishing private profession, trade or business, wherein much greater prospects of gain can be had by contact with Government or membership of the House.

One of the most considerable sources of temptation or corruption in these days of great building activity is that of a building contract. The possibility of enormous profits being obtained through large building and development projects, in which the State is interested directly or indirectly—and every day the State becomes more interested in those projects—will be a source of gain to such an extent that those who have it in their power to grant, and those who have such contracts, can afford to subsidise to any extent, if only people can canvass for them sufficiently, or help to obtain such contracts for them on easy terms from Government. The same applies to supply of

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other materials on a large scale needed by a modern Government. A Member of the Legislature should, I think, be free any such temptation; and anyone therefore who holds such contracts, or who is interested as a shareholder even in a joint stock Building or Construction or Manufacturing company, or who is interested as a shareholder in a company which is supplying articles on a large scale—articles of building materials or for any other needed by Government, should be disqualified from membership of the Legislature. The number of such interests in very varied and large, and any one so interested ought to be, in my opinion, disqualified.

I am therefore, suggesting that if you wish your Legislators to be free from temptation, if you wish them to serve the public disinterestedly, and solely with an eye on public service, then I think it is necessary that you should accept this suggestion to disqualify any one interested, of the kind I have mentioned. It must be disqualification for candidature to the Legislature of the Centre as well as of a State. Sir, I move:

(Amendment No. 2416 was not moved.)

Mr. Mohd. Tahir : Mr. President, Sir, I would like to move only the latter part of my amendment. Sir, I move:

“That after the words ‘Legislature of the State’ the words ‘or any Local Authority of such State’ be inserted.”

Sir, the intention of my amendment is quite clear and obvious. I do not want to make any speech. If my honourable Friend wants to accept it, he may accept it.

(Amendment No. 2418 was not moved.)

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

“That for sub-clause (d) of clause (1) of article 167, 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 acknowledgement of allegiance or adherence to a foreign State.’ ”

Shri Mahavir Tyagi : What will be our position in regard to England, now that we are in the Commonwealth? Will our allegiance to the King be also a disqualification ?

Mr. President : That is a matter of interpretation of the Constitution.

The Honourable Dr. B. R. Ambedkar : That will be dealt with by the Nationality Act.

Shri Mahavir Tyagi: But we must know what it is....

(Amendment Nos. 2420 to 2423 were not moved.)

Shri H. V. Kamath : I think my amendment No. 2424 is a purely verbal amendment and I leave it to the Drafting Committee.

Mr. President : I think it is of a substantial nature.

Shri H. V. Kamath : If that be so, I will move it.

I move:

“That in sub-clause (d) of clause (1) of article 167, after the semi-colon at the end, the word ‘or’ be added.”

Sir, in a similar article dealing with disqualifications of members (article 83) the word ‘and’ has been substituted by the word ‘or’. I think, Sir, the Drafting

Committee will follow its own precedent and make a similar change here. That is why I said that it is a drafting amendment. Whether the word 'and' is deleted, or in its place 'or' is substituted, more or less comes to the same thing, according to my untrained mind. That is why I said I leave it to the wise men of the Drafting Committee, because I am a mere novice in these matters. I thought 'or' would be more appropriate, because if any one of these disqualifications arises—if a person is disqualified for any of these reasons—then the article will apply.

Mr. President : Dr. Ambedkar might consider it.

Shri H. V. Kamath : As I said, I leave the decision to the wise men of the Drafting Committee.

The Honourable Dr. B. R. Ambedkar : I think it is perfectly all right, Sir.

Mr. President : Won't they read cumulatively?

The Honourable Dr. B. R. Ambedkar : No, Sir, they won't read cumulatively.

Mr. President : If 'or' is added it will put it beyond all doubt.

The Honourable Dr. B. R. Ambedkar : I do not think it necessary.

(Amendment Nos. 2425, 2426 and 2427 were not moved.)

Mr. Mohd. Tahir : I beg to move:

"That after sub-clause (e) of clause (1) of article 177, the following new sub-clause be inserted :—

'(f) if he is not registered as voter.' "

Sir, clauses (a) to (e) of this article enumerate the disqualifications for being a member. I want that this should be included in this article so that if a man is not a registered voter he cannot become a member of the Assembly. If candidature is not restricted to persons whose names are on the roll, every man could come and file his nomination paper for election. Therefore it is necessary that a clause of this kind should be added.

Mr. President : The Honourable Member may move his other amendments, 2430 and 2432 also now.

Mr. Mohd. Tahir : Sir, in this amendment I move only the latter part. I move:

"That in clause (2) of article 167, after the words 'Government of any State', the words for an local 'or other Authority subject to the control of such State', be inserted."

I am not making any speech.

Sir, as you have suggested I shall move this amendment 2432 also now. I am not moving the first part of it. The second part which I move runs thus:

"That in sub-clause (a) of clause (2) of article 167, after the words 'for any State', the words 'or a Chairman, a Vice-Chairman, a President, or a Vice-President of any Local or other Authority of such State' be inserted."

I am not moving 2433.

Shri T.T. Krishnamachari : Sir, with reference to amendments Nos. 2419 and 2430 of the List of Amendments, I beg to move:

"That for sub-clauses (a) and (b) of clause (2) of article 167, the following be substituted :—

'He is a minister either for India or for any such State.' "

Sir, the wording really follows the wording of a similar sub-clause in article 83 which has been accepted by the House. This is necessary because the

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reference in sub-clause (2)(b) to Part III of the first Schedule is one we are trying to obliterate, because we do not visualise the contingency of having to make a separate provision of this nature so far as the States in Part III of this Schedule are concerned. Any necessary provision to that effect will be made in a separate Chapter.

There are certain obligations imposed in the wording of sub-clause (b) as it stands which we would like to avoid and we feel that the wording "he is a minister either for India or for any such State" will be adequate for all purposes.

I hope the House will accept the amendment.

Shri Mahavir Tyagi : Sir, I hope you will not mind my saying a few words on this article—we have already passed a number of them today. I would like to ask Dr. Ambedkar to make it expressly clear as to what the expression 'allegiance or adherence to a foreign State' occurring in his amendment signifies. Sir, 'adherence' is a very wide term. Its meaning is not very exact." I wonder if our adherence to the Commonwealth will disqualify many of us, particularly our Prime Minister who was instrumental in our agreeing to some little adherence to a foreign State like England. We have recognised a foreign king to some extent by becoming a member of the Commonwealth. Now, will not that adherence disqualify a lot of us? If it does, then it is only Dr. Ambedkar who will remain in the House. We would all be disqualified. We have adhere to the Commonwealth and to the King of England who is a foreigner. Since the word 'adherence' is extremely ambiguous I think some change in the wording of the amendment should be made or a promise be given by the Drafting Committee that it will not be left so ambiguous. Our relation with the Commonwealth and other Dominions may be interpreted as with a foreign State. This is not a matter of treaty. It is a question of permanent relationship that we have established. A treaty is a contract. Here it is not a treaty. It is actual adherence to foreign dominions. I would like Dr. Ambedkar to throw light on this issue. Either the wording should be changed so as to enable us to remain in the Commonwealth, or an assurance be given that the Commonwealth countries will not be deemed to be foreign States for the purpose of this article.

I am glad that Shri Mohanlal Gautam has not moved his amendment; otherwise many of us who have not passed the matriculation examination would have been disqualified. I would be treated as disqualified if the matriculation qualification were there. My education is hardly equal to the primary school. I only desire that such of our countrymen as are illiterates like me be not disqualified by these provisions.

Prof. Shibban Lal Saksena : Sir, I want to draw attention to two things. Sub-clause (e) says, 'if he is so disqualified by or under any law made by the Legislature of the State'.

In another article we have laid down that the Legislature of the State is empowered to lay down qualifications and here we empower it to lay down disqualifications. But then Dr. Ambedkar has assured us that Parliament will lay down qualifications and not the Legislature of the State. So I request Dr. Ambedkar to tell us whether this power will also be exercised by the Parliament or not. Here we say that the Legislature of the State can declare the public office the holding of which will not disqualify a person from being a member of the Legislature of the State. I think this thing should also be left to Parliament. The Parliament should lay down the public office such as parliamentary Secretaries, Deputy Minister etc., the holding of which will not disqualify the holders of these offices in a State from continuing to be members of

the legislature. The laws disqualifying persons from being candidates for the legislature should also be uniform in all the States. Otherwise the result will be that every State will pass different laws and a person who can be a candidate for the membership of the Bombay legislature may not be able to be a candidate for the membership of the legislature in the United Provinces. This lacuna should be removed, and instead of 'State legislature' we should empower 'Parliament' to make uniform laws for all provinces.

Shri Brajeshwar Prasad : Sir, I am sorry that Mr. Mohanlal Gautam has not moved his amendment. I feel that there should be some educational qualifications for a member of the legislature. The impression has become prevalent that it is not necessary to have any educational, administrative or judicial experience for a member of the legislature. A doctor, or an engineer or a lawyer has to undergo certain specific periods of specialised training. I consider that the role of the legislator is far more important than either that of a doctor, a lawyer or an engineer. But in order to become a legislator, it is considered to be enough if he is a demagogue, a loud tongued orator, a professional political dancer, a man with hundred faces and a confirmed scoundrel. I feel, Sir, that if we want to build up a decent system of government, some educational qualifications for legislators must be considered necessary. Sir, I have nothing more to say.

Shri M. Thirumala Rao (Madras: General): May I know, Sir, if the honourable Member used the word 'scoundrel'? I should not hear him well. If he has used the word, is the word parliamentary?

Mr. President : That word should not have been used, if it has been used.

Shri T. T. Krishnamachari : It only follows the saying that politics is the last refuge of the scoundrel.

The Honourable Dr. B. R. Ambedkar : I rise only for the sake of my Friend, Mr. Tyagi, as he has asked me one or two pointed questions. As he himself says that he is an illiterate, I can very well understand his difficulty in understanding the word 'adherence'. I would therefore explain to him what the word 'adherence' means. When one country is invaded by another country, what happens is this that the local people either out of fear or out of martial law sometimes give obedience to the laws made by the military governor who acts in the name of the invading country. Such a conduct is often excused while the invasion continues and the military occupation continues. It often happens that when there is no real necessity to obey the invader or the military governor, either because there has been a relaxation of control or because the hostility has ceased, certain people still continue to render obedience to the military governor or the invader. Their conduct under law is referred to as 'adherence'. It is distinct from acknowledging. It is to protect this kind of case that the word 'adherence' has been used.

My Friend, Mr. Tyagi, was also very much agitated over the question of who are to be regarded as foreign countries. I am sure about it that it is not the intention of my Friend, Mr. Tyagi, to involve me in any discussion about Commonwealth relationship which is a matter which has already been discussed and disposed of in the House, but I would like to tell him that I propose to introduce an amendment to article 303, sub-clause (1), to define what would be regarded as foreign country, and if my Friend, Mr. Tyagi has got Volume II of the printed List of Amendments he will see what the proposed amendment is. The proposed amendment gives power to the President to declare what are not foreign countries, and that declaration would govern whether a particular country is or is not a foreign country. For the benefit of my Friend, Mr. Tyagi, I would also like to add one word of explanation. Many people seem to be rather worried that when a country is declared not to be a

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foreign country under the proposed amendment, or the Commonwealth Agreement, all such people who are inhabitants of those countries would *ipso facto* acquire all the rights of citizenship which are being conferred by this Constitution upon the people of this country. I want to tell my friends that no such consequence need follow. The position under Commonwealth relationship would be this; In all the Dominion countries, the residents would be divided into three categories, citizens, aliens and a third category of what may be called Dominion residents residing in a particular country. All that would mean in this, that the citizens of the Dominions residing in India would not be treated as aliens, they would have some rights which aliens would not have, but they would certainly not be entitled, in my judgement, to get the full rights of citizenship which we would be giving to the people of our country. I hope my Friend, Mr. Tyagi, has got something which will remove the doubts which he has in his mind.

Shri Mahavir Tyagi : I heartily thank you for the interesting speech that you have made.

Mr. President : The question is:

“That in sub-clause (a) of clause (1) of article 167, after the word ‘profit’ the following be inserted :—
‘or contract of building or of supply of any article, or is a shareholder in any Joint Stock Company which has such a contract of building or of supply of any article.’ ”

The amendment was adopted.

Mr. President : The question is:

“That in sub-clause (a) of clause (1) of article after the words ‘Legislature of the State’ the words ‘or any Local Authority of such State’ be inserted.”

The amendment was negatived.

Mr. President : The question is:

“That for sub-clause (a) of clause (1) of article 167, 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 of adherence to a foreign State.’ ”

The amendment was adopted.

Mr. President : The question is :

“That in sub-clause (d) of clause (1) of article 167, after the semi-colon at the end, the word ‘or’ be added.”

The amendment was negatived.

Mr. President : The question is:

“That in sub-clause (d) of clause (1) of article 167, the following new sub-clause be inserted :
‘(f) if he is not registered as voter.’ ”

The amendment was negatived.

Mr. President : The question is:

“That in clause (2) of article 167, after the words ‘Government of any State’, the words ‘or any local or other Authority subject to the control of such State, be inserted.’ ”

The amendment was negatived.

Mr. President : The question is

“That for sub-clause (a) and (b) of clause (2) of article 167, the following be substituted :—
‘He is a minister either for India or for any such State.’ ”

The amendment was adopted.

Shri T. T. Krishnamachari : The other two amendments of Mr. Mohd. Tahir fall to the ground because those clause are eliminated by the acceptance of the amendment I had moved.

Mr. President : Yes amendment Nos. 2432 and 2433 fall to the ground.

Mr. President : The amendment moved by Dr. Ambedkar and the other moved by Mr. Krishnamachari have been carried and I would put the article, as amended to vote.

Mr. President : The question is:

“That article 167, as amended, stand part of the Constitution.”

The motion was adopted.

Article 167, as amended, was added to the Constitution.

Mr. President : We adjourn till 8 o'clock tomorrow morning.

The Assembly then adjourned till Eight of the Clock on Friday the 3rd June 1949.
