

Mr. President : Dr. Ambedkar, do you wish to say anything?

The Honourable Dr. B. R. Ambedkar : I accept Mr. Gupte's amendment.

Mr. President : Now I shall put Mr. Gupte's amendment which has been accepted by Dr. Ambedkar, to vote. It becomes the original amendment.

The question is:

"That with reference to amendment No. 2304 of the List of Amendments, after clause (1) of article 151, the following proviso be inserted:

'Provided that the said period may, while a Proclamation of Emergency is in operation, be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.' "

The amendment was adopted.

Mr. President : Mr. Brajeshwar Prasad's amendment.

Shri Brajeshwar Prasad : Sir, I would like to withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President : Then I put Dr. Ambedkar's amendment No. 2308.

The question is:

"That in clause (2) of article 151, for the words 'third year' the words 'second year' be substituted."

The amendment was adopted.

Mr. President : Then I put article 151, as amended by these two amendments to the House.

The question is:

"That article 151, as amended, stand part of the Constitution."

The amendment was adopted.

Article 151, as amended, was added to the Constitution.

Article 152

Mr. President : Then we come to article 152. To this article, there is the amendment of Dr. Ambedkar, No. 2311, to which there are several amendments, one of which is amendment no. 38 of the First List.

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

"That for article 152, the following be substituted:—

'152. *Qualification for membership of the State Legislature.*—A person shall not be qualified to be chosen to fill a seat in the legislature of a State unless he—

- (a) is a citizen of India;
- (b) is, in the case of a seat in a Legislative Assembly, not less than twenty five years of age and, in the case of a seat in the Legislative Council, not less than thirty-five years of age; and
- (c) possesses such other qualifications as may be prescribed in that behalf by or under any law made by the Legislature of the State.' "

Mr. President : As I said, there are several amendments to this.

These may be moved now.

(Amendment Nos. 126, 127, 128 and 129, in the Supplementary List were not moved.)

Shrimati Purnima Banerji (United Provinces: General): Sir, I beg to move amendment No. 38 of List I, Third Week, which is:

“That in amendment No. 2311 of the List of Amendments in clause (b) of the proposed article 152, for the word “thirty-five” the word “thirty” be substituted.”

This is in conformity with what we have already passed in regard to age qualification for the members of the Upper House in the Parliament, and therefore, there is not much to be said as to why this amendment is being moved here. But before I close I would like to clear a doubt regarding clause (c) of this article which has been proposed by Dr. Ambedkar. It says, the person shall “possess such other qualifications as may be prescribed in that behalf by or under any law made by the Legislature of the State.”

Sir, my doubt—the doubt that I have in mind—is this. While we are wedded to the principle of adult franchise and hope that Members of both these Assemblies will be popularly elected persons, who will be entitled not only to send their representatives to sit in this House and also in the Upper House— whether of the Centre or the provincial bodies—my fear is that according to this sub-clause as it stands it is quite possible that a property qualification or any other qualification may be introduced whereby Members may be debarred from offering themselves as candidates for either House of the Legislature.

Sir, in moving the constitution for the Upper House of the provincial Legislature, that is of the State, reference has been made to the constitutions of Canada and South Africa, where there is a property qualification prescribed for those who can be members of the Upper House. If that idea remains in our minds that this sub-clause can at any stage be introduced— and I am not even sure that, where this sub-clause is retained, members of the Lower House or the Upper House may not have their qualifications restricted, and what you have granted by adult franchise namely that every adult can vote and every adult aged 25 or 30 can be a member of the Lower or Upper House—and if any other qualifications are prescribed, his right may be thereby taken away. My point is that either we draw our rights from the Constitution laid down in this House or they are drawn from the Parliament which may change those rights from time to time. We have no objection should a Parliament, which would be also a sovereign body, wish to change the constitution. There is a certain prescribed method and only by a certain number of votes can that constitution be changed. But suppose at any given time in a provincial Legislature or in a Parliament a motion is put and the qualification of the members is raised, then I am afraid that the safeguard or the provision we have placed that every adult, or every adult aged 25 or 30 shall be able to be a member of either House may be nullified. So I hope that Dr. Ambedkar will assure the House that that possibility is not in his mind because as far as disqualifications are concerned, there is a separate article disqualifying a member from appearing as or becoming a member of either of the two Houses. Here it is specifically mentioned that the qualifications of the members may be prescribed from time to time. Sir, I move.

(Amendments Nos. 2312 to 2318 were not moved.)

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

“That in article 152, after the word ‘age’ where it occurs for the first time the words ‘is literate, and is not otherwise disqualified from being elected’ : and after the word ‘age’ where it occurs for the second time, the words ‘is qualified to vote in the constituency from which he seeks election, and is not otherwise disqualified from being elected’ be added.”

The important point that I would like to make for the consideration of this amendment is the necessity of at least candidates being literate who seek

[Prof. K. T. Shah]

to be elected to the Legislature. We have an appalling volume of ignorance in this country—utter illiteracy. And the danger of illiteracy becoming predominant, or rather the danger of illiterate candidates coming into the Legislature, appears to me to be so great that I think we would do well to lay down a positive requirement by or qualification for candidates, seeking election to the Legislature, to be literate at least.

Under the prevailing state of things, it is difficult to demand that electors shall be all literate, as we have some 85 per cent of the population illiterate, and with adult franchise the voters would naturally be largely illiterate. It is, however, a misfortune which we would like to correct at the earliest opportunity, and I trust that within a measurable period of time—perhaps ten years—illiteracy would be completely abolished; and voters will all have this minimum of requirement in democratic citizenship.

But even while it prevails, and while this danger of something like over three-fourths of the population, if not more, being illiterate is before us, I think it is necessary to insert in this Constitution the positive requirement that the candidate will be at least literate; and that anyone who is not literate will be disqualified.

The other items, Sir, in my amendment making disqualifications for candidates, are not so very important; and I do not lay so much stress by them. The amendment moved by the Chairman of the Drafting Committee if carried, would perhaps attend to some of those. But in this matter of literacy of the candidate, I feel very strongly; and I trust the House will agree with me, and lay down this qualification of literacy by the Constitution, and not by an Act of Parliament only.

I commend my amendment to the House.

Mr. President : The amendments have been moved. Any one wishing to speak on the article or any of the amendments may do so now.

Mr. Naziruddin Ahmad : Mr. President, I have some difficulty in accepting amendment No. 68 moved by Shrimati Purnima Banerji. The first difficulty is that I feel that in the Legislative Assembly where a member should be more vigorous, more youthful, and more energetic than the Members of the Legislative Council who would be elderly statesmen, the amendment states that the Members of the Legislative Assembly must be at least thirty five and the Members of the Legislative Council at least thirty. I submit that the whole thing should have been the other way round. As in the amendment moved by Dr. Ambedkar, the age-limit of the Lower House...

Mr. President : I think you are under a misapprehension. She wants for the words “thirty-five” the word “thirty”. That refers to the Council and not to the Assembly. “In case of a seat in the Legislative Council not less than 35 years”—she wants that to be substituted by “30”.

Mr. Naziruddin Ahmad : But, Sir, in the corresponding provision to the Central Legislature—the Parliament—the provision is that for the House of the People—the Lower House—the age limit would be twenty-five and for the Legislative Council not less than thirty-five. But as it is printed and circulated.

Mr. President : It is said that in the case of a seat in the Council of State not less than thirty-five years and in the case of a seat in the House of the People not less than thirty.

Mr. Naziruddin Ahmad : So the age limit is—Upper House 30 and Lower House 25. In that case I have nothing further to say. The speed and

rapidity with which amendments are being showered upon us is responsible for this slip.

Prof. Shibban Lal Saksena : Mr. President, Sir, the original clause has been substituted by the amendment of Dr. Ambedkar. Sir, in this amendment I object to two things: my first objection is to clause (c). This clause says:

“possess such other qualifications as may be prescribed in this behalf by or under any law made by the Legislature of the State.”

It does not even say ‘Parliament’. I would have wished that these qualifications were laid down in the Constitution itself. One of the main objects of the Constitution is to lay down the qualifications of candidates and unfortunately these have been left to be decided by the Legislature of the State. The result will be that every State will have a different set of qualifications for its candidates. A man who can be a member of the Assembly in Bombay may not be eligible to be so in the United Provinces, because the qualifications in Bombay may be different from those in the United Provinces. This, I think, is a mistake which I hope Dr. Ambedkar will correct.

Again, Sir, as I said, I am totally opposed to even Parliament being given the power of prescribing qualifications; the Constitution itself should lay down what those qualifications shall be. Otherwise, qualifications of candidates will be made a plaything of party politics. For instance, a die-hard Government might come into power and lay it down that only zamindars, or persons paying income-tax of a particular amount would be eligible to seek election. The result will be that ordinary people will go to the wall. I, therefore, think, Sir, that clause (c) should be deleted.

Then, coming to clause (b), it lays down that a person shall not be qualified for election unless he is not less than twenty-five years of age in the case of the Legislative Assembly, and thirty years, in the case of the Legislative Council. As I said the other day, in the case of other constitutions these limits are not generally prescribed. In England any voter can be a member of Parliament. I have known persons who have become members of provincial Assemblies at a much younger age. I, therefore, think, Sir, that at least for the provincial Legislatures which are the training grounds in parliamentary affairs, the age of eligibility for membership should be fixed at twenty-one years.

Mr. President : We had all these arguments when we discussed article 68-A. Is it necessary to repeat the same arguments once again?

The Honourable Dr. B.R. Ambedkar : Sir, I accept the amendment moved by Shrimati Purnima Banerji. With regard to the fear that she expressed about clause (c) that this clause might enable the prescription of property qualifications by Parliament for candidates, I certainly can say that such is not the intention underlying sub-clause (c). What is behind this clause is the provision of such disqualifications as bankruptcy, unsoundness of mind, residence in a particular constituency and things of that sort. Certainly there is no intention that the property qualification should be included as a necessary condition for candidates.

Then, with regard to the amendment of Professor K.T. Shah about literacy, I think that is a matter which might as well be left to the Legislatures. If the Legislatures at the time of prescribing qualifications feel that literacy qualification is a necessary one, I no doubt think that they will do it.

Sir, there is only one point about which I should like to make a specific reference. Sub-clause (c) is in a certain manner related to articles 290 and 291 which deal with electoral matters. We have not passed those articles.

[The Honourable Dr. B. R. Ambedkar]

If during the course of dealing with articles 290 and 291, the House comes to the conclusion that the provision contained in clause (c) should be prescribed by the law made by Parliament, then I should like to reserve for the Drafting Committee the right to reconsider the last part of sub-clause (c). Subject to that I think the article, as amended, may be passed.

Mr. President : I shall now put the article with the various amendments to vote: first is the amendment of Shrimati Purnima Banerji—No. 38 of List I.

The question is:

“That in amendment No. 2311 of the List of Amendments, in clause (b) of the proposed article 152, for the word ‘thirty-five’ the word ‘thirty’ be substituted.”

The amendment was adopted.

Mr. President : The question is:

“That for article 152, the following be substituted:—

‘152. *Qualification for membership of the State Legislature*.—A person shall not be qualified to be chosen to fill a seat in the Legislature of a State unless he—

- (a) is a citizen of India;
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- (c) possesses such other qualifications as may be prescribed in this behalf by or under any law made by the Legislature of the State’.”

The amendment was adopted.

Mr. President : The question is:

“That in article 152, after the word ‘age’ where it occurs for the first time the words is ‘literate’, and is not otherwise disqualified from being elected; and after the word ‘age’ where it occurs for the second time, the words ‘is qualified to vote in the constituency from which he seeks election, and is not otherwise disqualified from being elected’ be added.”

The amendment was negatived.

Mr. President : The question is:

“That article 152, as amended, stand part of the Constitution.”

The motion was adopted.

Article 152, as amended, was added to the Constitution.

Mr. President : Then we have notice of another article, No. 152-A, which I think is covered by the article which we have just passed; so, that need not be taken up.

Then we go to article 153.

Article 153

Mr. President : Article 153 is for the consideration of the House.

With regard to the very first amendment, No. 2321, as we had a similar amendment with regard to article 69 which was discussed at great length the other day, does Professor Shah wish to move it?

Prof. K. T. Shah : If I am in order I would like to move it. But if you rule it out, it cannot be moved.