

ROLE OF NOMINATED MEMBERS OF PARLIAMENT

Discussion On Draft Indian Constitution

NEW DELHI, May 18.

SIX clauses were adopted today by the Constituent Assembly, which settled down to the strenuous business of clause-by-clause discussion of the Republican Constitution.

The House had already adopted in previous sessions 67 out of 315 clauses and eight schedules.

One of the provisions accepted today fixed the minimum age of candidates to the Council of State at 30. Dr. B. R. Ambedkar, Law Minister, had suggested 35, but later accepted an amendment moved by Mrs. Durgabai reducing the age to 30.

Other clauses adopted by the House related to the duration of the Houses of Parliament, right of the Union President to address and send messages to Parliament and the right of Ministers and the Attorney-General to participate in the proceedings of Parliament without being entitled to vote.

The President, Dr. Rajendra Prasad, told the House that the constitution would be adopted in English, but would also be passed "in our own language if that could be satisfactorily prepared."

The Constituent Assembly in India today passed a Bill to enable the Governor-General to end European representation in the Coorg Legislative Council and to empower the Centre to pass legislation for the inter-provincial transfer of detenus.

INDIA'S CONSTITUTION

Before the Constituent Assembly proceeded with the consideration of the articles of the draft constitution, Seth Govind Das referred to a speech by Dr. Rajendra Prasad, President of the Constitution Assembly, suggesting that the constitution of Free India should be drafted in her national language and not in English.

Seth Govind Das said that he had toured the country and the consensus of opinion was that the constitution should be in Hindi. He, therefore, suggested that along with the English draft, a Hindi draft of the constitution should also be taken up and simultaneously adopted.

Dr. Rajendra Prasad said that in pursuance of his statement he had appointed committees to prepare translations of the draft constitution which was originally made in English.

Accordingly three drafts, one in Hindi, one in Hindustani and the third in Urdu, were printed, but these were not acceptable to a large body of the members. The Steering Committee had, therefore, requested the President to appoint a committee of experts to prepare translations which would be as accurate as possible and at the same time intelligible to the public at large. The committee was now engaged in the task.

"It is in keeping with our national dignity," said the President, "that we should pass the constitution in original in our national language. As soon as the translations of the constitution are ready I will place the matter before the House." (Cheers).

The House then took up a new article moved by Dr. B. R. Ambedkar, Minister for Law, in regard to nomination of experts in connection with a Bill.

The article seeks to empower the

President to nominate persons not exceeding three in number to assist the Houses of Parliament in connection with any particular Bill. Those members would have the right to speak, but, not to vote.

Moving the article, Dr. Ambedkar pointed out that the Union Constitution Committee originally suggested adoption of the Irish System of nomination of 15 members to the Upper Chamber. Sir B. Narsingh Rao who had gone to Eire had discussions with Mr. de Valera as to how far this system had worked and he was told that the panel system had completely failed. The drafting committee had thereupon decided to drop the provision, but the matter was reconsidered by the Union Constitution Committee.

The Committee proposed that the total number of nominations which were originally restricted to 15, should be divided into two classes, namely, there should be a set of people nominated as full members of the House and they should have special knowledge in arts, science and literature and three other persons should be nominated as experts to assist and advise Parliament in the matter of any particular Bill. The Constituent Assembly had already adopted Article 67 covering the first suggestion. The new article sought to give effect to the second part of the recommendation.

He pointed out that the Article limited the functions of the members nominated thereunder and their terms and duration would be co-terminus with the proceedings of the particular Bill. Similar provisions were also contained in the Government of India, 1919, Act.

Pandit Thakurdas Bhargava said that the article was not circulated to the members of the House and they had not time to study it. The President suggested that the consideration of the Article might be deferred till tomorrow. The House then proceeded with Article 68.

The House then adopted Clause 68 of the constitution moved by Dr. Ambedkar. It lays down that the Council of State shall not be subject to dissolution but that one third of the members shall retire on the expiration of every second year.

LIFE OF LOWER HOUSE

Provision For Extension

Under the clause the Lower House will continue for five years. The clause also lays down that the life of the House shall be extended for a period of not exceeding one year at a time and not for more than six months after the proclamation of an emergency has ceased to operate.

Prof. K. T. Shah (Bombay) moved an amendment that after the proclamation had ceased to operate the life of the House should be only for the balance of the period for which it would have been elected if the dissolution had taken place in the normal course of the session. The amendment said that the same provision should apply to any Parliament elected after the dissolution of its predecessor if it had been dissolved before the balance of the normal term. He said in support of his amendment that the Parliament elected after the emergency would be influenced very much by the fact of that emergency. The amendment was lost.

Dr. Ambedkar moved a new article—Article 68-A—prescribing qualifications for a person to fill a seat in the Council of States. The necessary qualifications are that he must be a citizen of India must be not less than 35 years of age for a seat in the Council of States and not less than 25 years of age for a seat in the House of the People and must possess such other qualifications as may be prescribed in this behalf by or under the law made by Parliament.

Dr. Ambedkar said that it was necessary to introduce this article because a similar article had been passed by the provincial legislatures. He hoped that the House would agree that it was desirable that every candidate should possess some qualifications other than those entitling him merely to vote. If these additional qualifications were accepted the House would be able to secure proper persons in the legislature.

AGE OF CANDIDATES

Mrs. Durgabai moved an amendment which sought to fix the age of the candidate at 30 for a seat in the Council of States. This amendment was accepted.

Mr. H. V. Kamath (C. P. and Berar) supported Mrs. Durgabai's amendment.

Prof. Shibban Lal Saksena (U.P.) said he was not happy over Dr. Ambedkar's amendment. William Pitt became Prime Minister of England when he was less than 25. Shankaracharya became world teacher at 32 and Alexander conquered the world at 32. It could not be said that out of the 300 million Indians there would be no young man capable of shouldering the responsibilities of State.

He felt that any person who was a voter should be permitted to stand for election. He also did not like the idea of future Parliaments deciding the qualifications of candidates. This provision might be abused to prevent the Opposition Party from coming to power.

Mr. Tajamul Hussain (Bihar) said that any person who had attained majority should be entitled to stand for the Upper House. As he had not moved an amendment, however, to that effect, he supported Mrs. Durgabai's amendment. As a Persian poet had said, seniority was not according to age but according to wisdom. Dr. Ambedkar's amendment went against the principle that a voter was entitled to become a candidate.

Mr. T. T. Krishnamachari (Madras) said that the minimum age of the Vice-President had been fixed at 35 because the President could not be below 35 and in the vents of a vacancy, the office would have to be filled by the Vice-President. Hence there was no anomaly in fixing the minimum age of a member of the Upper House at 30 and that of the Vice-President at 35. The age in both cases had been prescribed for different reasons. He did not see why anyone should object to the qualifications of a voter being different from those of a candidate.

The Law Minister, Dr. B. R. Ambedkar, accepted Mrs. Durgabai's amendment but pointed out that while this amendment would apply to the Upper House at the Centre, the minimum age of candidates for the Upper Houses in the provinces had already been fixed at 35 it would not matter very much if this distinction remained, but it was open to the House, if it wished, to make the age uniform.

Dr. Rajendra Prasad, President, said what struck him as something very curious was that in this country judges and those who were expected to assist judges had to possess very high qualifications while members of the Constituent Assembly were of the opinion that the men who made the law needed no qualifications at all. "If we take the extreme case," he said "the legislature may consist of persons without any qualifications at all and they may pass something which is nonsensical and then the wisdom of all the lawyers and all the judges will

be required to interpret that law. It seems to me to be an anomaly but in this age we have to put up with that kind of anomaly. I for one, although I do not like it, will have to put up with it." Mrs. Durgabai's amendment was accepted by the House.

The House then took up Article 69 relating to the summoning of the sessions of Parliament, prorogation and dissolution. It provides that the Houses of Parliament shall be summoned to meet twice at least in every year, and more than six months shall not intervene between their sittings. It also empowers the President to summon and prorogue both Houses and dissolve the House of the People.

Prof. K. T. Shah moved four amendments to the effect that not more than three months should intervene between the sessions of Parliament. Their sittings should be deemed continuous throughout the year, notwithstanding interruptions due to holidays, or adjournment. The Speaker or the Chairman of the Houses, as the case might be, should have the power to summon the House in case the President failed to summon Parliament.

Mr. Kamath moved an amendment suggesting that there should be, at least, three sessions of Parliament every year.

Prof. Shah contended that adequate time had not been given to the representatives of the people to discharge their duties in Parliament. Like the House of Parliament in Britain, the Indian Parliament should sit continuously throughout the year, if parliamentary responsibilities were to be fully discharged.

As regards conferring powers on the Speaker or the Chairman to convene the House of Parliament Prof. Shah argued that there might be occasions when the President would, in violation of the constitution, take the law into his hand, and refuse to summon the legislature. In that event, provision should be made and the constitution must provide for such a contingency.

Commending his amendment to the House, Mr. H. V. Kamath said that in regard to that particular article, the Government of India Act was copied to the letter, without consideration of what additional duties or responsibilities had devolved on the Parliament of Free India. The need for Parliament's meeting oftener and for a longer period had been recognised by all. He said that during the budget session of the Dominion Parliament supplementary demands amounting to several crores had to be passed within three hours. Although the minimum number of sessions had been prescribed, he felt that the minimum always tended to become the maximum.

Mr. K. K. Sidhwa, Mr. Tajamul Husain and Prof. Shibbanlal Saksena, during the general discussion, supported Mr. Kamath's amendment. Mr. Sidhwa said that Parliament should sit continuously for the whole year with a break of a month or two. He asked why in that particular article alone, the framers did not follow the British model.

Dr. Ambedkar, replying to the debate, said that he regretted he could not accept any of the amendments. He said the political atmosphere was totally different now from that prevalent during 1935. Then the Executive used to shun the legislature, and the legislature was summoned primarily to collect revenues and obtain sanction of the legislature for financial proposals and appropriation of revenue.

The House rejected all the amendments, and adopted the article.

NUMBER OF SESSIONS

The article prescribing the minimum number of sessions did not prevent the legislature from being summoned oftener than what had been provided for. His fear was that the sessions of Parliament would be so frequent and lengthy that the members of the legislature would probably get tired of it. Further, the Government were responsible to the people not merely for carrying on good administration, for giving effect to the legislative programme. For those reasons, there was no occasion to fear that the executive would not summon sessions more than twice a year.

Replying to the suggestion that the President might refuse to summon the legislature and that provision should be made to meet that contingency, Dr. Ambedkar said that he failed to understand why the President should fail to accept a Prime Minister's proposal to summon the legislature. Should the President, for no valid reason refuse to summon the legislature in accordance with the Prime Minister's advice, then there was a remedy in the constitution to replace such a President, namely, the right of impeachment. If the Speaker or the Chairman was vested with the power to summon the legislature and if the President, for good reasons did not summon it, a difficult situation would arise. It meant the Executive Government had no business which it could place before the House for transaction and the Speaker could not provide business for Parliament. That was the only ground why the President, on the advice of the Prime Minister, was being empowered to summon the legislature.

Referring to the powers of the President to dissolve Parliament, Dr. Ambedkar said that the insistence upon having a document in writing stating the reasons why the Prime Minister wanted dissolution of the House seemed to be useless. There were other ways and means for the President to test the feeling of the House and to find out whether the Prime Minister was asking for the dissolution of the House for the benefit of the party or in national interests.

The House adopted clauses 70, 71 and 72 relating to Presidential Address to Parliament and the right of Ministers and the Attorney-General to take part in the proceedings of Parliament without being entitled to vote.

The House adjourned till tomorrow.—A.P.I.