

efficient administration of the country, or for its defence, or to provide for any sudden calamity in any part of the Union or any other emergency;

- (b) have the power to assent to the laws duly passed by the Union Legislature;
- (c) conduct and supervise any Referendum that may be decided upon to make to the Sovereign People in accordance with this Constitution;
- (d) have the power to declare war, and make peace;
- (e) be the supreme commander of all the armed forces of the Union;
- (f) appoint all other executive and judicial officers, including the ministers, representatives of the Union in foreign countries as ambassadors, ministers, consuls, trade commissioners and the like; as well as the commanding officers in the armed forces of the Union;
- (g) do all acts, exercise all powers and discharge all authority necessary or incidental to the power and authority vested in him by and under this Constitution;
- (h) have power to refuse assent to any legislative proposal passed by both Houses of Parliament; or to recommend to Parliament that any legislative proposal passed by Parliament be reconsidered for reasons stated by the President, provided that any legislative proposal duly passed by Parliament, if refused assent by the President only once; and that the same proposal if passed in an identical form by Parliament in the next following sessions of that body, shall be deemed to have been duly passed and become an Act of the Legislature, notwithstanding that the President has refused or continues to refuse to assent thereto;
- (i) in every case in which the President refuses to assent to any legislative proposal duly passed by Parliament, the President shall record his reasons for refusing to assent and shall forward the reasons thus recorded to Parliament;
- (j) in any case where the President, having duly submitted to Parliament, or to the People's House thereof, a legislative proposal he deems necessary for the safety of the State, its integrity or defence or to safeguard the nation's interests in a national emergency, finds that Parliament is unwilling to consider or pass that proposal, may refer such a proposal to the people of the country; and if the proposal is approved, on such reference, by a majority of not less than two-thirds of the citizens voting, it shall forthwith become a law of the land. If on such reference the proposal is not approved by the requisite majority, it shall be deemed to have been negated, and shall be treated as void and have no effect."

The motion was negated.

Mr. Vice-President : I now put No. 1048 to vote.

The question is:

"That for sub-clause (a) of clause (3) of article 42, the following be substituted:

'(a) be deemed to authorise or empower the President to exercise any power or perform any function which by any existing law is exercisable or performable by the Government of any State or by any other authority; or' "

The motion was negated.

Mr. Vice-President : Now the question is:

"That article 42 stand part of the Constitution."

The motion was adopted.

Article 42 was added to the Constitution.

Article 43

Mr. Vice-President : We have some 12 minutes more and I propose to go on to the next article.

The motion is:

"That article 43 form part of the Constitution."

Amendment No. 1051—Shri Damodar Swarup Seth.

Shri Damodar Swarup Seth (United Provinces : General) : Sir, I beg to move:

“That for articles 43 and 44 the following be substituted:

‘The President shall be elected by means of the single transferable vote by an electoral college composed of the members of Parliament and an equal number of persons elected by the Legislatures of the States on population basis under the system of single transferable vote.’ ”

Sir, article 43 provides, for the election of the President of the Union of India, an electoral college composed of the members of both Houses of Parliament and elected members of the Legislatures of the States, while article 44 lays down the details of the procedure to be adopted in the elections of the representatives of the States. Now, so far as the system of proportional representation by means of the single transferable vote is concerned, I hope every honourable Member of the House will welcome it. But so far as the inclusion of members of the Council of States and the members of the Legislative Councils of the States is concerned, I am opposed to their inclusion in the election of the President. Not only that, Sir, I am opposed to the very existence of these Houses under the new Constitution. Now, Sir, bicameral legislation is no more regarded as an essential feature of the Federal polity or of a sound democratic Constitution. At best it is a conservative device to delay progress. Sir, Prof. Laski has very rightly remarked that the safeguards required for the protection of the unit of a federation do not need the armour of a second chamber. All the requisite protection to the units of a federation is secured by the terms of the original distribution of powers embodied in the Constitution, and the right to judicial review by the courts. In all federal States, Sir, the party system operates alike in both the chambers of the legislatures, and the members of the second chamber are also elected on party system. Not only that, they work and vote also under the guidance of the party in much the same way as members of their respective parties in the Lower House. The relative strength of the national parties in the two Houses is no doubt different, but this difference in the number of members of the two Houses only promotes confusion and deadlock. Neither is it wise to entrust the protection of regional and national interests to two different chambers of federal legislature; nor have second chamber justified their existence by protecting the regional and national interests. The members of both the chambers have reacted to national and regional interests in much the same way. The principle of representation of constituent units as political entities through nomination by the local executive, or election by the legislature of the units is also not accepted by modern thinkers as valid. While most of the members of the Council of State are to be elected by indirect election, some are also to be nominated. The system of nomination, Sir, is undemocratic, while that of indirect election, in the words of Prof. Laski, “is the worst system which maximises corruption.” Now, Sir, as for the details of the procedure of election given in article 44, and in the foot-note to that article, I submit that it is not only complex, but very complicated, and do not ensure uniformity in the scale of representation of the State. My amendment, on the other hand, Sir, suggests a system which is very simple and can be operated without much difficulty, and does, at the same time, ensure uniformity, as desired, in the scale of representation of the State. I therefore, hope that the House would have no hesitation in accepting this amendment of mine.

(Amendment No. 1052 was not moved.)

Mr. Vice-President : There are two or three amendments of the same type and I want to know which of them is going to be pressed. They are amendment Nos. 1053, 1055, 1057, 1059 and 1062.

(Amendment Nos. 1055, 1059 and 1062 were not moved.)

Mr. Vice-President : So we have two amendments of the same type, Nos. 1053 and 1057. I can allow No. 1053 standing in the name of Prof. K. T. Shah to be moved.

Prof. K. T. Shah : Mr. Vice-President, Sir, I beg to move:

“That for article 43 the following be substituted:—

‘43. The President shall be elected by the adult citizens of India, voting by secret ballot, in each constituent part of the Union.’ ”

Mr. Vice-President : You can continue your speech on Monday.

The House stands adjourned to 10 A. M. on Monday.

The Constituent Assembly then adjourned till Ten of the Clock on Monday, the 13th December 1948.
