

Mr. Vice-President : The question is:

“That article 50, as amended, stand part of the Constitution.”

The motion was adopted.

Article 50, as amended, was added to the Constitution.

Article 51

Mr. Vice-President : We come to article No. 51.

The motion is:

“That article 51 form part of the Constitution.”

We shall take the amendments one after another. Amendment Nos. 1190 and 1191 are of similar import and are to be considered together. No. 1190 may be moved.

(Amendment Nos. 1190 and 1191 were not moved.)

No. 1192 is disallowed.

No. 1193, first alternative, and Amendment No. 1194 are similar and are to be considered together and I can allow 1193 to be moved—first alternative. Mr. Tahir.

Mr. Mohd. Tahir : Sir, I beg to move:

“That in clause (2) of article 51, for the words ‘six months’ and the words ‘full term of five years as provided in article 45 of this Constitution’ the words ‘three months’ and the words ‘remaining term of five years in which the vacancy so occurs’ be substituted respectively.”

Sir, regarding the period of six months and three months I would only submit that it is a matter of importance and it is better that the sooner it is decided the better it is and the period of six months is too long and therefore I have suggested that it should be decided in three months only.

Now I come to the second point. In such cases the office will remain only for the remaining term of five years in which the vacancy so occurs. Supposing the President is elected and after one year of his term the vacancy has occurred by his removal or resignation or anything otherwise, then in that case the new President who will be elected will hold the office for the remaining term of 5 years. In doing so, Sir, I want that the term of the Parliament and also the term of the office of the President should run parallel side by side so that after every five years when there is a new Parliament, there must also be a new President—a new air and new breath. If it be not so, then to my mind it appears that there would be some difficulties. Supposing the President is elected after two years when the vacancy occurs, then he will continue in office for another two years after the new Parliament is elected. Then there may occur two difficulties. Suppose the President belongs to a certain party and unfortunately in the next election that party does not come in with a majority. Then what will be the position of the President who is still continuing in office? Certainly, he will have to vacate the office on many grounds. Either he will resign from his office or the party which comes in with a majority will not consider him suitable to their own views, aims and objects.

Secondly, I would submit that if a President who is in office at the time of the elections continues in his office for some more years after the election, then it is but natural that the President, being in power, certainly will influence the elections for the new Parliament, and in my opinion, any influence exercised on the elections is against—it is hopelessly against—the spirit of democracy. Moreover, nobody can check it, because the President in power will naturally want to continue in power, and therefore, the party to which he

[Mr. Mohd. Tahir]

himself belongs, must come into power. Therefore he will exercise all his influence to see that such a party comes into power. Therefore, it is quite undesirable that the President should continue in office beyond a period, when Parliament comes to an end. Therefore, I submit that in all fairness, it would be desirable that the office, of the President and the term of life of the Parliament should run side by side, for equal periods of time. With these few words I submit my amendment to the House for its acceptance.

Mr. Vice-President : You can move the alternative amendment also.

Mr. Mohd. Tahir : Sir, the second alternative amendment runs as follows :

“That for article 51 the following be substituted :—

‘51. If the office of the President becomes vacant by reason of his death, resignation, removal or otherwise, the Vice-President shall act as President for the remaining term of office in which the vacancy so occurs.’ ”

In moving this amendment, Sir, I submit that when the question of election of President or the Vice-President comes before Parliament or before the country, it is but natural that the Parliament and the country as a whole, will think of selecting the best two men of the country to be the President and the Vice-President. The best two men are elected as President and Vice-President, and after that, if the vacancy arises in the office of the President, there is no reason why the third person should be elected for that office, and not the next best man who has already been elected as Vice-President and who has been in office, and who has had experience of the office in which he has been working for a certain period. Therefore, in all fairness, I am of the opinion that in case of vacancy of office of President, the Vice-President in office should automatically be in the President for the time that remains unexpired, and for which that office has fallen vacant.

With these few words, Sir, I submit my amendment to the House for its acceptance. I hope the House will consider these amendments seriously and accept them.

Mr. Vice-President : Amendment No. 1198, standing in the name of Prof. K. T. Shah.

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

“That the following new clause be added after clause (2) of article 51:—

‘(3) During the interval between the date when a vacancy in the office of the President occurs, and the date when new election to that office is completed, and the name of the new President announced, the Vice-President, provided for in the next following article, shall hold the office of and act as President of the Union.’ ”

Sir, this is only a consequential amendment, trying to fill in the gap between the removal, resignation or death of one President and the election of his successor. Some arrangement must be made for the interim period, whether it is three months or six months or whatever period it may be, between the election of the new President and the demise or removal of his predecessor. This is at least one example in which, may I make a present of my non-imitation of the American Constitution. There, after all, the Vice-President automatically takes charge in such emergency and election is avoided. Here we have insisted upon not only election, but election not for the balance of the period remaining, but for the full term of the office. If the Honourable Chairman of the Drafting Committee will consider the spirit as well as the wording of my amendment, he will find that there are much fewer imitations in mine than in his,—the only difference being that he has imitated several more constitutions, while I have reserved my “worship”—as he called it—for only one.

This, however, does not affect the simple provision that some interim provision must be made, and so far as I can see, the Draft does not make any satisfactory arrangement for the interim period during which the office may remain vacant. My amendment only seeks to provide for a consequence and hence, I hope the House will accept it.

Mr. Vice-President : Amendment Nos. 1195, 1196 and 1197 are disallowed, being verbal ones. Dr. Ambedkar.

The Honourable Dr. B.R. Ambedkar : Sir, I am sorry I cannot accept the amendment moved by Prof. K. T. Shah. His amendment seems to be covered altogether by article 54 (1). I fail to find any difference between the amendment that he has moved and the provision contained in sub-clause (1) of article 54. I think if he considers this article, he will find that his amendment is unnecessary and superfluous.

With regard to the other amendment, the point of difference is that any one who is elected as a result of the resignation and so on, should only occupy the Chair of the Presidentship during the balance of the term, while the provision contained in the Constitution is to the effect that if a person is elected as a result of resignation, death and so on he should continue to be the President for the full term prescribed by the Constitution. I see no reason why the term of office of a person who has been elected to the office should not be the full term prescribed by the Constitution and why he should be limited only to the balance of the term. I therefore, see no justification for the amendment at all.

Mr. Vice-President : I shall put amendment No. 1193—first alternative—standing in the name of Mr. Mohd. Tahir to vote.

The question is:

“That in clause (2) of article 51, for the words ‘six months’ and the words ‘full term of five years as provided in article 45 of this Constitution’ the words ‘three months’ and the words ‘remaining term of five years in which the vacancy so occurs’ be substituted respectively.”

The amendment was negatived.

Mr. Vice-President : Amendment No. 1194 standing in the name of Prof. K. T. Shah.

The question is:

“That in clause (2) of article 51, for the words ‘hold office for the full term of five years’ the words ‘hold office for the balance of term of five years’ be substituted.”

The amendment was negatived.

Mr. Vice-President : Amendment No. 1193, second alternative, standing in the name of Mr. Mohd. Tahir.

The question is:

“That for article 51 the following be substituted:—

‘51. If the office of the President becomes vacant by reason of his death, resignation, removal or otherwise, the Vice-President shall act as President for the remaining term of office in which the vacancy so occurs.’ ”

The amendment was negatived.

Mr. Vice-President : The question is:

“That article 51 stand part of the Constitution.”

The motion was adopted.

Article 51 was added to the Constitution.