

The Honourable Dr. B. R. Ambedkar : No. I cannot yield. I am answering your point. Your point was whether there was a process of elimination in the point before me is that I want that the election of the President or the General representation involves elimination. Otherwise it has no meaning. The only thing that we have done is that instead of having several proportional representations, we have provided one single proportional representation, in which every candidate at the bottom will be eliminated, until we reach one man who gets what is called a "quota".

Shri Mahavir Tyagi : But in the Parliament the system of alternative votes is adopted.

The Honourable Dr. B. R. Ambedkar : Alternative is only another name for proportional.

Sir I have nothing further to say on this point.

Shri Mahavir Tyagi : Sir, I want to know.....

Mr. Vice-President : Mr. Tyagi, my difficulty is I cannot compel the Chairman of the Drafting Committee to answer your questions. Neither can I compel him to clarify your doubts.

I am going to put these amendments, one by one to vote.

I put amendment No. 1075 to vote.

The question is:

That in sub-clause (c) of clause (2) of article 44, for the words "such member" the words "the elected members of both Houses of Parliament" be substituted.

The amendment was adopted.

Mr. Vice-President : No. 1078. The question is:

That for clause (3) of article 44, the following be substituted:

"(3). The election of the President shall be held by secret ballot and in accordance with the system of majority preferential voting by the single alternative vote."

That amendment was negatived.

Mr. Vice-President : No. 1079. The question is:

That in clause (3) of article 44, the words "in accordance with the system of proportional representation" be omitted.

That amendment was negatived.

Mr. Vice-President : The question is:

That for the Explanation to article 44, the following Explanation be substituted:

"Explanation.—In this article, the expression 'population' means the population as ascertained at the last preceding census of which the relevant figures have been published.

The amendment was adopted.

Mr. Vice-President : The question is:

"That article 44, as amended, stand part of the Constitution."

The motion was adopted.

Article 44, as amended, was added to the Constitution.

Article 45

Mr. Vice-President : The honourable Member concerned may move amendment No. 1084. I would like honourable Members to be as brief as possible, in which case we would be able to get through the article before the House concludes its deliberations today. But that does not mean that I am asking anybody not to speak or to omit important points which they might like to make.

Shri T. T. Krishnamachari : Sir, the honourable Member's amendment is substantially the same as the article, and deals only with the substantive part of the clause and not with the proviso. Is there any object in the honourable Member moving his amendment?

Mr. Mohd. Tahir: There is a difference in the meaning of the amendment and the article, and I shall explain how.

The Honourable Dr. B. R. Ambedkar : It is not an amendment at all: it is merely a transposition of the words. There is no difference at all.

Mr. Mohd. Tahir: There is some difference...

Mr. Vice-President : I do not want to stand in the way of any honourable Member but there does not seem to be much in this amendment. However, the honourable Member may move it.

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

That for the substantive part of article 45, the following be substituted:—

“The term of office of the President shall be five years from the date the President enters upon the Office.”

The point was raised now that between the article as it stands and the amendment there is no difference. First I will deal with the article as it stands. It says “The President shall hold office for a term of five years from the date on which he enters upon his office”. Supposing the election of the President takes place in 1950 after the general election and the constitution of the Parliament, if there is a casual vacancy in the office of the President in 1951 or 1952, in that case the President will be holding office for five years, that is he will have the office from 1951 to 1955, whereas the Parliament which was constituted in 1950 ends in 1954. My amendment means that the term of office of the President will be for five years, which means that if there is any casual vacancy or the election of the President takes place in 1950 and then there is a casual vacancy in 1951, the office of the President who will be elected in the casual vacancy will end in 1954, that is the term of five years when the Parliament ends. This is the difference which I have made out in my amendment of the article as it stands.

The question now arises as to why I have moved this amendment. The only point before me is that I want that the election of the President or the General election should not be influenced by any authority in power. The election must always be free and democratic. For instance, if a man is elected as President in the casual vacancy and he continues in office after the term of the Parliament ends at the Centre, it follows that the man who will remain in office as President will easily influence the General election as well as the election of the President. I want, Sir, that there should be no influence on the general election or on the election of the President in any case and therefore if the article as it stands means that the President who is elected in a casual vacancy will also hold office only for the remaining term of five years, that is to say his office will run according to the term of the Parliament, then of course I am not going to press my amendment. But in case it means that the term of Parliament will end and the office of the President will continue, then surely my amendment will stand and I will press it. With these words I move and I hope the position will be made clear.

(Amendment No. 1085 was not moved.)

Mr. Vice-President : Amendment No. 1086 is disallowed as it is a verbal amendment.

Amendment Nos. 1087 and 1088 are identical. Dr. Ambedkar may move No. 1087.

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

That in clause (a) of the proviso to article 45, for the word “resignation” the word “writing” be substituted.

Mr. Mohd. Tahir: Mr. Vice-President, Sir, I beg to move:

That in clause (a) of the proviso to article 45, for the words “Chairman of the Council of States and the Speaker of the House of the People” the words “members of the Parliament” be substituted.

I will not be very long. I only wish to submit that if the President, who has been elected by the members of the Parliament, wants to vacate his office by resigning his post, in all fairness it is desirable that he should address his resignation to the members of the Parliament and not to anyone else. The resignation letter may be handed over to the office, namely to the Speaker or to the Chairman of the Council of States, but he must address his resignation to the members of Parliament who elected him as President and to none else.

Mr. Vice-President: The next amendment is No. 1090 standing in the name of Mr. B. M. Gupte with an amendment to it by himself (No. 26 in List I. Fourth Week).

Shri B. M. Gupte (Bombay: General) : I desire to move the amendment in a slightly modified form. The modification is only formal. It is with regard to the re-arrangement of the clause. I seek your permission and that of the honourable House to move it in the revised form.

Mr. Vice-President : Does the House give permission to Mr. Gupte to move his amendment in a slightly different form? Of course it is not possible at this hour to supply copies of this to all the Members. So Mr. Gupte may read the original and the altered forms of the amendment.

Honourable Members : Yes.

Shri B. M. Gupte: Sir, I beg to move:

That for amendment No. 1090 the following be substituted:—

- (1) Article 45 be re-numbered as clause (1) of that article.
- (2) In clause (a) of the proviso to the said clause as so re-numbered for the words “Chairman of the Council of States and the Speaker of the House of the People” the word “Vice-President” be substituted.
- (3) In the said article as re-numbered add the following clause:—
“(2) Any resignation addressed to the Vice-President under clause (a) of the proviso to clause (1) of this article shall forthwith be communicated by him to the Speaker of the House of the People.”

Sir, the clause as it stands in the Draft Constitution provides that the resignation shall be addressed to two persons, namely, the Chairman of the Council of States and the Speaker of the House of the people. This is obviously inconvenient. It is therefore better that provision should be made that one person should receive the resignation and be responsible to set the machinery in motion to fill the vacancy. And that person is most properly the Vice-President. I have therefore provided that the Vice-President should receive the resignation. But at the same time it is desirable that the Speaker of the House of the people should also know it, and therefore by a subsequent clause I have provided that the Vice-President shall forthwith communicate this fact of resignation to the Speaker of the House of the people. I therefore hope the amendment will be acceptable to Dr. Ambedkar and to the House.

Mr. Vice-President : Does Mr. Kamath wish to move his amendment to this (No. 27 of List I. Fourth week)?

Shri H.V. Kamath : No. That has been covered by the amended amendment just now moved by Mr. Gupte.

Mr. Naziruddin Ahmad : Sir, I beg to move:

That for the words “House of the People” in paragraph(a) of the proviso to article 45 and in all the other places where these words occur, the words “National Congress” be substituted.

Sir, in the future Constitution there will be two Houses at the Centre; the popular House would be called the House of the People and the Upper House will be called the Council of States. My proposal is that the popular House should be named after the National Congress which has been largely instrumental in obtaining freedom for this country.

Shri T. T. Krishnamachari : But actually the Congress still exists.

Mr. Naziruddin Ahmad : I want to perpetuate the name of the National Congress and want it to be assimilated in the Constitution itself.

Mr. Vice-President : I think you need not take up the time of the House.

Mr. Naziruddin Ahmad : I shall be very very brief. The struggle for independence has been going on for the last sixty years or more and it is to culminate in the session of the Congress in Jaipur under the presidency of Dr. Pattabhi Sitaramayya. I submit that the struggles and the services of the National Congress be recognized officially and the popular House be named after it.

I have the American precedent where the Legislature is called the Congress I have chosen, however, here to give that name to the popular House which really represents the will of the people. I believe it is an amendment based on sentimental grounds.

Maulana Hasrat Mohani : Are you a member of the Congress?

Shri S. Nagappa : He wants to be now.

Mr. Naziruddin Ahmad : It does not require one to be a member of the Congress to recognize or admit facts.

Mr. Vice-President : I beg of you to remember that we have only twenty minutes left.

Mr. Naziruddin Ahmad : Sir, I submit that on sentimental grounds alone the amendment should be accepted. In fact the culmination of today's independence represents the blood, toil, tears and the sweat of the Indian National Congress.

Mr. Vice-President : Does Mr. Kamath wish to move amendment No. 1092?

Shri H. V. Kamath : Here also I have been forestalled by Mr. Gupte and so it does not arise.

(Amendment Nos. 1093 and 1094 were not moved.)

Giani Gurmukh Musafir : (East Punjab : Sikh): *[Sir, My amendment is:

That in clause (b) of the proviso to article 45 after the words "violation of the constitution" the words "or of law" be inserted.

In relation to the President clause (b) says—"The President may for violation of the Constitution be removed from office by impeachment in the manner provided in article 50 of this Constitution".

After the words 'violation of the constitution' it is very necessary to add the words 'or of law'. The President should be impeached not only for the violation of the Constitution but he should be treated in the same manner for the violation of law too.]

Mr. Naziruddin Ahmad : I beg to move:

That in proviso (c) of article 45, after the word 'term' the words 'or resignation as the case may be' be inserted.

By this proviso, the President shall continue in office, notwithstanding the expiration of his normal term of his office, till his successor enters upon his office. I want to make the proviso to apply when he resigns before his normal term expires. This amendment is practically a drafting amendment worthy of consideration:

* [] Translation of Hindustani speech.

Mr. Vice-President : As no Member has desired to speak on the general discussion of this article, I propose to ask Dr. Ambedkar to reply to the debate. I have received a slip requesting for an opportunity to speak just now. It has come too late.

The Honourable Dr. B. R. Ambedkar : Sir, the only amendment that I accept is No. 1090 as amended by Mr. Gupte's amendment. The others I am sorry I cannot accept. There has been no point raised by any Member which requires any explanation.

Mr. Vice-President : I am going to put the amendments to vote.

The question is:

"That for the substantive, part of article 45, the following be substituted:—

'The term of office of the President shall be five years from the date the President enter upon the Office.' "

The amendment was negatived.

Mr. Vice-President : Now, the question is—

That in clause (a) of the proviso to article 45 for the word 'resignation' the word 'writing' be substituted.

The amendment was adopted.

Mr. Vice-President : The question is—

That in clause (a) of the proviso to article 45, for the words 'Chairman of the Council of States and the Speaker of the House of the People' the words 'members of the Parliament' be substituted.

The amendment was negatived.

Mr. Vice-President : Now I shall put amendment No. 1090 as modified by amendment No. 26(A) standing in the name of Shri B.M. Gupte to the vote of the House.

The question is:

That—

(1) Article 45 be re-numbered as clause (1) of that article.

(2) In clause (a) of the proviso to the said clause as so re-numbered for the words 'Chairman of the Council of States and the Speaker of the House of the People' the word 'Vice-President' be substituted.

(3) In the said article as re-numbered add the following clause:—

"(2) Any resignation addressed to the Vice-President under clause (a) of the proviso to clause (1) of this article shall forthwith be communicated by him to the Speaker of the House of the People."

The amendment was adopted.

Mr. Vice-President : The question is:

That for the words 'House of the People' in paragraph (a) of the proviso to article 45 and in all the other places where these words occur, the words "National Congress" be substituted.

The amendment was negatived.

Mr. Vice-President : The question is—

That in clause (b) of the proviso to article 45, after the words 'violation of the Constitution', the words 'or of law' be inserted.

The amendment was negatived.

Mr. Vice-President : The question is—

That in proviso (c) of article 45, after the word 'term' the words 'or resignation as the case may be' be inserted.

The amendment was negatived.

Mr. Vice-President : The question is—

That Article 45, as amended, stand part of the Constitution.

The motion was adopted.

Article 45, as amended, was added to the Constitution.

Mr. Vice-President : It is now a quarter past one.