

CONSTITUENT ASSEMBLY OF INDIA

Wednesday, the 29th December 1948

The Constituent Assembly of India met in the Constitution Hall, New Delhi, at Ten of the Clock, Mr. Vice-President (Dr. H.C. Mookherjee) in the Chair.

TAKING THE PLEDGE AND SIGNING THE REGISTER

The following members took the pledge and signed the Register:—

1. Shrimati Annie Mascarene (Travancore).
2. Shri Sita Ram Jaju, [United State of Gwalior-Indore-Malwa (Madhya Bharat)].

DRAFT CONSTITUTION—(Contd.)

Article 55—(Contd.)

Mr. Vice-President (Dr. H. C. Mookherjee): We shall now resume discussion on article 55. Mr. Bharathi.

Shri L. Krishnaswami Bharathi (Madras : General): Mr. Vice-President, Sir, article 55 is under general discussion. The House might remember that yesterday Mr. Naziruddin Ahmad moved an amendment standing in his name under No. 1220. Though we cannot straightaway accept the amendment, I felt there was very great force in his contention. His amendment was to delete the words ‘proportional representation’ in article 55. As I understood him, he had no objection to the transferability of vote, but he took objection to the phraseology of that system. In fact, he said that there is no question of proportional representation when the candidate to be elected is only one. There is no idea of proportional representation in such a case of single-member constituency. That word means in the resultant election there must be some proportion; in proportion to the strength of the electors, you get seats there. And therefore he took objection to the words ‘proportional representation’.

I happened to go through some literature on the subject and I found there is great force in what he said. The same difficulty was felt in England, and there was a Royal Commission to go into the question of all electoral systems. As a result, two bills were introduced in 1908 in the House of Commons by Mr. Robertson and they found that ‘proportional representation’ was not the proper word. The system is all right, *i.e.*, the transferability of voting, when there is a multiplicity of candidates; when the election to be made is only for one candidate, it is obvious that in order to get an absolute majority, we must have what is known as transferability. That is admitted. But in the case of single-member constituency they have hit upon the word—the proper word is what they call ‘alternative vote’. I only take leave, Sir, to read an authority on the subject—Humphreys—in this connection. This is what the author says:—

“In recent years the phrase ‘*alternative vote*’ has been employed in England, and was adopted by the Royal Commission on Electoral Systems *as a means of distinguishing* the use of the transferable vote in single member constituencies from its use in multi-member constituencies.”

[Shri L. Krishnaswami Bharathi]

There is a difference made in multi-member constituencies, and the words 'proportional representation' have meaning and therefore though the transferability is maintained, in order to distinguish from the system of multi-member constituencies the single-member constituencies, they used the word 'alternative vote'. The memorandum of Mr. Robertson's Bill goes on to say—"The principle of the alternative vote is extremely simple. Its purpose and mechanism is set forth in the memorandum of Mr. Robertson's Bill, which is as follows:—

"The object is to ensure that in a Parliamentary election effect shall be given as far as possible to the wishes of the majority of electors voting. Under the present system when there are more than two candidates for one seat it is possible that the member elected may be chosen by a majority of the voters."

"The Bill proposed to allow electors to indicate on their ballot papers to what candidate they would wish their votes to be transferred if the candidate of their first choice is third or lower on the poll and no candidate has an absolute majority. It thus seeks to accomplish by one operation the effect of a second ballot."

I therefore, think that this word which has been in vogue not only in England but in the Australian States also ever since 1911 must be taken advantage of and incorporated in our constitution so as to distinguish the present case from the case of plural-members constituencies and to avoid the absurdity of having the word 'proportional representation'.

It may not be possible straightaway to accept this suggestion, but I would request Dr. Ambedkar and the Constitutional Adviser, Sir B. N. Rau to give consideration to this idea. There is no particular reason why, when an exact and precise word is there, which has been in use in England, we should not have it. After all, we have to make some rules or lay down some process to indicate what exactly is meant by this system. There are a number of systems even in the single transferable vote system— the Hare system and others. We may have to bring in a bill or some rule to indicate the difference. Objection may be raised that we are now familiar with the word— proportional representation. But, I submit that we are not familiar with it in the case of single member constituencies, and this is the first time that we are having a single member constituency. Therefore, it is but proper that we should think of the word— "alternative vote", as it was accepted by the Royal Commission or Electoral System.

Thank you, Sir.

Mr. Vice-President : Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar (Bombay : General) : Mr. Vice-President, Sir, I regret that I cannot accept any of the amendments which have been moved, to this article. So far as the general debate is concerned, I think there are only two amendments which call for any reply. The first is the amendment moved by Mr. Tahir, No. 1215. Mr. Tahir's amendment proposes that the same system of election which has been prescribed for the President should be made applicable to the election of the Vice-President. Now, Sir, the difference which has been made in the Draft Constitution between the system of election to the Presidentship and the system of election for the Vice-Presidentship is based upon the functions which the two dignitaries are supposed to discharge. The President is the Head of the State and his powers extend both to the administration by the Centre as well as of the States. Consequently, it is necessary that in his election, not only Members of Parliament should play their part, but the Members of the State Legislatures should also have a voice. But when we come to the Vice-President, his normal functions are merely to preside over the Council of States. It is only on a rare occasion, and that too for a temporary

period, that he may be called upon to assume the duties of a President. That being so, it does not seem necessary that the Members of the State Legislatures should also be invited to take part in the election of the Vice-President. That is the justification why the Draft Constitution has made a distinction in the modes of election of these two dignitaries.

The second amendment which calls for a reply is the amendment moved by Mr. Naziruddin Ahmad, No. 1219. He has suggested that the word “assembled” should be dropped. Now, the reason why the word “assembled” has been introduced in this article is to avoid election being conducted by posting of ballot papers. We all know that the postal system, when used for the purpose of electioneering is liable to result in failure. Either the ballot papers posted may not reach the destination and may be lost in transit; or it is perfectly possible for a candidate to send round his agents in order to collect the ballot papers so that he may obtain possession of them, sign them himself and send them on without giving any opportunity to the elector himself to exercise his freedom in the matter of election. It is for this reason that it was decided that the election should take place when the two Houses assemble, so as to prevent the misuse of posting. Now, I do not think that the calling together of a meeting of the Members of Parliament for this purpose is going to introduce in practice a difficulty, or is going to introduce any inconvenience. After all, Members of Parliament would be meeting together for the purposes of legislation, and it would be perfectly possible to have the election during one of those sessions. I, therefore, submit that the original language is the more justifiable one, in view of the circumstances I have mentioned.

Now, Sir, with regard to Prof. K. T. Shah’s amendment that the disqualifications with regard to the Vice-President should be specified in the Constitution itself, that is a matter which I have already dealt with when replying to a similar amendment moved by him with regard to the President, and I said that this is a matter which could be provided for by law made by Parliament.

With regard to the suggestion which has been made both by Mr. Bharathi and Mr. Naziruddin Ahmad about the use of the words “alternative vote”, all I can say is this. If it is merely a matter of change of language, it might be possible for the Drafting Committee at a later stage, to consider this matter. But if— and I am not prepared to commit myself one way or the other— the alternative vote does involve some change of substance, then I am afraid it will not be possible for us to consider this matter at any stage at all.

Mr. Vice-President : I am now going to put the different amendments to vote, one by one.

The question is:

“That for clause (1) of article 55 the following be substituted:

‘(1) The Vice-President shall be elected in the same manner as provided in article 43.’ ”

The amendment was negatived.

Mr. Vice-President : The question is:

“That in clause (1) of article 55, the words ‘assembled at a joint meeting’ be omitted, and the clause as so amended, be re-numbered as article 55.”

The amendment was negatived.

Mr. Vice-President : Amendment No. 1220, standing in the name of Mr. Naziruddin Ahmad.

Mr. Naziruddin Ahmad (West Bengal : Muslim): Sir, in view of the assurance given that it will be considered by the Drafting Committee, I will not press this amendment.

Mr. Vice-President : Is there the necessary permission of the House not to put it to the vote?

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

Mr. Vice-President : The question is:

“That in clause (2) of article 55, for the words ‘either of Parliament or’ the words ‘of either House of Parliament or of a House’, for the words ‘member of Parliament or’ the words ‘member of either House of Parliament or of a House’, and for the words ‘in Parliament or such Legislature, as the case may be’ the words ‘in that House’ be substituted respectively.”

The amendment was adopted.

Mr. Vice-President : The question is

“That in sub-clause (c) of clause (3) of article 55, after the words ‘Council of State’, the following be added:—

‘and is not disqualified by reason of any conviction for treason, or any offence against the safety, security or integrity of the State, or any violation of the Constitution, or has been elected and served more than once as President or Vice-President of the Union.’ ”

The amendment was negatived.

Mr. Vice-President : The question is:

That in clause (4) of article 55, for the words “or position of emolument” wherever they occur the words “of profit” be substituted.

The amendment was adopted.

Mr. Vice-President : The question is:

That for sub-clause (a) of the Explanation to clause (4) of article 55, the following be substituted:

“(a) he is the Governor of any State for the time being specified in Part I of the First Schedule or is a minister either for India or for any such State, or”.

The amendment was adopted.

Mr. Vice-President : The question is:

That article 55, as amended, stand part of the Constitution.

The motion was adopted.

Article 55, as amended, was added to the Constitution.

Article 56.

Mr. Vice-President : We now proceed to article 56.

The motion is:

That article 55 form part of the Constitution.

The first amendment is 1258. The first alternative is disallowed as being verbal. The second alternative may be moved.

(Second alternative of amendment No. 1258 was not moved.)

Prof. Shah—Amendment No. 1259.

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

That article 56 be numbered as clause (1) of the article and the following new clauses be added after that:

- (2) The Vice-President shall have an official residence and there shall be paid to the Vice-President such emoluments and allowances, not exceeding those granted to the President, as may be determined by Parliament by law, and until provision in that behalf is made by Act of Parliament, the Vice- President shall be paid a monthly salary of Rs. 4,500.