

The Honourable Dr. B. R. Ambedkar: The salary of the President, salary of the office.

Mr. Vice-President: Then I am putting these amendments to vote. I shall put No. 1202 standing in the name of Dr. Ambedkar.

The question is:

“That in article 53, for the words ‘or position of emolument’ the words ‘of profit’ be substituted.”

The amendment was adopted.

Mr. Vice-President: Do you want me to put your amendment to vote, Mr. Naziruddin Ahmad, which is identical with the previous one?

Mr. Naziruddin Ahmad: No. Sir.

Mr. Vice-President: Then I shall put to vote amendment No. 1205.

The question is:

“That to the proviso to article 53, the following be added :—

‘and shall not be entitled to any salary or allowance payable to the Chairman of the Council of States under article 79 of this Constitution.’ ”

The amendment was adopted.

Mr. Vice-President: The question is:

“That article 53, as amended, stand part of the Constitution.”

The motion was adopted.

Article 53, as amended, was added to the constitution.

Article 54

Mr. Vice-President: Then we come to article 54.

The motion before the House is:

“That article 54 form part of the Constitution.”

There is amendment No. 1206 standing in the name of Mr. Mohd. Tahir.

Mr. Mohd. Tahir: I am not moving it, Sir.

Mr. Vice-President: Then No. 1207. As amendment No. 1185 has been disallowed....

Mr. Naziruddin Ahmad: This is a different situation altogether, Sir. I shall show it in a minute.

Mr. Vice-President: All right.

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

“That in clause (1) of article 54, for the words ‘date on which’, the words ‘time when’ be substituted.”

Sir, I shall be extremely short. These words occur in clause (1) of article 54. It says that the Vice-President shall act as the President during a vacancy ‘until the *date* on which’ a newly elected President enters upon his office. I shall ask the House to consider only one example. Suppose the Vice-President acts in a vacancy in the President’s office and a new President is elected and enters upon his office at noon on the 1st of January. By this clause it is laid down that the Vice-President shall act as President ‘until the date on which’ the new President enters upon his office. So he can act only up to the 31st of December, because he can act only, “until the *date* on which” the new President enters upon his office which is the 1st of January. From the midnight of the 31st December till the noon of the 1st January when the new President enters upon his office, there will be no one to preside over the functions of the Government of India. There will be no President; there will be no Vice-President. The amendment seeks to fill up this political vacuum.

Mr. Vice-President: Amendment Nos. 1208 and 1209 are merely verbal and are therefore disallowed.

[Mr. Vice-President]

Amendment Nos. 1211 and 1210 are of similar import but the former is more comprehensive and may be moved.

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

“That to clause (3) of article 54, the following be added :—

‘and be entitled to such privileges, emoluments, and allowances as may be determined by Parliament by law and until provision in that behalf is so made, such privileges, emoluments and allowances as are specified in the Second Schedule’.”

This merely makes good an omission in the Draft Constitution.

Mr. Vice-President: Amendment Nos. 1212 and 1213 have been blocked as article 49 has been adopted.

Shri H. V. Kamath: Sir, with regard to amendment No. 1211 moved by the Honourable Dr. Ambedkar I would like to say something. He said a short while ago that the Vice-President will have the same emoluments and allowances as the President while acting as such, whereas under this amendment he will “be entitled to such privileges, emoluments, and allowances as may be determined by Parliament by law and until provision in that behalf is so made, such privileges, emoluments and allowances as are specified in the Second Schedule”. If the Vice-President acts as President why make a distinction like this that until Parliament enacts in that behalf he will get emoluments and allowances according to the Second Schedule. When he acts as President he must get the emoluments of the President all the time and I should like to know why this difference is made.

Pandit Thakur Dass Bhargava: Sir, article 54 (3) says :

“The Vice-President shall, during, and in respect of, the period while he is so acting as, or discharging the functions of the President, have all the powers and immunities of the President.”

The amendment which has been moved by Dr. Ambedkar speaks of privileges, emoluments and allowances but there is no reference to the duties and liabilities of the Vice-President when he is acting as President. If the Vice-President violates the constitution there is no provision that he should be impeached or dealt with in any manner.

When we proceed further to article 56 we find that by a resolution of both House he can be made to vacate his office. But in regard to the violation of the Constitution and in regard to the failure of discharge of his duties there is no provision. When he is acting as President he should be liable to the same liabilities and duties as the President. Therefore I would have liked that the words “duties and liabilities” were inserted after the words “powers and immunities” which would have met the exigencies of the circumstances. I have given an amendment to this effect but since it has not been circulated I do not propose to move it formally but I would like Dr. Ambedkar to consider the proposition of the addition of the words “duties and liabilities” after the words “powers and immunities”, which will make the section complete and make up the obvious lacuna.

The Honourable Dr. B. R. Ambedkar: Mr. Vice-President, I find that in the amendments that have been moved there are really three points which have been raised. One point which has been raised by my friend Mr. Naziruddin Ahmad relates to time. We all know by now how very meticulous my friend Mr. Naziruddin Ahmad is and he wants to have the Constitution specifically state the time when a President frees himself from office and another person takes over that office. I do not know whether so much meticulousness is necessary in this Constitution. However, what I find difficult to accept in the amendment which he has moved is that he has not particularised what is system of timing which he has in mind. Is it the Greenwich time, the Standard time, the Bombay or Calcutta time?

Mr. Naziruddin Ahmad: I mean the actual time of appointment.

Dr. B. R. Ambedkar: What is the time may be very different. Unless he prescribes the system I do not think that the introduction of the word time introduces any greater clarity or definiteness at all.

Secondly, so far as this particular clause is concerned I find that his amendment is quite unnecessary, because if he will read sub-clause (1) of article 54 he will see that it is stated "to fill such vacancy enters upon his office". Surely the entering upon office will be at sometime in the day—it may be midnight or it may be 12 o'clock in the day. Therefore time is specified so to say by implication and this amendment is there for quite unnecessary.....

Mr. Naziruddin Ahmad: The clause provides that the Vice-President shall act until the 'date' on which the new President enters upon his office and not the time when he does so.

The Honourable Dr. B. R. Ambedkar: Surely it will be sometime on some day on which he will enter the office. He may probably consult an astrologer to find out what is the auspicious moment. However, the amendment is quite unnecessary.

My Friend Mr. Kamath said that in replying to the debate on the previous article I stated or rather in moving my amendment I stated that the Vice-President when acting as the President shall have the same emoluments as the President. He found some difficulty in reconciling that statement with the amendment which I have moved, which gives the Parliament the power to fix the salary of the Vice-President when acting as the President. If my Friend Mr. Kamath were to turn to page 161 of the Draft Constitution he will find that there is a schedule fixing the salary of the President and paragraph 5 of that schedule definitely provides for the salary of the President. Surely when a person is acting as the President, no matter at what early stage in life he has climbed to that post, he will be entitled to get that salary according to this Constitution. But it was felt that it might be necessary to leave the matter to Parliament to fix a different scale of salary for a person who is assuming the office of the President expressly for a very short duration. Parliament may not like to give him the same salary, because the tenure of his office is certainly not of the same duration as that of the President himself. Consequently, if Parliament makes no provision, then he gets the salary of the President. But Parliament may make provision to give him a different salary. It is for that purpose the amendment has been moved.

Shri H. V. Kamath: Sir, may I invite the attention of my honourable Friend Dr. Ambedkar to article 48 clause (4) which lays down that the emoluments and allowances of the President shall not be diminished during his term of office? Am I to understand that you make a distinction between the Vice-President acting as President and the President?

The Honourable Dr. B. R. Ambedkar: Yes, certainly.

Shri H. V. Kamath: Sir, just now when I raised objection to an amendment to the last article, Dr. Ambedkar said that the Vice-President shall draw the salary and allowances of the President while acting as President.

The Honourable Dr. B. R. Ambedkar: Unless Parliament otherwise provides, the Vice-President gets the salary of the President when he acts for him. There is no reason why Parliament should not be given authority to fix the scales of pay of a President who may be therefor a short duration.

Pandit Bhargava raised another point and that was to the effect that there was no provision for the impeachment of the Vice-President when acting as President. Obviously when a Vice-President becomes the President, all the duties and obligations which are imposed upon the President fall upon him without making any express mention of the fact at all. If during his tenure of

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office as President the Vice-President commits any of the offences or acts which expose the President to the risk of being impeached, he will not have any kind of immunity by reason of the fact that he is either a Vice-President or is acting as President *pro tempore*. There is therefore no necessity for making any provision for it.

Mr. Naziruddin Ahmad: Mr. Vice-President, may I ask.....

The Honourable Dr. B. R. Ambedkar: I do not submit myself to any cross examination at this stage.

Mr. Vice-President: Mr. Naziruddin Ahmad may go back to his seat.

Mr. Naziruddin Ahmad: I want to draw the attention of the Honourable Dr. Ambedkar to an oversight.

Mr. Vice-President: He refuses to listen to it. What can I do? I cannot compel him to listen.

Mr. Naziruddin Ahmad: No one can compel him. The point is that in clause (3) of article 54.....

Mr. Vice-President: I am going to put the amendment to vote. Dr. Ambedkar has said that he will not give any reply.

Mr. Naziruddin Ahmad: I hope he will reconsider the matter.

Mr. Vice-President: I have not called upon Mr. Naziruddin Ahmad to speak.

Mr. Naziruddin Ahmad: Sir. I want only to draw the attention of the House to a point which might influence the votes.

Mr. Vice-President: Why not do so at the third reading stage? I am going to put the amendment to vote.

Mr. Naziruddin Ahmad: But, Sir, this is a matter of great importance.

Mr. Vice-President: You think so. May I ask you respectfully to go back to your seat?

Mr. Naziruddin Ahmad: I shall comply with your request.

Mr. Vice-President: I shall now put amendment No. 1205 standing in the name of Mr. Naziruddin Ahmad to vote.

The question is:

“That in clause (1) of article 54, for the words ‘date on which’, the words ‘time when’ be substituted.”

The amendment was negatived.

Mr. Vice-President: The question is:

“That to clause (3) of article 54, the following be added:—

‘and be entitled to such privileges, emoluments, and allowances as may be determined by Parliament by law and until provision in that behalf is so made, such privileges, emoluments and allowances as are specified in the Second Schedule’.”

The amendment was adopted.

Mr. Vice-President: The question is:

“That in clause (3) of article 54, after the words ‘have all the powers’, the words ‘and privileges, emoluments’ be added.”

The amendment was negatived.

Mr. Vice-President: The question is:

“That article 54, as amended, stand part of the Constitution.”

The motion was adopted.

Article 54, as amended, was added to the Constitution.