

Thursday, 24th July, 1947

Volume IV



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CONSTITUENT ASSEMBLY DEBATES

OFFICIAL REPORT

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CONSTITUENT ASSEMBLY OF INDIA

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CONSTITUENT ASSEMBLY OF INDIA

Thursday, the 24th July 1947

The Constituent Assembly of India met in the Constitution Hall at Ten of the Clock on Thursday, the 24th July, 1947, Mr. President (The Honourable Dr. Rajendra Prasad) in the Chair.

PRESENTATION OF CREDENTIALS AND SIGNING OF THE REGISTER

Mr. President: I understand that there is one member who has not signed the Roll. Will he please do so now?

The following member signed his name in the Register:
Kunwar Shamsher Jang. (Residuary States Gp.)

ELECTION OF MEMBERS TO STEERING COMMITTEE

Mr. President: There is a motion in the name of Mr. Satyanarayan Sinha regarding election of some members to the Steering Committee. Will he please move it?

Mr. Satyanarayan Sinha (Bihar : General): Mr. President, Sir, the motion which stands in my name reads as follows:

“Resolved that this Assembly do proceed to elect, in the manner required under rule 40(5) of the Constituent Assembly Rules, two members to be members of the Steering Committee.”

Two of the Honourable Members of this House, Maulana Abul Kalam Azad and Mr. Mane, have resigned from this Constituent Assembly and therefore under the Rules of Procedure they cease to be members of the Steering Committee to which they were elected by this House. I therefore propose that their vacancy should be filled. The manner in which the election will be held will be determined by the President.

Mr. President : Does any one wish to say anything on this Resolution?

Honourable Members: No.

The motion was adopted.

Mr. President : Nominations for the two vacancies in the Steering Committee will be received up to 1 P.M. tomorrow and elections, if necessary, will be held at 4 P.M. on the 26th in the Under Secretary's Room, No. 25, on the Ground Floor, Council House. The election will be by the system of proportional representation by the single transferable vote.

REPORT ON THE UNION CONSTITUTION-*Contd.*

Mr. President: We shall now proceed with the discussion of Clause 1 of Part IV of the Union Constitution.

Shri Sri Prakasa (United Provinces : General): What about my motion which is on the agenda for this morning?

Mr. President: I think it is for tomorrow.

Shri Sri Prakasa: I am sorry.

The Honourable Sir N. Gopaldaswami Ayyangar (Madras : General): There is one amendment which has not been moved.

Mr. President: There are several amendments which have not yet been moved. I shall be coming to them.

Shri K. Santhanam (Madras : General): I rise on a point of order. I understand the Constituent Assembly Office has not circulated amendments which have been given notice of three or four days ago because you had fixed a time-limit for amendments before that date. But you have ruled that when any amendments are given notice of at least one day in advance of the date on which the motion is made, we will be allowed to move the amendments. Otherwise, the whole discussion will become useless because when we are proceeding certain amendments become necessary. For instance, I gave notice of an amendment on Monday. It was the result of discussion between friends and it was necessitated by imperfect drafting. It has not been circulated at all. When I enquired, I heard that all these amendments are simply filed in the office and nothing is done. I think it will put us to a great deal of hardship if things are done like this. I hope you will give a ruling on the subject.

Mr. President: I have given sufficient time for amendments to be put in by members and we can see from the list of amendments already circulated that we have, got a very large number of amendments to the various clauses. I am told that even after the expiry of the time-limit which I placed, quite a large number of amendments have come in. If the House so desires I shall have no option but to circulate them too, but then it becomes very difficult to keep pace with these amendments which go on, coming in without end and interruption. So we must stick to the time-limit by which amendments should be put in.

An Honourable Member: The time-limit is automatically fixed by the time taken up here.

Mr. President: It means then that all the amendments will have to be circulated as they come in.

Shri M. Ananthasayanam Ayyangar (Madras : General): That is the practice in every legislature. With very great respect, Sir, I say that your ruling is against Rule No. 32. Rule 32, Sub-Clause (3), says that except as permitted by the Chairman, notice, of an amendment must be given at least one clear day before the motion. In the Assembly every clause is moved and as the discussion proceeds, and when amendments suggest themselves to the Members, we give notice of them 24 hours in advance, of the actual discussion. That is all that we have to do. I submit, Sir, that it cannot be fixed that the time should be two days in advance. It will be reducing the whole thing to a formal and dead affair. If there is not sufficient staff in the office to deal with the amendments, the office has to be enlarged and not our rights curtailed.

Mr. President : I should like to be enlightened on this point by some-one who has experience of legislatures. I want to know what is the procedure followed generally. Mr. Purshottamdas Tandon might perhaps enlighten me. A large number of amendments keep on coming from day to day; what is the usual procedure of dealing with them?

The Honourable Shri Purshottamdas Tandon (United Provinces: General): Sir, the usual practice is for amendments to be tabled as the consideration of a Bill proceeds, but every amendment has to be handed over to the office some-time before the particular clause to which it relates is taken up for consideration. For instance, if you are taking up a clause, today and the rule requires that 48 hours, notice must be given of an

amendment, the amendment to be moved must have been sent to the office 48 hours before the time at which it is to be considered today. That is all. It is not necessary that all the amendments should be delivered to the office before the consideration of the Bill is taken up.

Mr. President: Then we shall follow that procedure and all amendments of which notice is given in time under Rule 32 will be circulated.

Dr. P. S. Deshmukh (C.P. & Berar: General): Sir, in that case, can I move my amendment to Clause 1 of which notice was given on Monday?

Mr. President: So far as Clause 1 is concerned, it was moved several days ago and amendments given notice of after the clause was moved cannot be taken into consideration. We shall now proceed with the other amendments. Shri Chandrasekharaiya moved both his amendments yesterday. Does Mr. A. K. Ghosh wish to move his amendment No. 96?

Mr. A. K. Ghosh (Bihar: General): No.

Mr. President: Sir N. Gopaldaswami Ayyangar has an amendment.

The Honourable Sir N. Gopaldaswami Ayyangar: Sir, my amendment seeks only a slight verbal change, that in the last sentence of sub-clause (2) of Clause 1, for the words "the votes of the Unit Legislatures" shall be substituted by the words "the votes of the members of the Unit Legislatures". The amendment hardly requires any explanation.

Mr. President: Another amendment is by Mr. J. N. Vyas.

(The amendment was not moved.)

I take it there is no other amendment to Clause 1. If any Member has got any other amendment to this clause which I have left out, he will please take this opportunity of moving it, and not complain later that he did not get an opportunity to do so.

As there is no other amendment, we shall now proceed to discuss the clause and the amendments which have been moved.

Syed Kazi Karimuddin (C.P. and Berar: Muslim): Mr. President, Sir, sub-clause (2) of Clause 1 says:

"The election shall be by an electoral college consisting of—

- (a) the members of both Houses of Parliament of the Federation, and
- (b) the members of the Legislatures of all the Units or, where a Legislature is bicameral, the members of the Lower House thereof."

All the amendments which were moved to have the election of the President on adult suffrage have been withdrawn; but I want to bring home to the House why this election should be made on the basis of adult suffrage.

The decision on this point mainly rests on the point of view whether the executive should be non-parliamentary or parliamentary. I have been of the view that in India, looking to the conflicting political parties diverse ideologies and many diverse factors, for the maintenance of peace and tranquillity and for the effective representation of all parties in the Cabinet. It is necessary that there should be a non-parliamentary executive. The only reason that has been advanced why adult suffrage should not be introduced is that a huge machinery will have to be set up for dealing with the elections and the energies of the nation will be consumed in holding these elections. But that is absolutely no reason. In a country like America, the election of the President is held on adult suffrage and

[Syed Kazi Karimuddin]

my submission is that if every fifth or every fourth year the election of the President is held, and held on the basis of adult suffrage, it will educate the masses. Momentous economic problems of great magnitude will be brought to the forefront. The masses will be educated if the election of the President is held on an all-India basis. Under the present sub-clause 2 of Clause 1, the President will be a puppet of the majority party and the persons, who have fought the elections partly on provincial basis and partly on the all-India basis will elect the President for the whole Union.

Yesterday, while discussing the powers of the President, we felt that very wide powers had been given to him. He will be entitled even to suspend any part or the whole of the Constitution of a province. A President who will be afraid of the majority party and be elected by the electorate under sub-clause 2, will not, my submission is, be a man who will represent the entire nation on an all-India economic basis or on all-India issues. I have one more difficulty and that is very important. In order to suit the States, we have agreed that the members of the States' Legislatures shall be members of the Lower House of the Union. It is a patent fact and is known to everybody that there is no popular rule in the States, and the members of the Legislatures in the States probably will be those who have been nominated by the States or who will not be the real representatives of the people. By electing a President by such representatives who will form one-third of the voters practically, the President will not be representing the people of the States but those who are nominated by the States Rulers. Under these circumstances, it can never be said that the President will be the true representative of the people of the States. Under these circumstances I earnestly appeal to the House that if you want democratic rule, if you want that the President shall be the true representative of the people who vote on adult suffrage, under the electoral college mentioned in sub-clause 2 to Clause 1, as regards the States particularly, he can never be representative of the people of the land. Therefore I oppose this amendment.

Mr. Mahomed Sherif (Mysore State): Sir, I am of the opinion that the President of the Union should be elected on the basis of adult franchise. It would be in the fitness of things that the person who would be at the helm of affairs and to whom so many powers would be given and so many responsibilities, should be one who must be elected on this basis. Every voter who is qualified to vote should have the satisfaction that in the election of the person who should govern the country, he should have a voice. It was argued that if this method is to be followed, it would intelligence of the people is not very high; that this method will not work satisfactorily, and that corruption, bribery, and so many vitiating factors will operate. It seems to me, Sir, that these difficulties will be more than offset by the advantages accruing therefrom. The election will be a great education by itself. It will lead the people to further their political insight which they have got and it will be advantageous in more than one way.

In these circumstances I would suggest that the President should be elected on the basis of adult suffrage. As I said such an election would have the seal of approval from the point of view of the voters. With these remarks I oppose this motion.

Mr. Tajamul Husain (Bihar: Muslim): Sir, sub-clause (1) of Clause 1 of Part IV lays down that the head of the State shall be called President and that any person or citizen of the Republic who has attained the age of 35 can be elected as President of the Republic. An amendment has been moved, Sir to the effect that the election of the President should be held in rotation, that is to say, that for one term of office the President

shall be elected from the north of India and for another term of office from the south of India. The reason advanced by the Honourable the Mover is that the people of South India are total different from those of Northern India. I submit, Sir, that is a very dangerous principle to adopt. If you want to accept this principle that there should be a reservation of seats for the election of the President, every province may claim that in turn the President should be elected from a particular province.

I will give you an example. The people of Western Bengal may very well claim that they are a different people from the rest of India.

An Honourable Member: No, no.

Mr. Tajamul Husain: I am glad that there is a voice saying no, no. And there should be no difference between one province and another. Therefore I submit, Sir, that the office of the President being the highest in the realm and he being the biggest dignitary of the Republic, we should have the best man. It does not matter from where he comes. It is quite possible that when the election is being held a Bihari, or a Christian, or a Jain, or a Parsee may happen to be the best man at that time. He may be elected President. Therefore, I have come here to oppose this amendment.

Paragraph (b) of sub-clause (2) of Clause 1 of Part IV lays down that the Upper House of a province where there are, two Houses, should not have the right of choosing the President of the Republic. An amendment has been moved by Rai Bahadur Syamanandan Sahaya of Bihar that that right should be given to the Upper House as well you will find that under sub-clause (a) both the Houses of the Central Legislature have been given the right of electing the President of the Union. There is no difference between the Upper House of the Central Legislature and the Upper House of a Provincial Legislature. Both have got special representation. If you do away with the Upper House then that is a different matter. I might support-you on democratic principle but we have decided that we are to have an Upper House for the Central Legislature and there are going to be Upper Houses in some provinces. In that case I would submit that the qualifications of the members of the Upper House of the Central and Provincial Legislatures being the same, the members of the Upper House of a Provincial Legislature may be allowed to participate in the selection of the President of the Republic. To me it appears there is no reason why the members of the Upper House of a Provincial Legislature should be deprived of their right, their privilege and their pleasure of choosing their own President of the Republic.

I oppose the amendment of Mr. Syamanandan Sahaya.

Mr. H. R. Guruv Reddy (Mysore State): Mr. President, Sir, yesterday I was listening with very great interest to the discussions about nominations and particularly about the 'principles underlying nominations. One of our worthy colleagues was saying that the system, of nominations, particularly in States, should be done away with, and that if those nominations are adopted elsewhere, they would not be objectionable. Sir, I fail to see the reasoning of this part of the proposition. If nominations are bad, they are bad everywhere and, if they could be accepted, they ought to be accepted on principle everywhere. I fail to see why we should attach sanctity to nominations if an elected person adopts it and consider his action just and proper and right too, and at the same time consider nomination by a ruler of a State or under his direction as something fundamentally wrong and bad. There is no justification for accepting this principle of nomination in one place and rejecting it in another. If you want to do away with nominations, let us do so boldly. But, if for reasons of representation of various interests nominations have to be resorted to, certainly let us have nominations both in the States and in

[Mr. H.R. Guruv Reddy]

the other Units. No one need be afraid that these nominations will be overwhelming in number. There is no need to fear that the ruler of a State would choose a person who would undo the good things that others attempt to do. In fact, if there is danger ahead, the ruler ought to be presumed to act suitably and put in persons who would represent all interest I would therefore repeat that if nominations are to be adopted in this House or by the President of the Federal Legislature, what reason is there to say that that system would be bad elsewhere?

The other idea that was put forward by one of the speakers was that it would be a method by which we could coerce the States or other Units to adopt the method of election. That word 'coerce' is something very jarring. It is not a good and sound principle that we should coerce any person to accept or adopt our view. Our endeavour should be to win him over to our view. Therefore, Sir, once the principle underlying nominations is adopted here by the President, is ought to be allowed to be adopted elsewhere also on principle. But, as I said, I am basing my arguments on principles and not on facts. I would appeal to this august House that as the system of nominations has been accepted under the Constitution put forth for India, it ought to be allowed in other places also and it would certainly meet out justice to that section of the population which would be unrepresented otherwise.

Sir, I now pass on to the more interesting, if more disturbing factor, namely the North and the South, the States and the non-States. Sir, personally I feel that the North is not separate from the South, nor is the South separate from the North. I am one of those who believe that any one who is given an opportunity, if he has got the requisite qualifications otherwise, should come up. It is only an opportunity that is sought for. It is not a territorial division. We know certain reasons why the North and the South are frequently apprehensive of this or that thing. A man like me coming from the South, the Mysore State, feels that the North has been getting larger representation on this Constituent body than in is due to it and that hereafter it should not be so. Sir, while I honestly feel that the South has been neglected for sometime for various reasons, I do not put the blame for it on anybody or on any section. But I do feel that the South is to some extent neglected. But then it is a question of opportunity being given to the people of the South. If opportunities are allowed I am positive that persons coming from the South can, equal if not surpass those coming from the North.

Sir, this question of States and non-States is really perplexing. Coming from a State I very much desire that an opportunity is given to someone from the State to be the Chief of India. But then it is again a vicious thing. The States form only one-third of the entire Dominion. And then the qualifications and other considerations that are to be laid down for this purpose is another disturbing factor. So far as I am concerned, I cannot agree to the separation of States and non-States for the purpose of election. As I said, given the requisite opportunity, given the requisite representation to the States, anyone who has got that courage of conviction to speak out boldly, honestly and fearlessly ought to find a place in the Indian Constitution.

Sir, it is difficult to create a reservation either for the non-States or for the States or even to set up a rotation as it were, in the Constitution. I emphasise the word 'Constitution'. Sir, these are things which should be looked into and provided for in what we know as 'convention'. We are starting today with a new Constitution for India and the Constitution itself provides for a change. We can work for another three years and if we find any difficulty we could have the Constitution changed suitably. Apart from that, I would never invoke the aid of the legislature for the

purpose. As I said, it is only a healthy convention and good feeling and understanding between the North and the South and between the States and the non-States that can solve the problem. No legislation can solve it.

In this connection I would like to draw your very kind attention to the Madras mayoralty. There was a lot of bickering so far as the Madras mayoralty was concerned. Some years ago, it should be said to the credit of Sir Ramaswami Mudaliar that he, when he had something to do with that mayoralty, set up a convention. And that convention is being now respected and persons of various communities and various sections are being elected according to the convention laid down. It is not difficult for us to take this illustration and to follow it up even in the election of our President. Sir, I would once more state that it is convention, good understanding, good feeling between the North and the South, between the States and non-States that will solve this problem, not any law or any clause in the law.

Sir, with this I pass on to another very small matter but which looms very large, the question of the oath which was very ably put forth by my worthy colleague as an essential matter, and I do not know that lacuna crept into this report on the Union Constitution. No provision has been made here for the oath. Sir, it is a common thing all over the world, in all well-established Governments, that the Head of the State takes the oath on his entry into that high office. It would be becoming and worthy of our Indian Government that the President should take the oath before an appropriate authority that he would safeguard the constitution that is being framed now and which he is going to work.

With these remarks, Sir, I commend the amendments and principles I have just put forward to the acceptance of the House.

Pandit Lakshmi Kanta Maitra (West Bengal: General): Sir, I do not want to make a speech. I want to suggest that the pace at which we are moving is very slow. At this rate I am afraid we won't be able to stick to the time-table. I suggest that now that we are discussing only the principles of the constitution, speeches may be confined to the particular clause or amendments under discussion and not touch the entire field of the Indian Union Constitution.

Mr. President: I entirely agree with you that we should not discuss the entire field of the Constitution but must confine ourselves to the particular amendment that has been moved or the particular clause which is under discussion. I would also request members to limit their speeches to five minutes, unless in a particular case I find that the question that is being discussed is of such a nature that it requires a longer time.

Mr. H. V. Kamath (C.P. and Berar: General): Sir, two amendments moved on the floor of this House yesterday, one by my friend, Rai Bahadur Syamanandan Sahaya, and the other by my friend Mr. Channiah.

Mr. Sahaya's amendment is to the effect that, where the legislature is bicameral, the members of the Upper House, also must have the right of voting in the election for the President. I stand here, to oppose that amendment. It was asked why, when the members of the Upper House of the Union are allowed to vote, the same privilege should not be extended to members of the upper chambers of the Units. If my friend looks at Chapter II, he will find that the Council of States is proposed to be set up on a different basis from that of the upper chambers of the Units. Moreover, we have visualised the President as being all integral part of the Federal Parliament which will be composed of the President and the National Assembly, the National Assembly in its turn being composed of the Council of States and the House of the People. Where the President is an integral part, an essential part of the Federal Parliament, it stands to reason that both Houses should take part in the election of the President.

[Mr. H.V. Kamath]

The other amendment was moved by my friend, Mr. Channiah. That amendment is astounding, bordering on the ridiculous. At a time, Sir, when we have regretfully accepted the division of India on a communal basis, at a time, Sir, when fissiparous and centrifugal tendencies are holding the field. At a time, Sir, when most of us here want to see the unity of our country restored to its pristine condition, it is amazing that a member of this House should stand up and draw a distinction between the north and south of our country. I was inclined to think that at least after the march of Agstya across the Vindhya and after the battle of Rama with Vali and Ravana, this difference between the north and south of India had been obliterated. We have heard of the Maginot Line in Europe; we have heard of the Siegfried Line in Europe; we have heard of the Curzon Line, the Durand Line in Europe. If Mr. Channiah's amendment is accepted the day will not be far off when we will have a Channiah line in India between the north and south of India. When we are trying to build a strong State, when we are trying to wipe away all the differences of the past, when the division of the country on a communal basis has been accepted most reluctantly, it is amazing that an amendment of this kind should be propounded on the floor of this House. Precisely for that reason, Sir, I am opposed, for the present at least, even to a linguistic division of provinces. Let us for the present bend all our energies to the task of building up a mighty Indian Union: and let us bend our energies to the task of restoring the unity of our country. Let us, Sir, realize the goal which we have fondly cherished of a strong united India, an independent India marching forward for the welfare of India and the peace of the world; an India where all Indians, be they Hindus, Muslims, Christians, Parsees or Sikhs all small march together, as citizens of one common Motherland, a united, strong and independent India. That is the theme, Sir, which is uppermost in our minds. We are still hoping to realize the dream when the unity of our country will be restored. It is in the spirit of the words of that famous song, which is on the lips of all Indians today;

हर सूबे के रहने वाले हर मजहब के प्राणी
सब भेद और फरक मिटा के सब गोद मे तेरी आके गूंथे प्रेम की माला
सूरज बनकर जग पर चमके भारत नाम सुभागा

(Har sooba ke rahanewale har mazhab ke prani

Sab bhed aur farak mitake sab goda me teri ake goonthe prema ki mala.

Suraj bankar jag par chamke Bharat nama subhaga.)

that I oppose the doctrine which was propounded yesterday by my friend Mr. Channiah seeking to divide the North from the South. One of my friends, Sir, said that the South has been neglected. I fail to see how or in what way the South of India has been neglected. If my friend says that the South means only Madras. I differ from him. I would like him first to define the South of India, whether the South means only Madras or Madras plus Bombay and the various other component parts. I for one think that the South has not been neglected. Today it is the two States in the South. Hyderabad and Travancore which are giving us the headache. If it is the result of neglect and if it is the result of being unimportant, I do not know, Sir, what my friend means. These two States of the South today, Sir, are giving most of our statesmen and our leaders a big headache. If my friend thinks that Southern India has been neglected. I do not know, Sir, how he can forget the eminent and leading politicians from Bombay and from Madras who have contributed to the political development, the political evolution of our common Motherland.

Then, Sir, a point was made out that the oath should be taken by the President of the Federation. I agree, but this is not the place where the oath should be mentioned. The oath will certainly find a place in the

Constitution when it comes to be finally drafted. Here we are discussing merely the principles of the Constitution therefore I think that here the mention of the oath to be taken by the President is out of place. For that matter, Sir, we can as well say that the members of the Legislature too should take an oath of allegiance to the country, but you are not mentioning anything like that. They are mere details which are to be taken into account when the Constitution is actually drafted. I therefore, Sir, shall not take the time of the House. I oppose the amendments which were moved by Rai Bahadur Syamanandan Sahaya and my friend, Mr. Channiah.

Shri Ajit Prasad Jain (United Provinces : General): *[Mr. President, I support the resolution moved by Pandit Jawaharlal Nehru. The method suggested herein for the election of the President is very appropriate, some of the members present have proposed that the President should be elected by adult franchise. Many arguments have been advanced against this proposal. At one place the resolution says different weight will be attached to the votes of different members, *e.g.* the vote of the member representing lesser number of people will be considered less weighty and that of the member representing greater number of people will be considered more weighty. I would like to say this much that this balances the defects caused by indirect election. The example of America has been cited where the population is 130 to 140 millions and the President is elected on the basis of adult franchise. I beg to point out that in America it was considered desirable that the Presidential election should not be direct but through "Electoral College". We too have here a proposal for the formation of an Electoral College, the members of which will be elected by the people. Thus the election of our President will also be according to the choice of the people. I had only to say this much but I feel one difficulty in the scheme sponsored by Pandit Jawaharlal Nehru. According to it, the President will be elected through an electoral college. All members of both the Houses of the Federal Parliament—The Council of States and the House of People—will be the members of the electoral college and they will participate in the Presidential election. The members of the Provincial legislatures and the States legislatures too have been given the right to participate in the Presidential election. So far as the votes of the members of the Unit legislatures are concerned, it is said in the proposal that different weightage will be given to them. For example one vote of a member representing ten thousand voters will be considered equal to 10 votes of a member representing one million voters, Sir.

So far as Unit legislatures are concerned this method is very appropriate and desirable. But it has not been clearly stated in the proposal, whether any weightage will be given to the votes of the members of the Federal Parliament (House of People and Council of States) or what will be the value of their votes or the relative position of those votes. One of the interpretations of the proposal relating the unit legislature appears to be that in the present state of affairs, each member of the House of People has merely one vote. If this is correct, I consider the proposal very wrong. In the draft proposal presented to us, it has been stated at a later stage that on an average a member of the House of People represents one million voters. If he gets merely one vote, this means that members of the Unit legislature who represent only ten thousand voters get 10 votes and a member of Federal Legislature, *e.g.*, the House of People who represent one million voters gets only One vote according to the present scheme. In my opinion this is not fair. The question of giving due weightage to the votes of the members of the Federal Parliament should be reconsidered so that the people might be properly represented.

There appears another difficulty. It is possible that state may have some sort of nomination and would be difficult to say as to what would

*[English Translation of Hindustani Speech begins.

[Shri Ajit Prasad Jain]

be the value of the votes of the nominated members. Again, there might be some constituencies which are not territorial for example, the university and the Labour Constituencies. So far as the provinces are concerned, we have decided that there would be territorial constituencies and there shall be no special constituencies. But in States it is possible that there may be some territorial and some non-territorial constituencies and some nominations as well. Another difficulty may arise from the method suggested for giving weightages to different votes of nominated members. If you decide that some sort of weightage should be given to the votes of the members of the Federal Parliament also, although the proposal contains no mention of it—the difficulty arises as to what would be the weight of the votes of the members nominated to the Council of State.

However, I wish to draw your attention to the necessity of a clear provision for classifying and giving weightage to the votes of the members of the Federal Parliament.

With these few words, I hope that you will consider my suggestions.]*

Mr. President: I have got three more names in the list. I find some more members standing up wishing to speak. We have already taken one hour today and we took about one hour yesterday on this clause. If we go on discussing at this rate, I do not think we shall be able to complete even one Part by Thursday next when we wish to close. I therefore desire to request the members to cut down their speeches to the minimum and if any point has already been discussed by any member, not to speak on the same point and repeat the same arguments.

Dr. P. S. Deshmukh: May I suggest, Sir the system of giving names should be stopped and opportunity should be given only to that member who catches the eye of the President?

Mr. President: I accept that, Hereafter, I shall not accept any slip. Any one who catches my eye will be allowed to speak.

Mr. Yudhisthir Mistra (Eastern States Group 1): Sir, I support the amendment of Mr. K. Chengalaraya. Reddy to sub-clause (2) (b) of Clause. Mr. Reddy has moved an amendment to substitute the words “elected members” for the word “members”. It would appear to many of the honourable members present here that the word sought to be inserted is unnecessary and superfluous, because under the present constitution, the provincial legislatures would have no nominated members. But I would like to remind the honourable members that there is no corresponding change in the constitution of the State legislatures. In many of the States, especially in the smaller ones, there is an overwhelming number of nominated members in the legislatures. In fact, in some of the States, there is no legislature at all. I represent the Orissa States and I would submit before this House that in some of the States there is no legislature at all. Wherever there is any legislature, the number of nominated members is so large, that the elected representatives have no voice in the Legislative Assembly. In some of the States, the State Congress and the Praja Mandals have boycotted elections to the Legislative Assembly in view of the unsatisfactory franchise. Wherever there is a legislature, the franchise is narrow and based on communal lines, and it has a large number of nominated members. Sir, if you allow the nominated members to take part in the election of the President, then, some of the States may set up inadequate and bogus representative assemblies and try to influence the election by undemocratic methods. It would be a mockery of democracy if the nominated members are allowed to take part in the election of the President of the future Republic of India. I therefore support the amendment which has been moved by my honourable friend Mr. Reddy.

At the same time, Sir, I would oppose the amendment moved by Mr. Chandrasekhariah. He says that the President shall be alternately

*English Translation of Hindustani Speech ends.

elected from the States and non-States units. It is an insult to the States if such a limitation is placed on the election of the President.

Mr. R. K. Sidhwa (C.P. and Berar : General) : Mr. President. I had no desire to enter into this debate but for one point which was raised by my Honourable friend Mr. Reddy from Mysore State, who advocated the rotation system for the election of the President and in support of that he quoted the instance of the mayorality of the Municipal Corporation of Madras.

An Honourable Member: There are two members from Mysore. The reference may be clarified, Sir.

Mr. President: (To Mr. Sidhwa). You have made a mistake with regard to the name of the speaker.

Mr. R. K. Sidhwa: He came from Mysore. Sir, It is true that in the Municipal Corporation of Madras, there is the rotation system for the election of the Mayor. In the first year a Brahmin is elected, in the second year a Non-Brahmin and in the third year a Harijan. A similar convention prevails in the Bombay Municipal Corporation. In the first year a Hindu is elected in the second year a Muslim, in the third year a Parsi and in the fourth year a Christian. A similar system exists in the Karachi Municipal Corporation also. In the first year a Parsi is elected, then a Muslim, then a Christian and then a Hindu. Also in the Calcutta Corporation, a similar system exists. As I have something to do with this rotation system, in the Municipal Mayoral elections in India, I may say that this rotation was introduced to give an opportunity to every community for the purpose of presiding over this Only honoured office. It is only an honoured office, I repeat, Sir. The Mayor has absolutely no power except that he presides at the meetings of the Municipal Corporation. Let me assure you, Sir, he has no executive power although he is the first Citizen of the city. Therefore, you cannot compare the mayorality with the election of the President. The President of India will be the best man. He will have many executive powers. He will have to select a Premier and he will have to select his Ministers. He will have power of dissolution of the legislature, Over and above all, Sir, under the proposed constitution, lie will be the Supreme Commander of the Army. Do you want, under these circumstances. Sir, the President to be elected by rotation? I shall certainly strongly oppose the President being elected on any kind of communal basis or the rotation or province wise system being introduced. We must have the best man for the President. If the President elected is the best man, we shall elect him for a second time—the best man whosoever he may be he may have become from the north, south, west or east. We cannot tolerate the election of the President community wise, or province- wise or anywise as I stated. The convention introduced in the election of the Mayor does not apply in the election of the President. The Mayor is merely a figure-head. He only presides over the meetings. He has no executive power. The convention is only meant to give opportunities to the several communities to occupy the honoured and dignified post of the first Citizen of the city. You cannot mix up therefore the conventional system in the election of the President. I therefore strongly oppose this. There is no amendment to that effect, but implicitly or explicitly no reservation or no convention should be made even by our topmost, leaders that, we shall elect the President province-wise or from the north, south, west or east of India, or we shall elect a Parsi, a Christian or a Muslim. The best man should be elected. I therefore, Sir, strongly oppose the convention of election provincewise to the office of President.

Shri R. V. Dhulekar (United Provinces : General): *[Mr. President, I desire to speak a few words in support of the clause which has been

*[English Translation of Hindustani Speech begins.

[Shri R. V. Dhulekar]

moved much has been said in support of it but I would not say anything about them. I would draw your attention to only two matters.

Firstly, some members have said that the system of election is very irregular in the States and some of the States representatives to this Assembly have been nominated either by the government or by the rulers and they should not be allowed to take part in the election of the President. In fairness, we must admit that the rulers, participating in the Constituent Assembly were subjected to such injustice at the hands of the British government that they have grown apprehensive that if they join the union they would be crushed. A burnt child dreads fire. We must not think that they are degraded and demoralised Indians. Personally I think that they were placed in such circumstances under the British government that they could not follow the policy which they should have. Therefore, I do not think it proper to raise this point that the nominated members should not be allowed to participate in the Presidential elections. In my opinion we must accept their request that they should be given time so that they may fully realise on joining the Union that the rulers and their people will have the same rights and status that we have. When they have realised the advantages of joining the union, their autocracy will automatically vanish and the rulers will soon feel that they are common Indians and they have the same rights that the common people have.

The second thing to which I desire to draw your attention is this.

According to this clause regarding the members of the Provincial legislatures it will have to be considered as to how many people they represent; and in order to give weightage to the votes, the word "weightage" has been included here. In my opinion, it is unnecessary. It is quite possible that some members might have said that at some places with lesser population they had got comparatively more seats than those having greater population. But in my opinion, no member, whether returned from any provincial legislature or State legislature should be considered so narrow minded that he would demand weightage for his votes in the presidential election. I know, in my own province, some members represent 50 thousand voters while some represent ten thousand and others fifteen thousand voters.. But after being elected, he does not think it at all that he represents so many people. He considers himself only a member of the legislature and behaves in a 'way befitting his dignity'. Therefore the inclusion of the word 'weightage' appears odd but at the same time there is no harm in it and hence I do not oppose it.

With these words, I support the clause.]*

Mr. President: The Mover, Pandit Jawaharlal Nehru, may now reply to the debate.

The Honourable Pandit Jawaharlal Nehru (United Provinces: General):
*[Mr. President, there are many amendments. But the greatest emphasis has been laid on one point: the election of the President on the basis of adult franchise, *i.e.*, everybody should take part in the election. Another amendment is that the word "Rashtrapati" should be substituted by the word "Neta" or "Karandhar". Still another amendment is that the President should be elected alternatively from the North and the South. Again, there is an amendment which says that the members of the Upper Houses also should take part in the Presidential election. There is yet another amendment; but I do not know whether it has been moved or not. According to this amendment, the President should be elected from the States and non-State portion of the Indian Republic (by rotation) alternately.

Lastly, there is an amendment which deals with the oath of allegiance.

] *English Translation of Hindustani Speech ends.

*[English Translation of Hindustani Speech begins.

I regret very much that I cannot accept any of these amendments except the one proposing that the word "member" should be substituted by "elected member", though the word "elected" is not a definite improvement. The draft would have thoroughly clarified the point: but in spite of this, if you wish to add the word "elected", I am ready to accept it. Something has been said about the oath also. It is obvious that it will figure in the Constitution. At this stage, it does not seem necessary.

So far as the question of the election of the President, from the North and the South and from the States or non-State units is concerned, it seems to be wrong in principle. It is not desirable that we elect the President, once from one class and the next time from the other, and framing of rules and statutory provisions for this purpose is highly undesirable.

In answer to the query, as to why members of the Upper Houses should not take part in the presidential election. I submit that there will be much difference between the Upper Houses of the States Units and those of the provinces. I cannot say which of the units will have an Upper House. Another point is that the States and the Provinces will have different standards. Nobody knows what principles the States and the provinces will adopt. If this right is conceded to the Upper Houses it will create confusion. Therefore, in my opinion, the proposition is correct that in the Centre, both the Houses shall have the right to take part in the presidential election, and in the units only the Lower House. There is a complexity which has not been clarified *i.e.*, whether the units will have greater rights than the Centre, whether the members of the Central Legislature will have one vote or more to balance the voting strength of units. It is for our advisers to make this point clear. Therefore, for the present, in my opinion, as I have already stated and as has already been printed it should be left as it is. I have already stated in the beginning, and I repeat it once again and if you, too reflect over it, you will arrive at the same conclusion, that it is best to leave this choice unfettered. I am not prepared to believe that adult franchise is absolutely essential. Obviously, the number of those who will elect the members of the Assembly will be in millions and they are expected to be proper persons. Therefore, when the members of the Assembly themselves are being elected by the votes of millions where is the necessity for electing the President by adult franchise? Therefore, if you desire to frame and promulgate your constitution without necessary delay, then we should avoid complications; otherwise we will not be able to frame our Constitution in the least possible time, and act on it.

If you want to elect the President by adult franchise, then this would mean that we will have to waste much of our time in holding (Presidential) elections and we will not be able to act according to our new Constitution. Therefore, it is my desire that this resolution should be accepted in the form I have put before you.]*

Mr. Mahomed Sheriff: *[Will you kindly throw some light on one matter? You have referred to election in Clause 2(a). When you accept the principle of nomination in this amendment, then why do you not accept this amendment also? Why this contradiction between the two?]*

The Honourable Pandit Jawaharlal Nehru: *[Which clause did you read?]*

Mr. Mahomed Sheriff: *[Page 9, Clause 14 (a).]*

The Honourable Pandit Jawaharlal Nehru: *[The question of my accepting or rejecting nomination is not in issue. I accept that particular type of nomination which is recorded herein, that is to say; nominees of units and "scientific bodies" should be taken. This is not the question. I have already said that the President should be elected by the votes of the elected members.]*

] *English Translation of Hindustani Speech ends.

*[] *English Translation of Hindustani Speech.

Mr. President: I will now put the amendments to vote first. The first amendment which I have to put is the one moved by Mr. Channiah:

“That in sub-clause (1) of Clause I after the word “Selected” the words “by rotation either by the North of India or South of India” be inserted.”

May I point out to the member the great difficulty which I have felt with regard to this. The clause as it sought to be amended by him will read:

“The Head of the Federation shall be the President to be elected by rotation either by the North of India or South of India.”

That is to say, the members alone of the North in one year and alone of the South in the next election will take part in the election, but I think he means not the members who will take part in the election, but the President himself. I have pointed this out, and shall now put the amendment to vote.

The amendment was negatived.

Mr. President: The next one is by Mr. Naziruddin Ahmad:

“That in sub-clause (1) of Clause 1, for the words “as provided below” the words “in the manner set out below” be substituted.”

It is a verbal amendment. I do not know if it is necessary. Anyhow, I shall put it to vote.

The amendment was negatived.

Mr. President: Then there is the amendment of Rai Bahadur Syamanandan Sahaya:

“That in paragraph (b) of sub-clause (2) of Clause 1, the words “or, where a legislature is bicameral, the members of the Lower House thereof” be deleted.”

The amendment was negatived.

Mr. President: There is an amendment by Mr. Chengalaraya Reddy that:

“That in sub-clause (2) (b) of clause 1, for the words “the members” wherever they occur, the words “the elected members” be substituted.”

This has been accepted by the Mover.

The amendment was adopted.

Mr. President : Then there is an amendment by Mr. Chandrasekharaiya that the following new sub-clause be added after sub-clause (3) of Clause I:—

“3(A) The President shall be alternately elected from the State and the non State Units.”

The amendment was negatived.

Mr. President: There is another amendment by Mr. Chandrasekharaiya that the following new sub-clause be inserted after sub-clause (4) of clause 1:—

“(5) Provision should be made for the President to take the oath of office as in the constitution of U.S.A.”

The amendment was negatived.

Mr. President: The next is, Sir, N. Gopaldaswami Ayyangar’s amendment:

“That in the last sentence of sub-clause (2) of Clause 1, for the words ‘the votes of the Unit Legislative’ the words ‘the votes of the members of the Unit Legislatures’ be substituted.”

The amendment was adopted.

Mr. President: I think these are all the amendments that have been moved. Of these two have been carried. Now the Resolution as amended is put to vote.

Clause 1, as amended, was adopted.

Mr. President: Now we pass on to Clause 2. Pandit Nehru may move the clause.

CLAUSE 2

The Honourable Pandit Jawaharlal Nehru: Sir, I beg to move:

(1) The President shall hold office for five years : Provided that—

(a) a President may by resignation under his hand addressed to the Chairman of the Council of States and the Speaker of the House of the People resign his offices,

(b) a President may for violation of the Constitution be removal from office by impeachment in the manner provided in sub-clause (2).

(2) (a) When a President is to be impeached for violation of the Constitution the charge shall be preferred by either House of the Federal Parliament but no proposal, to prefer such charge shall be adopted by that House except upon a resolution of the House supported by not less than two-thirds of the total membership of the House.

(b) When a charge has been so preferred by either House of the Federal Parliament the other House shall investigate the charge or cause the charge to be investigated and the President shall have the right to appear and to be represented at such investigation.

(c) If as a result of the investigation a resolution is passed supported by not less than two-thirds of the total membership of the House by which the charge was investigated or caused to be investigated declaring that the charging preferred against the President has been sustained, the resolution, shall have the effect of removing the President from his office as from the date of the resolution.

(3) A person who holds or who has held office as President shall be eligible for re-election once but only once.”

There are, Sir, we might say, three parts of this Resolution; one relating to the term of office—five years. Now, this is not a matter of high principle, but after consideration we thought five years will be a suitable term. Four will be too little and more than five certainly too much. The rest of it deals mostly with the impeachment of the President. And lastly, this clause says that a person can only hold office twice, that is to say, not only twice successively, or consecutively, but twice altogether. That means, no man can be President for more than ten years altogether in his life. The question, as is well known, has often been discussed in the United States of America, and normally speaking, nobody was supposed to be President beyond the second term. In the course of the last war, of course, President Roosevelt actually went into the fourth term; but as a matter of fact, ten years is about as much as any normal human constitution can bear this heavy burden. Presumably, when a person becomes President, he will not be too young. He may be in the late forties or fifties and I think it is not right for person to be asked to assume this burden beyond ten years. President Roosevelt, under the stress of circumstances carried on for the fourth term, but he only carried on for two or three months after his election, So I submit that this rule about not holding office more than twice is a good rule and we should adhere to it.

For the rest, I have little more to say. In case there are amendments, I shall deal with them at the end of the debate.

Mr. President: I have got a number of amendments to this clause. Mr. Pataskar.

Mr. H. V. Pataskar (Bombay : General) : I do not wish to move my amendment.

Mr. President: Mr. Shibbanlal Saksena.

Prof. Shibban Lal Saksena (United Provinces : General) : Sir, I have given notice of an amendment to the effect:

“That in sub-clause (1) of clause 2, for the figure “5” the figure “4” be substituted.”

Just now Pandit Nehru was explaining why this term of five years has been fixed upon and said that it was neither too long nor too short for the term of the President. I quite agree with him. But I would like to point one serious flaw. Later in Clause 13, sub-clause (5) it is stated :

“The House of the People, unless soon dissolved, shall continue for four years from the date appointed for its first meeting and no longer.....”.

[Prof. Shibban Lal Saxena]

That means that the life of the House of the People will be four years. Similarly the life of our Provincial Legislatures is also four years. This means that in the first election the President will continue for one year after the life of the Provincial Legislature or the life of the House of the People comes to an end. In the second election, he will be elected after two years after the elections for the House of the People, in the next election after three years and so on. Thus at the time of electing the President the legislatures may become quite out of date and may not truly reflect the public opinion in the country at the time. Every fourth election of the President will be by legislatures due to expire a few months after. This will be a most undesirable situation. It may be urged that legislatures will not always run their fixed four year terms and some may have to be dissolved earlier. This is true, but such dissolutions of legislatures will be rare. Members of some fifteen legislatures will elect the President. If one or two among them have been dissolved before completing their normal term, and their members are freshly elected at the time of the President's election, still the members of the remaining thirteen or fourteen legislatures will not be freshly elected, and the overwhelming majority of the electorate will not truly reflect public opinion in the province at the time of the President's election. Therefore it will be much better if the election for the Presidentship is also held once in four years along with the general election to the Provincial legislatures.

It may be argued that when the general elections take place there will be none left in office after dissolution of legislatures except caretaker governments and it is necessary to have at least the President who will not be a caretaker President. But I submit Sir, the President will vacate his office only when his successor has been elected, so that the office will never remain vacant, nor will it ever be occupied by a caretaker President. Under the 5 years system, it is also possible that when a legislature is elected sometime at the end of the fourth year of the President's term of office, the new members may lose the chance of electing the President during their life time.

I wanted to bring these defects to the notice of the House, but I do not want to press my amendment.

Mr. President: Then you do not move your amendment?

Prof. Shibban Lal Saxena: No.

Mr. President: Hereafter, I think I shall have to ask the members first to move their amendments and then deliver the speech. Mr. Mahomed Sherif.

Mr. Mahomed Sheriff: Mr. President, Sir, my amendment is:

"That in sub-clause (1) of Clause 2, for the figure "5" the figure "4" be substituted."

That means that instead of holding his office for five years, the President shall hold it for four years. My intention is to make the life of the legislature and the tenure of office of the President the same. That will be in consonance with the strict principles of democracy. The Report says that the legislature should last for four years; if that is so, then immediately the legislature goes, the President also must become *functus officio* and if he still remains President that will be against the principle of democracy. It might possibly be argued that after four years the elections would take place and if the President, should be *functus officio* then, who should carry on the administration? For this I would suggest that two or three months before the expiry of the four years the election of the President may be held, so that the termination of the four years the President would have been elected.

With these observations, Sir, I move my amendment.

Mr. D. H. Chandrasekharaiya (Mysore State): Mr. President, Sir, the amendment which stands in my name runs as follows:

“That in sub-clause (1) of Clause 2, for the figure and word “5 years“, the following word be substituted :

“4 years or until the election of a new President whichever event happen later”.”

Under our constitution the term of office of the President is proposed to be fixed at five years, while the terms of the lower houses will stand at four years. Under this arrangement the President becomes one year behind hand during the second term of the Lower House, two years behind hand during the third term and four years behind hand during the fifth term. Thus you will find that the President becomes more and more removed from the popular house, as we advance from the second to the fifth term. This is a state of affairs which cannot be accepted with any reason or logic.

The President is proposed to be elected by the members of the Federal and Unit legislatures. It would therefore be right that the Presidential election should reflect the opinion of the legislatures concerned and if the Presidential office becomes old and does not properly reflect the opinions of the legislatures, then there might arise the possibility of conflicts between the President and the legislature concerned. It is to avoid this possibility that the term of office of the President should be made coterminus with the terms of the popular houses of the Centre and the Units.

It may be argued that one year extra is proposed to be added to the term of office of the President, in order that discontinuity in the policies and measures of administration should not happen soon after the legislatures come to an end. I do not think that this will really happen, taking the experience of countries where this system actually prevails. But even granting for argument's sake that this difficulty is bound to occur, it may be easily avoided by continuing the same President for a short time longer till the new legislatures come into being and the new President is elected.

Let me refer to the practice adopted in a few well known constitutions of the world. In the U.S.A the President is elected for four years and he continues during two periods of the lower house. In Switzerland the Federal Council is elected for four years, that being the period fixed for the lower house, as well in the Soviet Union the People's Commissars are elected for four years, while the Council of the Union lasts for the same period of four years. In Ireland the period of the President is 7 years and the same is the period for the lower house. Thus the practice elsewhere seems to be that the period of the term of office of the President coincides with the life of the lower houses. I think it would be worthwhile to adopt the same practice in our constitution. I do not think that there is any particular charm in the number Five. Therefore taking the practice obtaining elsewhere into consideration and in view of the advantage of fixing the same period for both the term of office of the President and the term of the lower houses. I feel that the amendment I have proposed is a very sound one and I hope that the House will kindly accept the same.

(Amendments Nos. 102, 103 and 104 were not moved.)

Mr. H. V. Kamath: Sir, as the President's position under the constitution is such that he is not likely to misbehave I do not think it is necessary or me to move my amendment No. 105.

(Amendment Nos. 106 to 120 were not moved.)

Rai Bahadur Syamanandan Sahaya (Bihar: General): Sir, my amendment runs thus:

“That the following new sub-clause be added after sub-clause (3), of Clause 2 :

‘(4) A person who has been removed from the office of the President under sub-clause 2 will not be eligible for re-election for two terms’.”

[Rai Bahadur Syamanandan Sahaya]

With your permission and with the permission of the House I would like to amend my amendment and drop the words "for two terms" occurring at the end. My amended amendment will then read: "A person who has been removed from the office of the President under sub-clause 2 will not be eligible for re-election." The principle suggested in this amendment is of course so obvious that I will not endeavour to place arguments in support and I have no doubt that, in drafting this matter will be set right. A similar amendment was moved to the Provincial Constitution. Hence I thought I might as well place this amendment for your consideration in connection with the Union Constitution.

Mr. H. V. Kamath: Mr. President, as my amendment to sub-clause (3) of Clause 2 is unnecessary I am not moving it.

Mr. President: There are all the amendments, of which I have notice to Clause 2. If there are any others. Members who have given notice will please tell me and take this opportunity of moving them. As I see none rising, I think the House can now proceed to the discussion of the Clause and also the amendments.

Is there any Member desiring to speak on this Clause? (*Honourable Members "Vote"*).

The Honourable Pandit Jawaharlal Nehru: There are two amendments moved to this Clause neither of which raises any question of high policy, the last one especially stresses an obvious thing. It is impossible, practically speaking, for a President removed from office to stand for re-election. I do not imagine any high principles involved in this. We are dealing with important matters. If something else has to be done about it, it will be done later.

As regards the amendment concerning the term of years, that too is not a matter of big policy. We fixed this period for various reasons into which I need not go now, one of them being not to just fit in with the four-year period of the other elections. Now, many members seem to think that, while the elections to the provincial and other legislatures will take place once in four years, this alone will take place every five years and that after sometime it may so happen that the electors will be rather old in the sense of being elected three or four years previously. Well it may be that the five-year period for the President will be a fixed term unless the President dies or is impeached or something happens to him. But, so far as the other provincial, etc. elections are concerned it is obvious and it is highly likely that the four-year period will not be strictly adhered to. Elections will necessarily have to be held from time to time. Something may happen; the Ministry might change; it might lose the confidence of the House and so many other things may happen and there will be so many of the provincial legislatures that you can not say at any time that the membership has remained constant without a change. Membership of the legislatures will be changing from year to year or from quarter to quarter so that this objection that the 'Rashtrapati' will be chosen by an electorate which itself has been chosen several years previously does not hold at all. There will be a changing electorate all the time and the four-year period is only maximum period. The electorate may remain unchanged for one year or 6 months and fresh election will take place as it now does. I submit therefore that, in the balance, the five-year period is better.

Mr. President: I will put the amendment to the vote. The question is:

"That in sub-clause (1) of clause 2, for the figure "5" the figure "4" be substitute."

The motion was negatived.

Mr. President: Now I shall put the next amendment to the vote. The question is:

“That in sub-clause (1) of Clause 2, for the figure and word “5 years” the following words be substituted :

‘4 years or until the election of a new President whichever event happens later.’”

The motion was negatived.

Rai Bahadur Syamanandan Sahaya: Sir, I wish to say a word at the stage I do not think it will be right to take a negative vote on my amendment (No. 121). I would rather leave it to the drafters. A negative vote on this amendment will mean that in the opinion of this House an impeached President will be eligible for re-election. If the Hon’ble Mover is not in a position to accept my amendment I would withdraw it rather than risk a negative vote.

Mr. President: I take it that the House grants him leave to withdraw his amendment.

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

Mr. President: The question is that Clause 2 be accepted.

The motion was adopted.

CLAUSE 3

The Honourable Pandit Jawaharlal Nehru: I beg to move that Clause 3 be adopted. It runs as follows:

“3 Every citizen of the Federation who has completed the age of thirty five years and is qualified for election as a member of the House of the People shall be eligible for election as President.”

This is a very simple proposition and I do not think any argument is needed to support. It has been believed that a person who has not achieved much by the age of 35 is not going to do much later. Nevertheless, normally speaking in India, and more especially in other places, men up to 35 sometimes do not even get a chance to achieve much. Others hold the field. In any case, the age 35 is not a high limit. I think it is a fair limit. It means that a person who is chosen shall have at least a dozen years or so of experience. I think it is therefore a fairly safe age or debarring the candidates. I hope the House will accept the Clause.

(Amendment Nos. 123 to 128 were not moved.)

Mr. H. V. Kamath: While not moving my amendment, I would however, seek clarification from Pandit Nehru on one point. The expression used for a similar purpose in the Provincial Constitution was “reached the age of 35 years” and here we are using the phrase “completed the age of 35 years”. I do not know why we are adopting different language here. Do the two phrases mean one and the same thing?

The Honourable Pandit Jawaharlal Nehru: I am sorry I did not hear a word of what Mr. Kamath said. Anyway I am not responsible for the Provincial Constitution. I consider this a better wording. To say ‘completed’, means definitely what it says. What the other wording means I do not know. (*Laughter*).

(Messrs. Thakur Das Bhargava, Rajkrushna Bose and H. V. Kamath did not move the amendments in their names.)

Mr. President: I think these are all the amendments of which notice has been given. I think there is no other amendment. I shall now put the clause to vote.

Clause 3 was adopted.

CLAUSE 4

The Honourable Pandit Jawaharlal Nehru: I move Clause 4, Conditions of President's office.

“(1) The President shall not be a member of either House of the Federal Parliament and if a member of either House be elected President, he shall be deemed to have vacated his seat in that House.

(2) The President shall not hold any other office or position of emolument.

(3) The President shall have an official residence and shall receive such emoluments and allowances as may be determined by Act of the Federal Parliament and until then, such as prescribed in schedule.....

(4) The emoluments and allowances of the President shall not be diminished during his term of office.”

There is one small matter which I thought might be cleared up and I shall await an amendment to clear that up. In sub-clause (1), it says “The President shall not be a member of either House of the Federal Parliament.” Obviously he should also not be a member of any provincial legislature. I believe some amendment will be moved to this effect. If so, I will accept it.

Nawab Muhammad Ismail Khan (United Provinces: Muslim): May I ask the Mover as to what he means by the words “The President shall not hold any position of emolument.” Does he also mean that he cannot be a director of a company or merely that he cannot hold any position of emolument under the Government?

The Honourable Pandit Jawaharlal Nehru: He shall not hold any other office or position of emolument, whatever it may be. He cannot hold any other office which brings him some gain.

Nawab Muhammad Ismail Khan: I hope you will make it quite clear.

The Honourable Pandit Jawaharlal Nehru: It is perfectly clear. It is dead clear. As the House knows, the convention is that even the Ministers should not hold directorships of companies. That is the convention in many countries although it cannot be the law. So far as the President is concerned, he should not hold any directorships or any position of profit or gain in business.

Dr. B. Pattabhi Sitaramayya (Madras: General): But that is not conveyed by the wording.

Mr. President: We shall have a discussion of the clause when all the amendments have been moved.

(Messrs. Seth Govindas, Ajit Prasad Jain, S. V. Krishnamurthy Rao and Naziruddin Ahmad did not move their amendments.)

Mr. Naziruddin Ahmad (West Bengal: Muslim): Mr. President, Sir, I beg to move that for sub-clause (2) of Clause 4, the following be substituted:

“(2) The President shall not hold any position or office under the Union or under any Provincial Government, or in or under any local authority or in or under any business concern (whether incorporated or not) in any honorary capacity or for any emolument allowance.”

Sir, I find that this point has struck some honourable members of this House. What the report says is that the President shall not hold any other office or position of emolument, but it may be that he may hold an honorary office in a business concern. If he is concerned with any religious charitable, educational or similar other institution, there can be no objection, but I think, if he is connected with any business concern even in any honorary capacity, it will be open to serious objection. Any businessman can ask the President to be a patron of his business and he might secure good business because of that. That would be throwing the President into the arena of party politics. I would submit that this sort of business connection should not be allowed. I am only urging this to enable the drafting committee to consider this point. This is all that I desire to submit to the House.

Mr. H. V. Pataskar: Sub-clause (2) of Clause 4, gave rise to doubts and and therefore I tabled this amendment which stands in my name, "nor shall he be interested in any business or profession for gain or profit". Since I now understand that it is not the intention that the President should hold any interest in any business, I am not moving this amendment. All the same, I would request that when the final draft constitution is prepared, this should be made more clear.

Shri T. A. Ramalingam Chettiyar (Madras: General) : My amendment refers to appointments after the President has held office. I will leave it to the Mover to accept it or not, as he likes, and if he does not accept it, I do not want to press it.

The Honourable Pandit Jawaharlal Nehru: What is the amendment referred to it?

Mr. President: The amendment which Mr. Ramalingam Chettiyar has given notice of is "that the person who has held office as President shall not be eligible to be appointed to any salaried office in the Federation" *i.e.*, after he has ceased to be a President, he shall not be appointed. The amendment is not moved formally. Therefore we shall proceed further.

(Messrs. D. Govinda Doss, P. Kakkan, V. I. Muniswami Pillay and P.M. Velayudapani did not move their amendments).

K.T.M. Ahmed Ibrahim Sahib Bahadur (Madras: Muslim) : Mr. President, Sir, I move:

"That in the last sentence of sub-clause (2) of Clause 1, for the words 'the votes of the Federal Parliament and until then, such' be deleted."

Now, Sir, the President of the Federation is the supreme executive authority of the whole State and as such he should be completely free from any party influence when once he is elected. But if the determination of his emoluments and allowances are dependent on any Act of the Federal Parliament it is quite possible that he will be conscious of the fact that the determination of his salary is subject to party influence and that his actions may on occasions be swayed by such consciousness. It is therefore meet and proper, Sir, that the President's salary should be placed beyond any party influence in order to ensure impartiality in his actions and therefore I have moved this amendment. I hope it will be accepted by the Honourable Mover.

(Messrs. B. M. Gupta, R. K. Sidhwa, Biswanath Das, Thakur Das Bhargava, Syamanandan Sahaya and S. Nijalingappa did not move their amendments).

K.T.M. Ahmed Ibrahim Sahib Bahadur: Mr. President, Sir, I move:

"That in sub-clause (4) of Clause 4, for the word "diminished", the word "altered" be substituted."

[K.T.M. Ahmed Ibrahim Sahib Bahadur]

In the draft it is provided that the salary of the President shall not be diminished, but at the same time there should also be no provision for the increment of salary during his tenure of office as President. The reason is the same as I pointed out when I moved the previous amendment., *i.e.*, the President should not be in any way conscious that his salary is dependent on any Act of Parliament and it is absolutely necessary that the quantum of his salary should be determined by the Constitution Act itself.

Mr. Ramnarain Singh (Bihar: General): *[Mr. President, I propose:

“that the President must not be a party-man”.

When the Objectives Resolution enunciating our objectives was moved in the House I put in an amendment that a proviso that no party would be deemed legal in this country, should be incorporated in the constitution. Every party whether named after any person or following any particular principle should be declared illegal.

The reason for my amendment is this. In many countries of the world there are party governments and they flatter themselves with the thought that they are democratic. What does democracy mean? It means, “Panchayati Rajya”—the peoples’ government. The very word makes it clear that the party system of government is poles apart from democracy. In India it is believed that the “Panch”, is God Himself and its rule is God’s rule. I venture to say that the very term party system deteriorates at times into a government of the wicked and the sly. Sometimes it seems as if there is no gentle soul in the party. A few sly persons from a party and establish their own government in the name of Democracy. I appeal to the members of this Assembly that the party system be abolished. So long there is a party true of democracy cannot exist. The party system is fatal to democracy.]*

The Honourable Pandit Jawaharlal Nehru: *[Mr. President, on a point of order. I would like to know what bearing this speech has on my motion.]*

Mr. President: The amendment which he has moved is ‘that the President must not be a party-man’.

The Honourable Pandit Jawaharlal Nehru: I should like to understand its bearing.

Mr. President : He wants to put a disqualification on a candidate who wants to stand for Presidentship.

The Honourable Pandit Jawaharlal Nehru: A disqualification which can be measured, weighed, computed somehow. It must have some relation to fact.

Mr. President: So far as the amendment is concerned, I cannot rule it out.

Mr. Ramnarain Singh: *[Yes, I will just tell you. I am condemning here the party system and suggest to the House that our President should not be a party man. What I mean is this that often the party system of government is mistaken for democracy or Panchayati Rajya. To make it clear let me put a concrete example. Suppose a particular party has 300 members in the Assembly.]*

Mr. President: *[Please do not discuss the party system at length. You just make out your point that the President should not be a party man. Merits and demerits of the party system cannot be discussed here.]*

*[]*English translation of Hindustani Speech.

Mr. Ramnarayan Singh: * [I submit to your ruling, Sir, I shall not discuss that. But it is difficult for me to support the amendment unless we condemn the party system. However, I shall not further press it at the moment. If given a chance, I shall speak on its later. Now I conclude with the remark that it is absolutely essential that the President must not be a party man.]*

The Honourable Sir N. Gopaldaswami Ayyangar : Sir, I wish to move an amendment to sub-clause (1) of Clause 4. It is in the following terms:

“For sub-clause (1) of Clause 4 the following be substituted:

“The, President shall not be a member of Parliament or of any, Legislature and if such a member be elected President, he shall be deemed to have vacated his seat in Parliament or in the Legislature concerned.”

The Principle of sub-clause (1), which, now, according to the draft above the House, applies only to the Federal Parliament will be extended by this amendment to membership of the legislatures of the Units. I have advisedly used the terms ‘Parliament’ and ‘Legislature’, because, under the principles adopted for drafting in connection with this document, “Parliament” applies to the legislature of the Federation and the word ‘Legislature’ is confined to the legislatures of the Units. I have nothing more to say.

Mr. President: All the amendments have been moved. The original proposition and the amendments are now open for discussion.

Shri K. Santhanam : Sir, I accept the clause as it is; but I do feel that it requires to be filled up in the drafting stage.

My honourable friend Mr. Ram Narayan Singh moved an amendment which in its present form is not suitable. The President has to stand as a party man. But it is essential that after the election, he should give up all his association with any political party.

As you know, there has been some discussion as to whether the Speaker of the Assembly can continue to be a party man. It has not yet been decided. I hope in the new Constitution, the President, the Governors and the Speakers, will all cease to have connection with any political party.

Then, again, there are business connections. Of course, “position of emolument” may cover many things; but it will not cover other things. Take for instance the holding of shares in a company. It is not possible to prevent the President from holding shares; but it is essential that as soon as he is elected, he must declare his holdings in any company so that the public will know. During his term of office, he should not be allowed to acquire any shares or immovable property except through a special procedure. We must keep the President far above all these complications. Otherwise, all kinds of rumours and slander will be set afloat. I hope the Drafting Committee which will be set up for drafting will go into the matter and give us a good, comprehensive draft which could be put into the constitution.

Pandit Lakshmi Kanta Maitra: Mr. President, Sir, I wish to, put in half a dozen sentences in connection with the amendments which have just been moved.

In reply to the question of my Honourable friend Mr. Ismail, the mover of the resolution has made it perfectly clear that the Union President will not be entitled to hold any office in any joint stock or limited company. He cannot be a Director of a registered or unregistered body. He cannot be in receipt of any salary or emoluments from any quarter. The principle is very salutary and sound. He should be a man who has no other allegiance except to the State, a man who has for the time being dedicated his whole energy to the service of the State. He should be in a position to give undivided attention to his office.

*[]*English translation of Hindustani Speech.

[Pandit Lakshmi Kanta Maitra]

While I am clear on this and the House will agree to this, that he should not hold any office of emolument, I think we should go a step further. I am inclined to think that the President should not hold any honorary office. For instance, he cannot be the President of a Chamber of Commerce; he cannot be the President of a Trade Union organisation and the like. My idea is that from such honorary offices also he should be excluded, because, his position might be utilised for furthering sectional interest. I am not moving a formal amendment. I hope and trust that the honourable the mover of the resolution, when it goes for final drafting, will take note of these things and see to it that in the final draft these things are included.

We are all agreed that the President should be a man, who like Caesar's wife, should be above suspicion. To ensure this, all these steps should be taken and even the extreme step proposed by my honourable friend Mr. Ram Narayan Singh should be taken into consideration. You cannot eliminate a party man from standing for the Presidentship. But as soon as he gets into the office of Union President, he should certainly sever all his political connections and political affiliations, and he should cease to be a party man. That goes without saying. Keeping in view all these things, I hope the honourable the mover will, at the final stage, take such steps as will make the position of the President unimpeachable and above suspicion.

Mr. M. S. Aney (Deccan and Madras States): Mr. President, Sir, I have to make one or two suggestions in regard to the words "Position of emoluments" so that when this memorandum goes back to the Drafting Committee for final draft, they may be taken into consideration.

It has been pointed out, and rightly too, that the words "position of emolument" are not comprehensive to include many position in which emoluments are had by persons and therefore the words have to be made more clear. I may point out one or two instances which probably you may not have noted. For example in the C.P. and Berar, there is a system of hereditary village officers known as Patels and Patwaris. Again there are persons who are called *Ex-Pargana* officers styled Deshmukhs. Deshpande, etc. They were real Pargana officers in olden times and in recognition of that fact, certain emoluments are given to them by the British Government. My honourable friend Dr. P. S. Deshmukh who is our colleague in this House belongs too that class. They get certain emoluments which are known as *Rasams*; these persons are called *Ex-Pargana* officers. Up to this time, in all matters of elections, Patils, Patwaris and these Pargana officers in C. P. and Berar used to be considered as not holding a position of emolument debarring a citizen from standing as a candidate for election. The second thing I want to mention is there are members of the old Royal family who are getting certain political pensions. They are not called emoluments. Are we to consider that persons in this position should be debarred from standing for election as President? It is not an emolument but a compensation paid for what was taken from their royal ancestors. It is something in the nature of a private property of the man. These are the three kinds of emoluments, two of which are particularly peculiar to the provinces in which I live I therefore wish that the Committee which is going to draft the Constitution should consider these points while drafting with a view to exclude them from emoluments, in this clause.

With regard to the amendment of my friend Mr. Ram Narayan Singh would like to state that if a man, no matter what party he belongs to, once occupies the Presidentship, he must sever his connections with the party and remain a non-party man, but you cannot expect a man to be a non-party man before he does take that place. It is something like asking

a fish not to be in the water. A person must belong to some party, it may not be a political party like the Congress, it may be some other party, he may belong to some religious party. A man being a social being, is supposed to belong to some kind of a party or group and if we use that word 'non-party man' it will be difficult to elect a President. Therefore, although I cannot subscribe to that particular amendment which he has suggested, I accept the principle that once he is elected to that position, he is expected to be a non-party man and he should sever his connection with his party and remain there as a man belonging to all or as a man belonging to none. He must take one of the two positions and only in that case he will be in a position to discharge his duties properly.

Mr. President: Mr. Sri Prakasa.

Shri Sri Prakasa: Listening, Sir, to some of the speeches almost compels me to repeat what I said in another place that it seems that some members at least are of the opinion that the President should be a person who has no ostensible means of livelihood. (*Laughter*). I think, Sir, that we should have some trust in the person whom we are putting up for the Office of the President. We should not fetter him in any way. If we do not like the man's profession, then we need not put him up at all. But if we like the man, we can trust him to do his best as President and not allow his profession to interfere with his actions. We can understand your prohibiting a man from practising law or practising Medicine as long as he is the President of the Republic but it would not be fair to, expect him to give up all or any means of livelihood that he may possess as a non-President simply because he is elected to the office of the President.

How, I ask, would it be possible for a person to transfer all his property, if he has any house property, landed property, shares, etc. to someone else who should keep all these things in trust for him against the day when he returns to non-official life? How are you going to be sure that the person is going to get back on relinquishing his office, all the property which he possessed before he became President? I could agree, if you have a provision that a person who has once been a President will be guaranteed a sufficient competence for the rest of his life. In that case I can understand any member wanting to deprive the President of all or any of his possessions that he may have had before. Even lawyers find it difficult to go back to their profession after they have been out of it for a long time. I am particularly worried about persons who like myself, may possess some landed property. (*Laughter.*) Before all these landed properties are abolished in your province and mine, there may be some provision made for persons—not that I am a candidate—who are in that position so that they could stand for the Presidentship. There may be some provision so that persons who are in the unfortunate position of possessing some properties of that nature may not be wholly debarred.

Sir, it would not be fair either for the person who is put up for the Presidentship to be required to declare all the shares that he may possess in various companies. Suppose he forgets one or two non-paying shares that he possesses *e.g.*, in the *National Herald* of Lucknow.....

Shri Balkrishna Sharma (United Provinces: General): May I know on a point of information, *viz.*, why has he taken it for granted that the person will have divest himself of all his properties as soon as he takes up his office.

Shri Sri Prakasa: I thought that was what Mr. Santhanam was after.

Shri K. Santhanam: I merely wanted him to declare his shares so that we will know.

Shri Sri Prakasa: I think, Sir, we must look at the man whom we are putting in the President's position and not at his property or at his shares or anything else. If we trust the man, we ought to put him in that office. If we don't, we ought not to put him there. Even if you make a beggar a

[Shri Sri Prakasa]

President, he can be as dishonest as the biggest shareholder or anyone else. Honesty does not necessarily depend upon the economic position of the individual. Honesty is something apart. What we want is that our President should be a person above suspicion; and whether he is already possessed of any property or not does not really matter. I think we should not hedge in the position of President by any of the provisions that we are seeking to introduce.

Shri M. Ananthasayanam Ayyangar: Sir, it is rather surprising that we should hear these words from our friend Shri Sri Prakasa. It is not that he has entirely misunderstood the scope of the amendment. If he should be chosen as the President, let him continue to be in possession of his properties. But we will assume he becomes the Commerce Member. He ought not to deal in shares the moment he becomes a Member. Otherwise, if a Commerce Member of any Government or the President gets into the share market, there is an assurance that that particular share for which he goes in is a sound one. The next day he may sell them away. He will be in a position to monopolize the shares. We are not going to clothe the President of the Federation with such powers to traffic in immoral business—there are various kinds of immorality. Now, Sir, my friend Mr. Santhanam's amendment is that we should insist, upon the President to declare what shares he possesses. My friend Mr. Sri Prakasa says there may be a share lurking in some corner and he may not know. I don't think he will be so negligent about his own affairs. But he expects the President to be negligent about his affairs. As regards business, even if he is a honorary President or Director of a business, and may receive only sitting fees, all the same when he has to give assent to a particular Bill, he may be induced to send it back, particularly if those provisions affect his bank or concern. I don't mean to say that a particular thing will arise but it shows the necessity why the President should not be connected with these directly or indirectly.

Then as regards his being a party man, Sir, it is impossible unless he is a wooden block or a wooden tool. He ought to belong to one party or other. After he is elected, it must be obligatory that he should resign all his connection with the previous party and absolve himself of the allegiance that he owes. To that extent, one may reasonably expected but to say that he ought not to be a partyman is impracticable. I am trying to find out one but I am afraid we may not be able to get a non-party man at all. I can only think of a pial school teacher as a non-party man. Even he may be inclined in favour of his District Board President who may be a party man. Therefore, it is impossible to come across a non-party man in any sense of the word. It is enough if he gives up his connections with his party after he becomes President of the Federation or the President of the Union. I do say, Sir that all these limitations and qualifications are necessary so as to ensure that proper administration and proper men will be available.

Mr. President: There is no other speaker. Has the Mover of the clause anything to say in reply?

The Honourable Pandit Jawaharlal Nehru: Sir, a great deal has been said about the emoluments of the President. It seems to me that it is very difficult to make lists of offices which he should not hold. Only a general principle can be laid down and carefully no doubt, but subsequently the rest depends a great deal on convention. If you start making long lists, it means that there may be many things left out which he can do. So normally speaking, one will have to depend upon convention. The point is that he should not be actively connected or associated with the management of any gainful office. Obviously, in the modern world, if he is a at all well-to-do, he will have some shares or like Mr. Sri Prakasa he may be a landholder or he may have some other property. There is

no chance as far as I can see of Mr. Sri Prakasa being prevented from standing for the Presidentship and I would deem it a calamity if it were so. So I submit that at this moment one need not go further into this question but leave it as it is,—and not only for the drafting but for the convention to grow up.

In one matter I am inclined to agree with what Mr. Santhanam said, although I do not think it is necessary to put it down, and that is that any person in high responsible office should make some kind of disclosure of his connections with business and of his holdings, etc. I think there would be an advantage in that, whether he is a President or whether he is a Minister or any other person in high responsible office. (*Hear; hear.*) I accept. Sir, the amendment moved by Sir N. Gopaldaswami Ayyangar, which clarifies sub-clause (1).

There is the question I believe of the emoluments and allowances of the President. A suggestion has been made that some other words should be used instead of “diminished”. After consideration we came to the conclusion that “diminished” was the right word. We could use “varied” or “increased or diminished” but on the whole “diminished” was considered the best. The point is that the legislature has in its power to do anything it chooses, but it must not exercise its power to the detriment of the person who has been chosen the President. There is no question of increasing his allowances or emoluments unless the Parliament so desires. You need not check Parliament doing anything, but there is the slight danger possibly of Parliament or the people from making the position of the President impossible. Therefore You say it should not be “diminished.” In these days, one does not quite know, suddenly there might be inflation and it may affect the situation so much that all normal standards of salaries and allowances might have to change. So I don't think any change is needed there.

Last of all, the amendment moved in regard to the President not being a party man—now, I don't know, but certainly I have a certain sneaking sympathy with such a proposition. But inspite of that, it seems to me completely impractical. What is a party man? No doubt, one thinks in terms of the huge party machines running political elections. But it is almost impossible for you to advise all of them. There are all kinds of parties and a person does not become bad because he belongs to a small party or a big party. Everybody is associated, I am afraid, with some group or association. The point is that the President should not function as a partyman after he is elected. That, on the whole, is so. I am not myself clear in own mind as to what his relation to the party he belongs to should be after his election. However, the question does not arise. But in any event, he should function as any one should function, whether he is a partyman or not, completely impartially when he is in high office. So Sir, I regret I am unable to accept any amendment except Sir N. Gopaldaswami Ayyangar's.

Mr. President: I will now put the amendments to vote. I will first put the amendment moved by Mr. Naziruddin Ahmad:

“That for sub-clause (2) of Clause 4, the following be substituted:

- (2) The President shall not hold any position or office under the Union or under any provincial Government, or in or under any local authority or in or under any business concern (whether incorporated or not) in any honorary capacity or for any emolument or allowance.”

The amendment was negatived.

Mr. President: Now the amendment moved by K. T. M. Ahmed Ibrahim Sahib Bahadur:

“That in Sub-clause (3) of clause 4, the words ‘as may be determined by the Act of the Federal Parliament and until then, such’ be deleted.”

The amendment was negatived.

Mr. President: There is another amendment by the same member that—
“That in Sub-clause (4) of clause 4 for the word ‘diminished’ the word ‘altered’ be substituted.”

The amendment was negatived.

Mr. President: Then there is an amendment by Mr. Ram Narayan Singh, namely: that the following be inserted as sub-clause (5) of clause 4:

“(5) The President must not be a party-man.”

Mr. Ram Narayan Singh: I do not press my amendment.

Mr. President: I take it the House allows him to withdraw his amendment.

Honourable Members: Yes.

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

Mr. President: The amendment moved by Sir N. Gopaldaswami Ayyangar is:

“That for sub-clause (1) of Clause 4, the following be substituted:

‘The President shall not be a member of Parliament or of any Legislature and, if such a member be elected President, he shall be deemed to have vacated his seat in Parliament or in the Legislature concerned.’”

The amendment was adopted.

Mr. President: Now the Resolution, as amended, is put to vote.

Clause 4, as amended, was adopted.

The Honourable Pandit Jawaharlal Nehru: Sir, I move:

“*Clause 5.*—Appropriate provision should be made for election to fill casual vacancy is, the detailed procedure for all elections, whether casual or not, being left to be regulated by Act of the Federal Parliament:

Provided that—

(a) an election to fill a casual vacancy shall be held as soon as possible after, and in no case later than six months from, the date of occurrence of the vacancy; and

(b) the person elected as President at an election to fill a casual vacancy shall be entitled to hold office for the full term of five years.”

The word “casual” here has not been very happily used, Sir; but I propose to accept an amendment to delete it from the various places.

Mr. President: I shall take up the amendments now.

(Messrs. B.M. Gupte, A. K. Ghosh, Rajkrushna Bose, Biswanath Das and S. Nagappa did not move their amendments Nos. 151 to 155).

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

“That in proviso (b) to Clause 5, the words ‘at an election’ be deleted.”

Sir, this is a purely drafting amendment which ought to be accepted.

The proviso says:

“The Person elected as president at an election...”

The words “at an election” are redundant, as he has been elected. The very fact that he is the person ‘elected’ as President makes it perfectly clear that he has been elected at an election. The moment you say ‘elected as President’ the words ‘at an election’ are necessarily implied, and are therefore redundant. My amendment, as I said, is purely a drafting amendment and it should be accepted, for obvious reasons.

(Messrs. K. Chengalaraya Reddy, Shibbanlal Saksena, Gokulbhai D. Bhatt, D.H. Chandrasekharaiya and C. Subramaniam, did not move their amendment Nos. 158, 159, 161, 162 and 163).

The Honourable Sir N. Gopaldaswami Ayyangar: Sir, the Honourable Mover has already referred to the use of the words "casual vacancies" in this clause. This expression has given rise to a number of difficulties which deserve to be avoided. Casual vacancies are generally vacancies which occur in the middle of a prescribed term for a particular office, and when they are filled up, the person who gets into the office is supposed to be in the office only for the remainder of the term. But the whole object of this clause is that the person elected for the vacancy should start on a full term of office, and therefore it is desirable that the drafting of this clause should be so changed as to bring out the intention much more clearly than it does now. For achieving this end, I move the following amendment.

"That for Clause 5, the following be substituted:

'5. *Vacancies in the office of President.*—Appropriate provision should be made for elections to fill vacancies in the office of President, whether occurring before, or at, the end of the normal term of an incumbent of that office, the detailed procedure for elections being left to be regulated by Act of the Federal Parliament:

Provided that in the case of a vacancy occurring before the end of the normal term of a particular incumbent,

- (a) the election to fill the vacancy shall be held as soon as possible after, and, in no case, later than six months from, the date occurrence of the vacancy; and
- (b) the person elected as President at such election shall be entitled to hold office for the full term of five years."

I do not think any more words are necessary to explain it.

Mr. President: The amendments have been moved. The amendments and the Resolution are now open for discussion.

Mr. Jagat Narain Lal (Bihar: General): Sir, I have to say a few words about the amendment moved by Mr. Naziruddin Ahmad. He seems to think that the amendment proposed by him is merely a drafting amendment; but it is not so. Actually the vacancy may be filled in more ways than one. If the vacancy has been filled otherwise than by regular election, say by nomination or otherwise, then the person shall not be entitled to hold office for the full term. Therefore, I submit, Sir, that the amendment proposed by Mr. Naziruddin Ahmad is not an amendment which can be accepted.

Mr. President: There is no one else who wants to speak on the motion. The Mover may now reply.

The Honourable Pandit Jawaharlal Nehru: Sir, I accept Sir N. Gopaldaswami Ayyangar's amendment, that is all.

Mr. President: Then I shall put the amendments to vote. The amendment is:

"That in Proviso (b) to Clause 5, the words 'at an election' be deleted."

The amendment was negatived.

Mr. President: Then there is the amendment moved by Sir N. Gopaldaswami Ayyangar. It has been accepted by the Mover, but it has to be accepted by the House.

The amendment was adopted.

Mr. President: The amendment becomes the substantive clause. Now I put Clause 5, as amended, to the vote of the House.

Clause 5 as amended, was adopted.

Mr. President: It is now just 1 o'clock. The House stands adjourned till 10 o'clock tomorrow morning.

The assembly then adjourn till 10 of the clock on Friday, the 25th July, 1947.