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Chairman: Mr. Manfred LACHS (Poland).

AGENDA ITEM 51

Question of the correction of votes in the General Assembly and its Committees: (report of the Secretary-General (A/2977, A/C.6/L.364))

GENERAL DEBATE

1. The CHAIRMAN said that the question of the correction of votes had been placed on the agenda of the ninth session of the General Assembly at the request of the French delegation (A/2700), which had argued that the rules of procedure were incomplete on that point and that the right of representatives of Member States to correct their votes if necessary should be recognized.
2. The Sixth Committee had a report (A/2977) before it at the present session which had been submitted by the Secretary-General in pursuance of General Assembly resolution 901 (IX), and which set forth the methods followed in that connexion in various countries. The essential part of the report was the conclusions in chapter IV; the sole purpose of these was to help the Committee in its work.
3. Mr. JAMIESON (Australia) observed that agenda item 51 in fact covered three separate questions: the correction of votes—a point originally raised by the French delegation—voting by electrical equipment, and methods of prevention of errors. The Australian delegation considered that the three questions might be taken up separately, and had prepared a draft resolution (A/C.6/L.364) on the last of them.
4. The CHAIRMAN thought that the various questions involved in the correction of votes should be examined together. However, any draft resolution which the Committee would ultimately adopt might deal separately with each of those questions.
5. Mr. MAURTUA (Peru) recognized that the agenda item raised a number of widely different problems, but felt that the Committee should not stray outside the terms of Assembly resolution 901 (IX). It should adopt a single resolution, which might, however, consist of separate parts.
6. Mr. BRETON (Canada) saw no necessity for amending the rules of procedure and making express

provision for the correction of votes; such a course might create more problems than the Committee was trying to solve. Obviously, clerical errors must be rectified as soon as they were detected. Likewise, the Assembly's practice allowed a representative to change his vote before the results had been announced. In some cases that had arisen, moreover, the President or Chairman had used his powers to authorize a representative to correct his vote after the results had been announced.

7. However, if the Committee deemed it necessary to supplement the rules of procedure on that point, representatives should only be authorized to request a correction at the time of the vote, or, at the latest, immediately after the results had been announced. For example, when announcing the results, the President or Chairman might ask whether any representatives wished to correct their votes. That procedure might, of course, give rise to abuse; but delegations must be given the opportunity to correct *bona fide* errors, since only then would the vote faithfully reflect the position adopted by each representative.

8. The Canadian delegation would support any new idea designed to reduce the risk of clerical errors, but it felt that that result could be achieved by the General Assembly without the costly installation of electrical voting equipment.

9. Mr. JAMIESON (Australia) introduced his delegation's draft resolution (A/C.6/L.364), the purpose of which was to give effect to the suggestions made in paragraphs 101, 102 and 103 of the Secretary-General's report (A/2977). The object of the draft resolution was to prevent rather than to correct any errors which might arise in the course of voting.

10. Operative paragraph 1 called for the insertion of the same text in rules 89 and 128 of the rules of procedure, which related to plenary meetings and committee meetings respectively. In point of fact, the wording of rules 89 and 128 differed slightly; in the former rule the word "Member" was used with a capital letter, and referred to Member States, whereas in rule 128 it was used without a capital letter and denoted representatives. If the Committee preferred for that reason to adopt a separate text for rule 128, the Australian delegation would accept any proposal to that effect.

11. The purpose of operative paragraphs 2 and 3 was to legalize the present practice. To that end it had been necessary to draft two separate rules, 93a and 132a, because the provisions of the rules of procedure in that connexion differed considerably as between plenary and committee meetings. Rule 97, which related to plenary meetings, provided for a second vote in the event of an equally divided vote, whereas under rule 134, which related to committee meetings, a proposal was regarded as rejected in the event of an equally divided vote. The procedure proposed in the draft resolution, both for rule 93a and for rule 132a, did not apply to votes on

elections. It would naturally be preferable for the new rules to apply to such votes also, and the Australian delegation would welcome any proposal to that effect, but it would probably be difficult at the present stage to achieve so general a solution.

12. The two new rules 97a and 134a, referred to in paragraphs 4 and 5 of the draft resolution, were identical, but it had been necessary to draft two separate English texts because the first applied to the "President" of the General Assembly, whereas the second applied to the "Chairman" of a Committee. Under those two new rules the results of voting would be final and conclusive, unless it could be shown that a clerical error had occurred.

13. Mr. ROBINSON (Israel) thought that the text proposed in operative paragraph 1 of the Australian draft resolution would be suitable as an amendment to rule 89, of the Assembly's rules of procedure, but was not suitable for rule 128. The wording of the two rules was not the same. It would be necessary either to bring the texts of the present rules 89 and 128 into line or to redraft the amendment to rule 128.

14. Incidentally, he wondered why the word "members" with a capital letter in rule 89 and not in rule 128, since the meaning in both cases was really "Member States".

15. In paragraphs 4 and 5 of the Australian draft resolution the term "clerical error" was too vague; the expression "arithmetical error" would be more accurate. In article 27 of the draft convention on arbitral procedure, the International Law Commission had used the words "any clerical, typographical or arithmetical error, or errors of the same nature apparent on the face of the award" (A/2456, para. 57). Moreover, it should be specified when and by whom the error might be reported and who would determine its nature. Without those details, the proposed texts would be no improvement, especially since the number of difficulties that had arisen in the past had been small and since many minor questions might well be left to the discretion of the President or Chairman.

16. Mr. STAVROPOULOS (The Legal Counsel) agreed with the Israel representative. Members of the Committee should first ask themselves whether there was any need for a revision of the rules of procedure. In asking for the inclusion of the item in the agenda the French delegation might have had a specific case in mind, but experience had shown that on past occasions when delegations had wished to correct votes they had cast, no serious difficulties had arisen. Moreover, it was not entirely certain that amendments to the rules would succeed in preventing the occurrence of errors.

17. Mr. JAMIESON (Australia), in reply to the Israel representative, said he believed that the drafters of the rules of procedure had intended to make it clear that when a capital letter was used the reference was to Member States, and that when a small letter was used the reference was to representatives as such. He agreed that paragraph 1 of his draft resolution would have to be amended before it could be inserted in rule 128 of the rules of procedure; he would be prepared to consider an amendment to that effect.

18. With regard to paragraphs 4 and 5, the two points raised by the Israel representative might perhaps be met by adopting the following wording: "Unless it can be shown to the satisfaction of the President (Chair-

man) that a clerical or arithmetical error has occurred . . ."

19. He thought that his amendments would be useful, since they would legalize an existing situation and would strengthen the powers of Presidents and Chairmen.

20. His draft resolution, he repeated, did not apply to the question of the correction of votes, which he regarded as a separate problem.

21. Mr. SERRANO GARCIA (El Salvador) thought the logical conclusion that emerged from the rules of procedure and from the excellent report submitted by the Secretary-General (A/2977) was that there was at present no procedure for correcting a vote once it had been cast. Yet errors sometimes occurred, and it should be possible to correct them even after the results of the voting had been announced. A vote was the culmination of a debate, and should be a faithful reflection of the will of the Member States. When a representative interpreted his Government's instructions incorrectly, there was no true consent. The problem was particularly serious when an erroneous vote turned the scale. To perpetuate an error was not an acceptable solution.

22. His delegation welcomed the suggestions made by the Secretary-General in its report with a view to preventing errors. It believed that an electrical voting device should be given a trial. He would not express an opinion on the Australian draft resolution, however, until he had had an opportunity to study the Spanish translation.

23. Mr. SPIROPOULOS (Greece) noted that the first proposal contained in the Australian draft resolution was identical with the suggestion made by the Secretary-General in paragraph 101 of his report (A/2977). The proposed provision would be acceptable, if it was understood that the names of Members whose representatives had not answered on the first roll-call would be called again only once, immediately after the roll-call.

24. In his opinion the word "member" referred to Member States both in rule 128 and in rule 89 of the rules of procedure. It should, therefore, be printed in the same way in both cases.

25. The second Australian proposal, in paragraphs 2 and 3 of the draft resolution, corresponded to paragraph 102 of the Secretary-General's report. The text gave official sanction to a practice that was so wide-spread that it could give rise to no objection, but the need for such an amendment was doubtful to say the least.

26. With regard to the last part of the draft resolution, operative paragraphs 4 and 5, he noted that that was the only part of the text which dealt with the problem of errors in voting. He did not regard the proposed solution as satisfactory. First, the proposed wording might give the impression that in the case of elections the results of voting would not be final. Moreover, there still remained the problem of correcting mistakes; nothing was said about the procedure for correction, which was the real problem. It was unfortunate that the views on that point of the delegation which had requested the inclusion of the item in the agenda could not be ascertained.

27. Mr. EL ERIAN (Egypt) congratulated the Australian representative on his draft, but pointed out that as a general rule when the Chairman announced the results of a vote, those results were definite, but that a

member was entitled to express any doubts he might feel on the matter. If such doubts persisted the Chairman could call upon the Committee to take a decision on the matter. It might be inadvisable to leave it to the Chairman alone to decide whether or not an error had occurred, since that might well increase his authority to an extent hardly in keeping with the general spirit of the rules of procedure.

28. In any event, paragraphs 4 and 5 of the draft resolution, as they had just been amended by the Australian representative, now gave the Chairman the responsibility of determining whether a mistake had been made, although they still failed to indicate how the mistake should be detected.

29. Mr. JAMIESON (Australia) agreed that the words "by a member", should be inserted before the words "to the satisfaction of the President", in order to make it clear that members would be entitled to draw the President's attention to any errors that might have occurred.

30. Referring to the Israel representative's observations, he suggested that operative paragraph 1 might be amended by providing two separate texts, one for insertion in rule 89, and the other for insertion in rule 128 of the rules of procedure.

31. With regard to the point raised by the Greek representative, the words "immediately after the roll has been called" and "may then answer" in paragraph 1 indicated quite clearly that there was no intention of protracting the vote indefinitely.

32. He agreed that the draft resolution did not deal with the question of procedure for the correction of errors, and regretted that the French delegation was not present to express its views on the matter.

33. In reply to a question by Mr. TABIBI (Afghanistan), Mr. STAVROPOULOS (The Legal Counsel) said that it would be some days before the addendum referred to in paragraph 105 of the Secretary-General's report could be circulated, as it would be prepared on the basis of provisional estimates submitted by three large firms specializing in electrical voting equipment.

34. Mr. HSU (China) pointed out that paragraph 1 of the Australian draft resolution repeated the idea contained in paragraph 101 of the Secretary-General's report, but without making it clear that the sole purpose of that proposal was to permit votes to be cast by representatives who might have been temporarily absent from their seats. He feared that that lack of clarity might encourage a practice which would be prejudicial to the work of the Assembly and its Committees; some members might wait to be called a second time before answering.

35. With regard to paragraphs 4 and 5 of the draft resolution, it would be wiser to delete the words "clerical" and "arithmetical", which might cause confusion. Frequently errors occurred because a representative did not fully understand the implications of an affirmative or a negative vote, or was in doubt as to his delegation's instructions. Moreover, it would be wise to state in the two paragraphs in question the time-limit within which a member could bring an error to the President's (Chairman's) attention. The intention of the author of the draft resolution was obviously that the request should be made immediately, but it would be better if the text were explicit on that point.

36. Mr. SEN (India) merely wished to express his opinion on certain observations made by the Salvadorian and Chinese representatives concerning the kinds of error that would be open to correction. The draft resolution clearly referred only to errors made by polling officers in recording the votes cast; there could be no question of correcting any errors made before the actual process of recording the votes and announcing the results. It would be dangerous to make allowances for any errors in judgement on the part of representatives.

37. He reserved his delegation's position on the draft resolution, which required careful study.

38. Mr. VALLAT (United Kingdom) said that the question called for very thorough study. It was already apparent from the present first discussion that many amendments would have to be made in the draft resolution before the Committee. Many questions were still unsolved; there was the question, for example, whether the proposed rule 93a would apply to the vote on the whole of a proposal or to each separate vote.

39. Care should be taken not to create sources of new difficulties, and it might prove desirable at a later stage, in view of the complexity of the question, to set up a sub-committee to study the various proposals before the Committee.

40. Mr. SEN (India) agreed with the United Kingdom representative on that point.

41. Mr. SPIROPOULOS (Greece) shared the Indian representative's view that the Committee should concern itself only with errors in the recording of votes cast.

42. With regard to the United Kingdom representative's suggestion, he pointed out that the establishment of a sub-committee composed of only part of the Committee's membership would not necessarily save the Committee's time. In any event, such a sub-committee should not be set up until the discussion on the substance of the question had been completed, and it should be made responsible only for the details of drafting.

The meeting rose at 1 p.m.