

GENERAL  
ASSEMBLYASSEMBLEE  
GENERALEA/C.6/Procedure/8  
2 February 1946.

ENGLISH ONLY

SIXTH COMMITTEESUMMARY RECORD OF THE EIGHTH MEETING OF THE  
SUB-COMMITTEE ON RULES OF PROCEDURE

31 January 1946 - 5 p.m.

Dr. Roberto Cordova (Mexico) in the Chair.

1. Amendment to Rule 78 and Supplementary Rule S of the  
Provisional Rules of Procedure proposed by the  
Delegation of Egypt (A/C.6/14) (continued).

Mr. SABA (Egypt) stated that in order to meet certain observations made by Mr. BRULOT (France) he was prepared to amend the text of the amendment in French so as to make it more precise, and to substitute the words "la fin de la durée" for the word "l'expiration" in the penultimate line of the text. The English text seemed to be sufficiently precise. He wanted to point out that Rule 78 contained, in addition to what he had mentioned at the preceding meeting, another violation of the Charter which was even more dangerous. It provided that the term of office of each elected member should end upon the election of a member for the next term while the Charter explicitly stated that the terms of office amounted to one, two or three years. Thus the General Assembly could, at its own discretion, reduce or extend a term of office. Perhaps those who had framed this rule had been inspired by the Rules of Procedure of the League of Nations. However, they had omitted from the relevant passage a phrase stating that the Assembly of the League of Nations could hold new elections only after three years. This phrase made the rule conform with the Covenant.

Mr. BRAULT (France) withdrew the amendment proposed by him at the preceding meeting. Instead of it, he proposed, (1) that Rule 78 should stand; (2) that Supplementary Rule S should read as follows:-

"The term of office of members of Councils elected for one, two and three years shall end on the day of the elections held at the third, fourth and fifth regular Sessions respectively of the General Assembly";

and (3) that the following words should be added at the end of Rule 77:-

"each year at its regular Session"

He saw no advantage in the suggestion that the Articles of the Charter should be blindly and rigidly carried out in what was essentially a fluid and transitional situation. He was against an interval between the election and the beginning of a term of office. This might lead to disagreement with members who had been elected but whose terms of office had not yet begun.

Sir CHARLES WEBSTER (United Kingdom) repeated what SIR HARTLEY SHAWCROSS had said: the General Assembly had in fact adopted the provisional Rules of Procedure and the elections had taken place on the basis of these rules. It was important that the elections held should be considered as valid. The rules had been in the minds of most of the Delegations at the time of the election. He drew the attention of the Sub-Committee to Page 39 (paras. 60 and 61) of the Report of the Executive Committee of the Preparatory Commission. He was against intervals for the election to a Council was, in a sense, an expression of opinion by the members of the United Nations on the policy pursued by the members of the Council.

The Hon. MALDOUH RIAZ (Egypt) doubted whether the rules had been in the minds of most of the Delegations at the election.

The real problem was whether one could uphold rules which violated the Charter.

The CHAIRMAN observed that the United Kingdom Delegate had wanted to reply to an argument advanced previously, namely that the Delegations had only the provisions of the Charter in mind.

Mr. KORETSKY (Ukrainian S.S.R.) was strongly in favour of a synchronization of elections and the beginning of the terms of office. The amendment proposed by the Delegation of Egypt might have been prompted by incidental circumstances. True, the terms of office of those who had been elected were reduced. These were "initial expenses" of the Members during its formative period. Rule 78 and Supplementary Rule S should remain. The amendment proposed by the French Delegate should be decided on by the General Assembly.

Mr. PEREZ CISNEROS (Cuba) stated that the problem was one of principle. When the voting had taken place, the electors intended to provide for good and complete Councils. The Sub-Committee should first decide whether Rules 77, 78 and Supplementary Rule S were in accordance with the Charter.

Mr. KHOURI (Lebanon) said that the validity of the elections had never been in question. The Sub-Committee should find a formula conforming with the provisions of the Charter and amend the rules accordingly.

Mr. BRAULT (France) considered that a compromise solution must be found. One should try to look at the problem as business men would. Since the United Nations was still in its organizing period, there was all the more reason for extending the terms of office of those who had been elected. They would gain experience in the work of the Organization. Considerations concerning the nationality of the members should play a minor part in an

international organization such as the United Nations. In 1947 the General Assembly would be more experienced and elections would be more appropriate.

Mr. LONE LIANG (China) said that it seemed to him that, in the first place, the Sub-Committee should concentrate on the interpretation of legal matters. When the Charter and the Rules of Procedure were in conflict, the provisions of the Charter must prevail. Guesswork as to the intentions of the Delegates at the election was dangerous. On the other hand, the elections had been held at a regular, not a provisional, session of the General Assembly. But some compromise must be found. Intervals between the election or appointment of office holders and the beginning of their terms of office were not unknown to the constitution of the United States or the British constitution. Perhaps the real solution lay in the interpretation of the terms "one year" and "two years" as used by the Charter. Did they refer to a calendar year?

Mr. ZORICIC (Yugoslavia) also thought that the essence of the problem lay in the interpretation of the references of the Charter to "one year", and "two years" etc. He suggested that these words might be interpreted as referring to a "working year" beginning in September when the regular sessions of the General Assembly were held.

Mr. BAILEY (Australia) agreed with the United Kingdom Delegation that it was preferable, from the point of view of policy, that the term of office should begin immediately upon the election and also that the elections had, in fact, taken place under the Provisional Rules of Procedure adopted by the General Assembly. Those who had opposed the Egyptian amendment had, however, not replied to the charge that the Rules of Procedure were in direct conflict with the Charter. The only duty of the General Assembly in the view of his Delegation was to obey the Charter. He was

opposed to the amendment proposed by the French Delegation and suggested that the date of the next session of the General Assembly might be changed. The whole problem might be decided at the second part of the First Session.

Mr. SAÛA (Egypt) stated he could not accept the suggestion made with regard to the interpretation of a "working year".

Mr. WALKER (United States of America), in the hope that the Sub-Committee would reach some compromise, supported this suggestion. He was opposed to the amendment proposed by the French Delegation. The elections held must remain valid and Rule 78 and Supplementary Rule S should be studied further.

Sir HARTLEY SHAWCROSS (United Kingdom) felt that the approach to the problem must not be too legalistic or formalistic. He was in agreement with the United States Delegation and proposed the following recommendation:-

"This Sub-Committee considers that for the purpose of practical convenience Rule 78 should be maintained. It is for the General Assembly to decide whether the term of office should be in accordance with Supplementary Rule S, or whether it should be extended by one year in each case."

Mr. BRAULT (France) was prepared to withdraw his own amendment provided Sir HARTLEY SHAWCROSS would incorporate into his amendment what Mr. BRAULT had proposed with regard to Rule 77. Sir HARTLEY SHAWCROSS agreed to this.

Mr. BAILEY (Australia) wished to include the words:-

"if these rules are in accordance with the Charter" in the amendment proposed by the Delegation. The United Kingdom and French Delegates objected to this as the words introduced a third alternative in the recommendation.

The CHAIRMAN stated that he would put first the Egyptian amendment and then the recommendation proposed by France and the United Kingdom to the vote.

Mr. PEREZ CISNEROS (Cuba) requested a roll call in both cases.

The amendment proposed by the Egyptian Delegation was rejected by six votes against four, with one abstention.

The Delegates for France, Soviet Union, Ukrainian S.S.R., United Kingdom, United States and Yugoslavia voted against the amendment. The Delegates for China, Cuba, the Lebanon and Mexico voted in favour of it.

Mr. BAILEY (Australia) stated that his delegation supported the contention of the Egyptian Delegation as to the unconstitutionality of Supplementary Rule S, but it was unable to commit its Government to the precise amendment as proposed for Rule 78. His delegation had therefore been obliged to abstain.

The Secretary (Mr. ELKIN) read the text of the recommendation proposed by the Delegations of France and the United Kingdom.

Subject to subsequent drafting changes, it reads as follows:

"The Sub-Committee considers that for the purpose of practical convenience Rule 78 should be maintained.

"It is for the General Assembly to decide whether the term of office should be in accordance with Supplementary Rule S or whether it should be extended by one year in each case.

"Rule 77 should be changed to provide for the election of members of Councils at the regular Annual Session of the General Assembly."

This recommendation was adopted by seven votes. There were no votes against it and four abstentions.

The Delegates of China, France, the Soviet Union, the Ukrainian S.S.R., the United Kingdom, the United States of America

and Yugoslavia voted in favour of the recommendation. The Delegates for Australia, Cuba, the Lebanon and Mexico abstained.

Mr. LONE LIANG (China) wished to explain that his delegation had voted in favour of the Egyptian amendment because it felt strongly that the Rules of Procedure needed an amendment on legal grounds. Since this amendment had been defeated it accepted the Franco/U.K. recommendation as it offered a way to a solution.

Mr. BAILEY (Australia) stated that his Government was in favour of referring the whole matter to the General Assembly but that he could not regard either of the two alternatives proposed in the Franco/U.K. recommendation as constitutional. The Australian delegation had therefore been obliged to abstain.

The CHAIRMAN rules that the Delegation of Egypt should not take part in the voting.

The Delegations of Ecuador and Norway were not represented.

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