

GENERAL
ASSEMBLYASSEMBLEE
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ENGLISH ONLY

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

30 January 1946, 10.30 a.m.

Dr. ROBERTO CORDOVA (Mexico) in the Chair

1. Committee Structure of the General Assembly (Chapter I, Section 4 of the Report of the Preparatory Commission).

The Secretary (Mr. ELKIN) stated that members of the Sixth Committee had been invited to submit amendments to the Provisional Rules of Procedure relating to Committee structure of the General Assembly. No such amendments had been received and therefore the amendment proposed by the Delegation of Egypt was the only matter before the Sub-Committee.

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

In support of the amendment proposed by his Delegation Mr. SARA (Egypt) pointed out that under the present Rules members who had been elected for one year on the Security Council or the Economic and Social Council would not serve for more than eight months since under Supplementary Rule S it was proposed that a new election should take place at the opening of the Second Session of the General Assembly. The term of members who would be elected on the Trusteeship Council would be, in effect, cut down by at least nine months. There was, however, no real connection between the Sessions of the General Assembly and the work of the Councils making the synchronization of elections and of the date of taking of office by the members elected on the Councils imperative. Moreover, the Provisional Rules in question were in direct

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conflict with Articles 23(2), 61(3) and 86(1) of the Charter. It was unconstitutional to modify a provision of the Charter, ratified by the Parliaments of the Member States, by adopting a rule of procedure. Such precedent would be particularly dangerous in this case, as the rules in question violated the spirit as well as the express provisions of the Charter.

Mr. BRAULT (France) observed that it seemed unjust that the terms of those elected as non-permanent members at the First Part of the First Session of the General Assembly were so short. However, the proposed amendment was somewhat vague insofar as the date of the termination of the term of office under the second alternative in the amendment remained uncertain. He was opposed to an arrangement which would lead to an interval occurring between the election and the date of taking of office. Such an arrangement would lead to various terms of office beginning at different times of the year. Subject to possible modifications or drafting amendments, he proposed an alternative amendment to Rule 78 on the following lines:

"In the case of elections taking place during the First or Second Part of the First Session of the General Assembly, the period of office shall be prolonged until the 1 October, 1947 in the case of members elected for a term of one year, and until 1 October 1948 in the case of members elected for a term of two years."

Sir Hartley SHAWCROSS (United Kingdom) opposed the amendment submitted by the Delegation of Egypt as it was unsatisfactory to have an interval between the election of members of the Councils and the date of their taking office, since this would mean a period of four months representing in the case of those who had been elected for one year one-third of their total term of office. The new election might represent a change of policy by the General Assembly. The outgoing members would be less interested in the work of the Councils

during this interval. He opposed also an amendment on the lines suggested by Mr. BRAULT on the grounds that the election of members of the Councils at the First Part of this Session had taken place on the understanding that their term of office would only last eight months. As this was the case the term should, if anything, be curtailed rather than prolonged. Furthermore, the General Assembly had adopted the present Provisional Rules of Procedure and the election had taken place on the basis of these Rules. A change in the duration of the term implied serious political considerations and if the Rules were changed new elections might have to take place.

In the view of Mr. KHOURI (Lebanon) the question in issue was not whether the term should last six, seven, or eight months but the conflict between the Articles of the Charter and the Provisional Rules of Procedure. From a legal point of view, the only possible solution appeared to be a distinction between the election and the dates of the beginning of the terms of office. A distinction of this kind existed under the Constitution of the United States where the President, in order to have time to prepare himself for his office, took office several months after being elected.

Mr. WALKER (United States) tentatively suggested a compromise which might meet both views. The term of office should begin on 1 November as a rule, which meant that those elected at the First Part of this Session would serve ten and twenty-two months respectively.

Mr. BAILEY (Australia) agreed with Sir Hartley SHAWCROSS that an interval between the elections and the date of taking office was undesirable. In view of the undeniable conflict between the Charter and the Provisional Rules in question the position was embarrassing and the only solution seemed to be an amendment of the Charter. Until the Charter was amended, he favoured the views expressed in the amendment proposed by the Delegation of Egypt.

Mr. KHOURI (Lebanon) and Mr. SARI (Egypt) thought that an interval between the election and the beginning of the term of office would be useful as it would mean a chance for the member concerned to prepare himself for the work.

Sir Hartley SHAWCROSS (United Kingdom) felt that it was most unfortunate that after the Rules in question had been adopted for the present elections and after these elections had taken place, the Sub-Committee should seek to prolong the terms of office of those members who had been elected or alter the Rules. Moreover, although theoretically there was no connexion between the work of the General Assembly and of the Councils, in practice their Sessions and meetings would often coincide. Mr. BRAULT (France), Mr. KHOURI (Lebanon) and Mr. BAILEY (Australia) expressed the view that the Rules had been adopted provisionally. It was for the General Assembly at the Second Part of its present Session to adopt them finally. In reply to this Sir Hartley SHAWCROSS observed that while the Rules may be changed they had been adopted for the purpose of the elections just held.

Mr. KORETSKY (Ukrainian S.S.R.) felt that Sir Hartley SHAWCROSS's observations deserved particular attention as he had underlined the political implications of the question in issue. This would mean that the General Assembly would have to consider the issue. He was opposed to an interval between the election and the beginning of the term of office and felt that the analogy with the Constitution of the United States was not pertinent. In view of the political considerations involved he felt that members of the Sub-Committee might need to consult with their Delegations and therefore suggested the Sub-Committee might adjourn before a vote was taken. The motion for adjournment was supported by Mr. BAILEY (Australia) and Mr. ZORICIC (Yugoslavia).

The Chairman stated that there were two proposals before the Sub-Committee - the amendment proposed by the Delegation of Egypt and that proposed by Mr. BRAULT and that he proposed to have the vote on the French amendment after the vote on the Egyptian amendment.
