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## EVOLUTION SPEAKER'S OFFICE IN INDIA

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### ABSTRACT:

*The Speakership is an office of much dignity, honour and power. The office is as old as popular assemblies. No deliberative assembly can do without some officer who presides over its sittings and thus keeps the deliberations, which may occasionally be heated and acrimonious. Within proper bounds. Most of the officers of parliament, therefore, must have existed in some form or other from the very beginning of such institutions.<sup>1</sup>*



**KEYWORDS:** heated and acrimonious.

### Presiding Officers of the Central Legislature from 1854-1920:

In Indian the Legislatures came into existence in 1854 under the Charter act of 1853. Right from its beginning to 1920 the Governor-General of India presided over the sittings of the legislatures under the different statutes passed by Parliament.<sup>2</sup> from time to time and he was designated as the 'President' of the Legislative Council.

### The Vice-President:

The Governor-General who was ex-officio President of the Legislative Council (1854-61) was authorized to appoint any member of the said Council to be Vice-

President. He was to preside the meetings in the absence of such Governor-General. Section 23 of the Charter Act of 1853 says-"It shall be lawful for such Governor-General to appoint any member of the said Council to be Vice-President thereof at meetings of the said Council of making in the absence of such Governor-General and in the absence of such Vice-President the senior ordinary member of the Council of India there present shall preside therein....". Lord Dalhousie, however, did not appoint any Vice-President and therefore a senior member of the Council used to take the chair.<sup>3</sup>

### Casting Vote:

The President of the Legislative Councils (1854-1920) being the heads of the executive

Government used to vote in their own right with a view to express their views on matters in disputes. Laws gave them two votes including one casting vote. Above mentioned section of the Act also provides: ".....being one and every case of difference of opinion at meetings of the said Council for making laws and Regulations where there shall be an equality of voices, the Governor General and Vice-President such senior ordinary member of Council there present and presiding shall have two votes or the casting vote"<sup>4</sup>

### Rules of Procedure:

Lord Dalhousie wrote in his diary.<sup>5</sup> "By the beginning of June (1854) the Council was in operation, and since that time has gone on steadily working and setting itself into regular routine.

By the Act it is my duty to take the chair whensoever. I may be present. Hence I am obliged to act both as President of the Council and as Chairman of it when in committee. The Legislative Council transacts the business before it on much the same system as is observed in our own Parliament, but more approaching to the manner of the House of Lords than of the Commons”.

The importance of the newly created Legislative Council in relation to the growth of parliamentary procedure lies in the fact that the Council was for the first time entrusted with the right of framing its own rules of procedure. In a minute submitted to the Council, Lord Dalhousie pointed out that the first act of the Council must be to frame its rules of procedure “which can only be done by the authority of the Council itself”.<sup>6</sup> He formulated certain general principles of procedure and also submitted a set of draft rules. But then he was careful to add that in doing so he was trying to assist the Council and hoped that the Council would not regard his action as ‘obtrusive’. Lord Dalhousie even went so far as to say that although he was the ex-officio President of the Council under the Act, authority to control the deliberations of the Council must be conferred upon him by the Council itself.

Apart from their intrinsic merits, the principles formulated by Lord Dalhousie have laid the foundation of the parliamentary procedure in India. Five principles were formulated by him. These are substantially derived from the parliamentary practice of the House of Commons. Indeed, it will not be unreasonable to say that May’s Parliamentary Practice, the first edition of which had been published a few years before, might have been used by Lord Dalhousie when he wrote his minute.

Lord Dalhousie was also aware of the fact that he was playing the part of the Speaker as the President of the Legislative Council when he wrote in a private letter on July 22, 1854.

“Our Legislative Council is getting on really very well. Most of them are as yet a little afraid of the sound of their own voices, but we get through a good deal of business, and I play the compound part of the Speaker and Lord Shaftesbury (Chairman of Committees; House of Lords). I flatter myself, with much effect”.

By reading Lord Dalhousie’s minute and his private letter a conclusion can be drawn that a faint idea of the Speaker’s office was taking shape with the creation of the Legislative Council.

### **The Presiding Officers under the Government of India Act, 1858:**

Section 23 of the charter Act of 1853 was replaced by section 63 of the Government of India Act, 1858. It provides: “...When the office of the Governor-General is assumed under the foregoing provision, if there be at any time before the Governor-General takes his seat in Council, no Vice-President of the Council authorized to preside at meetings for making laws and regulations (as provided by section 23 of the Charter Act of 1853) the senior ordinary member of the Council, therefore, shall preside therein, with the same powers as if a Vice-President had been appointed and were absent”.

If we compare section 23 of the Charter Act of 1853 with the section 63 of the act of 1858, it is clear that no change was made in the position of the ‘President’ under the Act-the Governor-General was still ex-officio President of the Imperial Legislative Council.

### **The Presiding Officer Under the Indian Councils Act, 1861:**

President of Governor-General’s Legislative Council. Section 6 of this Act says: “Whenever the said Governor-General in Council shall declare that it is expedient that the said Governor-General should visit any part of India unaccompanied by his Council, it shall be lawful

for the said Governor-General to nominate some member of the said Council to be President of the said Council, in whom, during the time of such visit, the powers of the said Governor-General in assemblies of the said Council shall be reposed...”.

### **Senior Ordinary Member of the Council:**

The Indian Councils Act of 1861, which did not provide for permanent office of the Vice-President laid down that in the absence of the Presidents the senior ordinary member of the Council present should preside at meetings of the Council for making laws and regulations. Section 15 of the Act provides: “In the absence of the Governor-General and of the President, nominated as aforesaid, he senior ordinary member of the Council present shall preside at meetings of the Council for making laws and regulations”.

As the Indian Councils Act, 1892 was an Act to amend the Indian Councils Act, 1861, provisions regarding the presiding officer remained the same. Section 15 of the Councils Act, 1861 was not amended.

### **Presiding Officer Under the Indian Councils Act, 1909:**

Under the Indian Councils Act, 1909, no change was envisaged regarding the office of the ‘President’ of the Legislative Council. The Governor-General remained the Presiding officer of the Chamber.

### **Appointment of Vice-Presidents:**

The Act of 1909 restored the provision authorizing the President to appoint his Vice-President. Section 4 of this Act says:

“The Governor-General and the Governors of Fort Saint George and Bombay and Lieutenant-Governor of every province respectively shall appoint a member of their respective Councils to be Vice-President thereof, and for the purpose of temporarily holding and executing the office of Governor-General or Governor of Fort Saint George or Bombay and of Presiding at meetings of Council in the absence of the Governor-General, Governor of Lieutenant-Governor”.

### **Rank and Status of Vice-President:**

The Act further says, “The Vice-President so appointed shall be deemed to be senior member of Council and the member highest in rank, and the Indian Councils Act, 1861, and Sections 62 and 63 of the Government of India Act, 1833, shall have effect accordingly”.

After studying the relevant sections of various Acts regarding the Presiding Officer of the Legislative Council, we fully agree with the following remark of S.S. More;

“The Governor-General, when presiding over the Council, exercised some of the functions of the English Speaker but he never ceased to be the executive head of the Government and, frequently, participated in the debate to explain or defend the policy and action of his administration. Therefore, he can hardly be placed in the same category with the English Speaker who has been always devoid of any trace of executive authority or party colour”.<sup>7</sup>

### **Presiding Officer Under the Government of India Act, 1919:**

The joint authors of the Report on Indian Constitutional Reforms considered the kind of Speaker the new legislature would require for its efficient functioning and came to the

conclusion that the President of the Legislative Assembly should be nominated by the Governor-General and that at least for some time, "the President should be designated from among the official members". They gave detailed reasons for making such a recommendation in paragraphs Nos. 236 and 275 of the Report.<sup>8</sup>

**Paragraph 236<sup>9</sup> says:**

"Bearing in mind the facts that the Legislative Councils will in future be large bodies and will contain a certain number of members unversed in discussion, we feel the importance of maintaining such standards of business as will prevent any lowering of the Council's repute. The conduct of business in a large deliberative body is a task that calls for experience which cannot be looked for at the outset in an elected member. We consider therefore that the Governor should remain the President of the Legislative Council, but in as much as it is not desirable that he should always preside, he should retain the power to appoint a Vice-President. He should not be formally limited in his selection but we suggest that for some time to come it will be expedient that the Vice-President should be chosen from the official member..."

**And Paragraph 275<sup>10</sup> says:**

"...We think that for the reasons which we have given already in support of a similar recommendation in respect of the provincial councils, the President of the Legislative Assembly should be nominated by the Governor-General. We do not propose that his choice should be formally limited but it seems necessary that, at any rate for the present, the President should be designated from among the official members".

The report was further considered by the Joint Parliamentary Committee. They also, in their own way, thought about the kind of President that they desired to preside over the legislature at Delhi and described the qualifications and equipment he needed in the following words:

"He should be qualified by experience in the House of Commons, and a knowledge of Parliamentary procedure, precedents and conventions. He should be the guide and adviser of the Presidents of the provincial councils and he should be chosen with a view to the influence which it is hoped he will have on the whole history of parliamentary procedure in India. He should be paid an adequate salary".

The recommendations made by the Montagu-Chelmsford Report, however, were not fully followed in the Government of India Act, 1919. Section 63(c)(1) of this Act provides:

"There shall be a President of the Legislative Assembly, who shall until the expiration of four years from the first meeting thereof be a person appointed by the Governor-General and shall thereafter be a member of the Assembly elected by the Assembly and approved by the Governor-General.

"Provided that, if at the expiration of such period of four years, the Assembly is in session, the President then in office, shall continue in office until the end of the current session, and the first election of a President shall take place at the commencement of the ensuing session."

Thus under this section, it was implied that at the expiration of four years, after the first meeting of the Assembly, it should proceed to elect from among the members, a President who would have to be approved by the Governor-General. The President was to be elected from among the members of the Legislative Assembly. An official member of the Governor-General's Executive Council, or a nominated official or an elected non-official might thus be the President

of the assembly, if he was elected by it; but as there was a non-official elected majority, it was likely that the elected President would be one of the elected non-official members.<sup>11</sup>

### **Sir Frederick Whyte (1921-1924)-A Nominated President:**

The Joint Select Committee of the British Parliament on the Government of India Bill, 1919 had recommended that the first President of the Indian Legislative Assembly, who should hold the office for four years, should be a person possessing experience of the working of the House of Commons. Accordingly, the Governor-General nominated Sir Frederick Whyte as the first President of the Legislative Assembly set up under the Government of India Act, 1919, for a period of four years. He was a member of the House of Commons and was chosen for his special knowledge of the parliamentary procedure. According to Morris-Jones:

“In these first years the foundations of Procedure and conduct were laid. The Indian opinion wanted nothing better than to be able to follow the ways of the House of commons, and within the constitutional limits prescribed by the Government of India Act, 1919, and under the guidance of Sir Frederick Whyte, himself a Assembly were enabled to do so. It may be that a nominated Englishman as Speaker was inevitable and even suitable at the time”.<sup>12</sup>

### **V.J. Patel-The First Elected President:**

Yet with the entry into the Assembly in the General Elections of 1923 of the Swarajist Party, it had become absolutely necessary that a President should be elected when Sir F. Whyte's four-year term ended. The term of the office of Sir Frederick Whyte was to expire in August, 1925. Therefore, in pursuance of the provisions of the Government of India Act, 1919, the Legislative Assembly was called upon to elect their first non-official President. The Swarajist Party decided upon the candidature of Vithalbhai J. Patel for election to the office of the President. Patel defeated his rival candidate who enjoyed official support by 58 votes to 56. The victory of Patel caused some surprise as well as jubilation in the circle of Swarajist Party because they did not command an absolute majority in the House. President Patel held office from 1925 to 1930 and did more than any of his successors before 1946 to assert and consolidate the independence of the Chair.<sup>13</sup>

President Patel had to resign due to the start of the Civil Disobedience Movement in 1930. He was arrested and put in jail. When arrested he said, “I have got my pension and peerage”. Morris-Jones rightly remarks: “The resignation of President Patel in 1930 coincided with the withdrawal also of most Congressmen from the Assembly, and the centre of political gravity, which had in any case never very surely rested in the Assembly, now certainly moved away from it”.<sup>14</sup>

### **Simon Commission and the “Presidential Chair”**

The Simon Commission also expressed their opinion on the “President of the Legislative Assembly”. They regretted that the recommendation of the Montagu-Chelmsford Report regarding him was not followed in the Government of India Act. 1919.

Paragraph 176 of the Report of the Indian Statutory Commission says<sup>15</sup>.

“.....They went on laying down that ‘the President of the Legislative Assembly should be nominated by the Governor-General. We do not propose that his choice should be formally limited, but it seems necessary that at any rate for the present the President should be designated from among the official members.’<sup>16</sup> This recommendation was departed from in the Government of India Act, which provided that for the first four years of the existence of the

Legislative Assembly the President should be appointed by the Governor-General but that thereafter he should be a member of the Assembly elected by that body and approved by the Governor-General. This therefore, constitutes a contrast with the mode of appointment of the President of the Council of States”.

The Commission explained the fundamental difference between the Speaker of the House of Commons and the President of the Assembly. At the same time, they advised that the model at West-minster should not be followed in India. The paragraph 249 of the Report elaborately puts forward the Commission’s arguments in the following words<sup>17</sup>.

“In nothing is the contrast between Westminster and Delhi more striking than in the position assumed, and the influence exercised by the occupant of the Chair of the Assembly. He claims and employs powers of interference which would be quite contrary to the stricter limits of the Speakership-reprimanding a Government member of the Council of States for not attending and speaking at a debate in the Lower House, advising the Government not to proceed with important business when the Swarajist walked out, explaining his view of the proper operation of the so-called Fiscal convention, and so forth. We are bound to make plain the difference, lest it should be supposed that the traditions and the methods of the Speaker of the House of Commons were being reproduced in the Indian Legislature. The explanation of the contrast we venture to think, is not unconnected with the fact that whereas in the House of Commons there is always a government majority which may be depended upon to support the authority of the Speaker, any majority upon which the President of the Assembly may be disposed to lean, is necessarily found in the ranks of the opposition. It is not to be presumed or expected that the spirit of British Parliamentary institutions can be transplanted and reproduced automatically in so different an atmosphere, and there are many other models for Speakership besides the model at Westminster. Lord Bryce described one in his book on the American Constitution, and the student of comparative institutions may find there a much closer parallel to the practice of the President of the Legislative Assembly”.

### **Speaker Under the Government of India Act, 1935:**

From 1854 till the Indian Constitution came into effect the Chief Presiding Officer continued to be designated as the ‘President’, Under Section 22(5) of the Act of 1935, it was provided that the provisions of this section should apply also in relation to the Federal Assembly as they apply in relation to the Council of States with the substitution of the titles “Speaker and Deputy Speaker”, for the titles “President and Deputy President” respectively, and with the substitution of references to the Assembly for references to the council. Thus the Government of India Act of 1935 sought to designate the Chief Presiding Officer of the Federal Assembly as the “Speaker”. But this changed designation did not come into effect as the Federal part of the scheme remained unimplemented. It was left to the constitution to finally change the designation from the “President” to the “Speaker”.

### **Patel’s Successors:**

Following President Patel’s resignation, there was a succession of Presidents who presided over Assembly’s deliberations. The first to come for a short while was Md. Yakub (1930-31), who had been Deputy President for a few years. He was the President until the Third Assembly was dissolved. During the few days on which he presided he gave complete satisfaction to all parties by his impartiality and keen desire to make himself a success in the Chair. After him Ibrahim Rahimtoola (1931-33) was elected. He did not keep good health and

had to resign. Then came Shanmukham Chetty (1933-34). It was difficult to say whether he was a success or failure in the Chair. Elected to the Chair with no other record than that he was its Deputy President for some time and that he was one of India's delegates to the Ottawa Conference, he had to show by his work in the Chair that the honour conferred upon him was deserved by his abilities. There was more eloquence than clarity in the rulings that he gave from the Chair. It seems that the elected members of the Fourth Assembly had not much admiration for their President. Chetty's career in the Chair came to an end with his defeat in the elections of the Fifth Assembly. Finally, there was the long tenure of Abdur Rahim (1935-1945). Abdur Rahim was always anxious to uphold the authority of the Chair. In his time a great controversy arose about the action of Deputy President who exercised his ordinary vote during a division on an amendment.<sup>18</sup> He ruled that the action of the Deputy President was not correct; while he was occupying the Chair he should not have exercised his ordinary vote. His opinion was subsequently criticized in a statement to the press by Bhula Bhai J. Desai and M.S. Aney.<sup>19</sup> President Rahim took a strong objection to the statement and said that unless the matter was settled to his satisfaction he would raise the question in the House and take such action as he might consider appropriate in the circumstances. Ultimately, after a conference between the various leaders of the Parties, it was agreed and stated in the Assembly that it should not be proper for any member of the House to criticize directly or indirectly outside the House any ruling given, opinion expressed or statement made by the President in the discharge of his duties.<sup>20</sup>

### **Mavalankar as the President of Central Legislative Assembly, 1946-47:**

Writing about the significance of G.V. Mavalankar's election, Morris-Jones rightly points out that "a succession of Presidents during the 1930's and 1940's maintained the gains which Patel had made, but the period of consolidation gave way to a new period of development only in 1946 with the election of Mr. Mavalankar. His election itself was an event of some excitement"<sup>21</sup>. The Congress Party decided to put up a candidate of its own choice. G.V. Mavalankar as Speaker of Bombay Legislative Assembly was held in high esteem for his political impartiality and judgment. Therefore, the Congress Party sponsored Ganesh Vasudev Mavalankar as its nominee. The reaction in official circles was different. They recalled the days of President Patel. M.N. Kaul described their reaction in the following words: "I felt I was at close quarters at that time that there was a panic in the official circles and they resolved to a very retrograde step by putting Mr. C. Jahangir as the Government candidate"<sup>22</sup>. The Government nominee was assured of the Muslim League's support and the Government appeared to be confident of the result. In fact, Mavalankar won by 66 votes to 63. In the recent development of the position of the Speaker, the personality of the man who held the position of Presiding officer from the last days of the central Assembly of 1946, through the Constituent Assembly (Legislative) of 1947-49 and the Provisional Parliament of 1950-52, to the House of the People of 1956, has played an important part<sup>23</sup>

### **The Presiding Officer of the Constituent Assembly of India (Legislative):**

The transitional provisions relating to the functioning of the Central Legislature as contained in Paragraph 63 of the 9<sup>th</sup> Schedule to the Government of India Act, 1935, remained in force till the 14<sup>th</sup> August, 1947. Section 22 of the Government of India Act, 1935 was brought into operation after Independence by the India (Provisional Constitution) Order, 1947, issued

by the Governor-General on the 14<sup>th</sup> August, 1947, under the Indian Independence Act, 1947, but provisions relating to the Deputy Speaker contained in it were omitted.

Under the Independence of India Act 1947, the Central Legislative Assembly and Council of State ceased to exist after August 14, 1947, and the Constituent Assembly of India which had been functioning since December 9, 1946 for the purpose of framing a constitution was empowered to function as the Legislature for the country.

It was, however, felt that it would be desirable to maintain the distinction between the constitution-making function of the Constituent Assembly and its ordinary function as a legislature. In this connection the President of the Constituent Assembly (Dr. Rajendra Prasad) suggested<sup>24</sup> to House that a small sub-committee should be appointed for the purpose of going into this question, and for making suggestions in regard to the rules which would guide the house. The House having agreed, a committee under the Chair-manship of Mavalankar was appointed on August 20, 1947. On August 29, 1947, after considering the Mavalankar's Committee Report, the Constituent Assembly resolved that the business of the Assembly as a constitution-making body should be clearly distinguished from its function as the Dominion Legislature and a provision should be made for the election of a Speaker to preside over the Assembly while functioning in the latter capacity.<sup>25</sup>

In accordance with the aforesaid Resolution, the Indian Legislative Rules in force immediately before the establishment of the Dominion of India were modified and adopted by the President of the Constituent Assembly.

The Constituent Assembly (Legislative) as a distinct body met for its Sitting in the Assembly Chamber on November 17, 1947, with the President of the Constituent Assembly (Dr. Rajendra Prasad) in the Chair. Welcoming the members to the first session of the Constituent Assembly (Leg.), Dr. Prasad observed:

“As you are aware, under the Independence of India Act the Legislative Assembly as well as the Council of State ceased to exist after the 14<sup>th</sup> August last, and the functions of both Houses were to be carried on thereafter by the Constituent Assembly. This is the first occasion when the Constituent Assembly has met for that purpose. It was felt that it would be desirable to maintain the distinction between the constitution-making function of the Constituent Assembly and its ordinary function as a legislature. For that purpose it was thought desirable to have some one to preside over the deliberations of the Assembly when it did its work as a legislature because of certain anomalies which had arisen on account of my being the President of the Constituent Assembly and also a member of the Government. You have, therefore, now to proceed to elect a Speaker, who will be independent of the Government and carry on the functions of the Speaker and preside over your deliberations”<sup>26</sup>.

Only one nomination, that of G. V. Mavalankar, had been received for the office of the Speaker. He was, therefore, declared as duly elected. Dr. Rajendra Prasad vacated the chair which was then occupied by Speaker Mavalankar.

The Speaker of the Constituent Assembly (Leg) continued as the Speaker of the Provisional Parliament on the commencement of the Constitution by virtue of Article 379.

### **Present Constitutional Status**

Article 93 of the Constitution of India now provides: “The House of the People shall, as soon as may be, choose two members of the House to be respectively Speaker and Deputy Speaker thereof and so often as the office of the Speaker or Deputy Speaker becomes vacant, the House shall choose another member to be Speaker or Deputy Speaker, as the case may be”.



The Constitution of India (Articles 93 and 94) thus contains provisions relating to the Speaker and Deputy Speaker analogous to Section 22 of the Government of India Act, 1935, except that under Article 112 (3) (b) their salaries are now charged on the Consolidated Fund of India and that they have to address the letter of resignation to each other and not to the President.

Thus, along with the development of a truly representative legislature in the country, the evolution of the Speaker's office to its present status and dignity has been gradual. It is only in the last forty years that this office has been consistently held by a person independent of the Executive Government. short to permit the full growth of any indigenous traditions or conventions. Consequently, Indian Speakers have to look to and be guided by the noble standard set by the British model."<sup>27</sup>

### NOTES AND REFERENCE:

- 1) S.S. More: Practice and Procedure of Indian Parliament, p.67.
- 2) The charter at of 1953 Sec.23.
- 3) Legislative Council. Proceedings, Vol. I (1854-55), p.840.
- 4) The Indian Council Act, 1861; Sec. 15
- 5) Lord Dadlhouseie's Diary: October 12, 1854. p. 289
- 6) Maya Dube: the speaker in India p.9
- 7) S.S.More : op, cit., p.69.
- 8) Report on Indian Constitutional Reforms (1918)
- 9) Ibid., p. 152.
- 10) Ibid., p.177.
- 11) P. Mukherji: The Indian constitution, P.259.
- 12) W.H. Morris-Jones: Parliament in India, p.264.
- 13) Ibid., p. 265
- 14) Ibid., p. 266
- 15) Report of the Indian Statutory Commission, Vol, I. p.164
- 16) Maya Dube : the speaker in India p.16
- 17) Report of the Indian Statutory Commission, Vol. I, p.226
- 18) Legislative Assembly Debates, 12-9-1938, p. 2035
- 19) Ibid., 8-9-1938, pp.1866-67
- 20) Ibid., 12-9-1938, p.2035.
- 21) Maya Dube : the speaker in India p.17
- 22) M.N.Kaul: 'Dignity and Independence of the Chair'. The Hindustan Times, dated 31<sup>st</sup> January, 1954.
- 23) Morris-Jones: op. cit., p.266.
- 24) Maya Dube : the speaker in India p.18
- 25) Ibid., p.19
- 26) Ibid., p.19
- 27) S.S.More, op, cit., p.70