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Provisional rules of procedure for the Consultative Assembly

Report
Committee on Rules of Procedure, Immunities and Institutional Affairs
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1. REPORT

It is perhaps easier to sketch the future in vague outline, than to define in detail here and now the normal operation of an international Assembly of a nature hitherto unknown.

This latter modest and delicate task fell to the Committee on Rules of Procedure and Privileges, and difficulties at once arose for an Assembly, whose governing had to be subordinated to the provisions of the Statute of the Council of Europe and whose first Debates had been judiciously prepared from a set of provisional Rules of Procedure, the operation of which was intended to achieve, on the one hand, a certain workability through the day-to-day activity of the Assembly and, on the other, a certain harmony with the prerogatives conferred on the Committee of Ministers.

Preliminary questions, and questions as regards methods of work were naturally raised before any real examination of the Rules of Procedure themselves could be undertaken.

It was first of all necessary, in view of an urgent request, for the Committee on Rules of Procedure to consider the preliminary question of the right of vote of the Chairman of a Committee. Should he, like the President of the Assembly, regard himself as being above the Debate, and have his seat in the Committee filled by a Substitute? Should he, in case of an equality of votes, have an additional vote? Was the Continental Procedure to be adopted, that is, should the Chairman of a Committee be entitled to vote, but only to vote once, no matter what the circumstances may be? The Committee on Rules of Procedure decided in favour of the latter solution, and thus enabled all the Committees to proceed with their regular work.

Having had to delay its work in order to decide this question of precedent, the Committee on Rules of Procedure had next to find a solution for three problems of a special nature.

It was working under the higher control of the Statute of the Council of Europe. How was it to reconcile its rights derived from the Regulations with this superior right of international origin? The question was all the more delicate as it became apparent in the first few Sittings of the Assembly that the Statute itself was possibly also in process of evolution. Some members, in view of these difficulties, wished to refer the examination of the Rules to a Committee of experts; others advised that the examination should be confined to the Articles which were not directly derived from the Statute. It was only after long discussion that the Committee on Rules of Procedure was able to decide to examine the Rules, Article by Article, irrespective of the relation of Articles to the Statute, while at the same time strictly respecting the provisions of the Statute, wherever the latter already contained a ruling on the point in question.

Concerning the provisional Rules of Procedure, a work which was undoubtedly well done, precautions of exactly the opposite kind had to be taken. The provisional Rules of Procedure had been drawn up before a meeting of the Assembly took place and were inspired by a certain apprehension regarding the desire by the latter for independence, and they were therefore more restrictive in respect, of the rights of the Assembly than was the Statute, itself.

The Committee had to examine minutely the existing possibilities for achieving greater flexibility apart from the provisional Rules of Procedure.

Finally, at the side of the Assembly there is the Committee of Ministers, together with many Articles of the Rules of Procedure governing the relations of these two organs. Would it be possible to undertake to draw up rules in which the Committee was an interested party without previous consultation with the said Committee? Before this could be decided upon, an understandable réserve had to be overcome.

In short, before defining the duties of the Assembly the Committee desired to formulate an exact definition of its own.

In spite of so many preliminary questions and problems with regard to methods of work, the Committee nevertheless studied the first Chapters of the provisional Rules of Procedure (Articles 1-9) very thoroughly at a first Reading and later, as a result of the incident mentioned by Mr. Dalton, debated Chapter III, Article 12, relative to Public Order in the Chamber and Galleries.

In order that the extent of the work accomplished may be appreciated, we will give some examples of the difficulties encountered.

With regard to the convocation of the Assembly, the provisional Rules of Procedure had modified and dissociated, in different Articles, the Rules laid down in the Statute. The Committee reestablished them in the same form as in the Statute and reassembled them so that Representatives of the Assembly might have a clear and complete guide where, by means of variation in typography, it would be possible to distinguish between what was taken from the Statute and what had been added by the Committee.

Article 1, with regard to the convocation of the Assembly in Ordinary Session, reiterates Article 32 of the Statute. Nevertheless, the Committee expressed a wish that there should be an important modification whereby direct and personal convocation notices should be sent to Representatives. According to the existing provisional Rules of Procedure, convocation is by means of notice to Members (that is, States), these latter being required to transmit them personally to Representatives and to their Susbstitutes, except in circumstances outside one's control (that is to say: in cases of uncertainty concerning the names of Representatives by reason of recent elections), so that the latter may be advised personally at least two months before the date fixed for the opening of the Session.

Article 2, concerning the convocation of the Assembly to an Extraordinary Session, reiterates Article 34 of the Statute, but the Committee wished to dispense with the limitation to one month's duration imposed with regard to Ordinary Sessions. It was considered that the limited scope of these Extraordinary Sessions would in itself limit duration, and the Committee therefore wished it to be merely stipulated that the Extraordinary Sessions should be closed when the Assembly had exhausted its Agenda.

In Article 3 of the provisional Rules of Procedure, concerning the place of meeting of the Assembly, the Committee reiterated Article- 33 of. the Statute which laid down the conditions to be observed.

As Article 4 of the provisional Rules of Procedure has thus been robbed of its substance (paragraph 1 having been incorporated in Article 1, and paragraph 2 in paragraph 2 of Article 2 of the new Rules of Procedure) the Committee has thus summed up, in three Articles of the new Rules of Procedure, the rules for the convocation of the Consultative Assembly in Ordinary or Extraordinary Session.

Every Assembly should have a Bureau, provisional in the first place to get the work started, and later in a permanent form to guide the Debates during the whole of the Session.

It was easy to agree on the provisional Bureau: the oldest and three youngest members were to form the Bureau (Article 5) and the examination of credentials was the only matter carried out under its supervision (Article. 6). In these two matters, the Committee has not diverged from the provisional Rules of Procedure.

In the matter of appointing the permanent Bureau (Article 7), it was not so easy to reach agreement. Although it was easy to reach a unanimous decision to increase the number of Vice-Presidents from four to six, there was disagreement between the British and Continental customs in the matter of having in the Bureau either elected Representatives known as "Secretaries" or, on the other hand, officers appointed by the Assembly for impartial supervision of voting and the Minutes of Sittings.

Agreement was reached through goodwill being shown on both sides; the French Representatives gave up their traditional custom of having Secretaries elected by the Assembly, while the British Representatives agreed to use in the English text the word "Bureau", which does not exist in their Parliamentary customs.

There will thus be one President, six Vice-Presidents and no Secretaries in the Bureau of the Assembly as finally constituted.

The election of this final Bureau was arranged (Article 8) on simpler terms than those laid down in the provisional Rules of Procedure.

In the election of the President and the six Vice-Presidents three ballots may be taken, of which the first two would require election to be by an absolute majority of the votes cast, while the third would require only a simple majority, that is, that the successful candidate should receive more votes than anyone else.

As regards the election of Vice-Presidents, no new nominations would be accepted after the first ballot, but otherwise, as distinct from the provisional Rules of Procedure, no further limit would be set to the number of candidates.

A clear set of Rules in the new Article 8 thus replaces those set out in the provisional Rules of Procedure for the election of the final Bureau.

As may easily be guessed, the Committee was unable to finish its work. Since the provisional Rules of Procedure contained fifty articles, there is still much work to be done before they are completely revised.

In order to complete this indispensable task before the beginning of the next Session, and taking into account the latest extension of the Statute which has just been considered by the Assembly in plenary Session in agreement with the Committee of Ministers, the Committee proposes the following Resolution:

"The Assembly shall set up a Sub-Committee of the Committee on Rules of Procedure and Privileges, consisting of six members, including, of necessity, the Chairman, Vice-Chairman and Rapporteur of the said Committee, whose task shall be to prepare, by means of all necessary contacts, a draft for final Rules of Procedure which will be submitted to the Assembly."