

CHAPTER XXI

PRESIDENTIAL AND VICE-PRESIDENTIAL ELECTIONS

Article 54 of the Constitution provides that the President of India shall be elected by the members of an electoral college consisting of the elected members of both Houses of Parliament and the elected members of the State Legislative Assemblies. The procedural law governing the elections to the offices of the President and the Vice-President of India is contained in the Presidential and Vice-Presidential Elections Act, 1952, and the Rules made thereunder.

Term of office. Articles 56 and 67 of the Constitution provide that the President and the Vice-President shall each hold office for a term of five years from the date on which he enters upon his office. Articles 62 and 68 of the Constitution require that an election to fill the vacancy caused by the expiration of the term of the President or the Vice-President shall be completed before the term expires. The term of office of both the President and the Vice-President of India was due to expire on the 12th May, 1957. Elections were completed before that date to fill the impending vacancies.

ELECTION OF THE PRESIDENT

Qualifications for candidature.

Any citizen of India who has completed thirtyfive years of age and is qualified for election as a member of the House of the People is eligible for election as the President of India. The election of the President is held in accordance with the system of proportional representation by means of the single transferable vote and the voting is by secret ballot. As soon as the elections to the House of the People and the Legislative Assemblies were completed, a list of the members elected to these was prepared by the Election Commission. Some members had been elected simultaneously to the House of the People as well as the State Legislative Assemblies while some sitting members of the Council of States had been elected either to the House of the People or to the Legislative Assemblies. Under the law, every such member had to vacate one of the seats held by him and consequently a number of vacancies occurred in the different Houses. The Election Commission took immediate steps to fill these vacancies as far as practicable before the date of poll fixed for the Presidential election.

Returning and Assistant Returning Officers.

Shri S. N. Mukherjee, Secretary of the Council of States was appointed by the Election Commission as the Returning

Officer for the election of the President and the Secretaries of the State Legislative Assemblies were appointed as Assistant Returning Officers in their respective States. In addition, two Under Secretaries of the Council of States were also appointed as Assistant Returning Officers to assist the Returning Officer at New Delhi.

The following programme fixing the various stages of the election was published on the 6th April, 1957 :—

Programme for election.

- (a) the 16th April, 1957, as the last date for making nominations;
- (b) the 17th April, 1957, as the date for the scrutiny of nominations;
- (c) the 20th April, 1957, as the last date for the withdrawal of candidatures; and
- (d) the 6th May, 1957, as the date for taking the poll, if necessary.

The Returning Officer fixed 11 a.m. on the 17th April, 1957, for the scrutiny of nominations. Nomination papers had been received in respect of 5 candidates. Of these, the nomination papers of two candidates were rejected by the Returning Officer after scrutiny. There were, therefore, three validly nominated candidates who contested the election. These were—

Scrutiny of nominations.

- (1) Dr. Rajendra Prasad of Rashtrapati Bhawan, New Delhi.
- (2) Shri Nagendra Narayan Das of Gauhati, Assam.
- (3) Chowdhry Hari Ram of Rohtak, Punjab.

On the 22nd April, 1957, the Election Commission issued the notifications appointing the places and the hours of poll for the election. The Parliament House in New Delhi and the Legislative Assembly building in each State were appointed for taking the poll. The polling hours were fixed to be from 10 a.m. to 4 p.m.

Places and hours of poll.

For the purpose of securing uniformity in the scale of representation at the election of the President as amongst the Union, the different States and the Union territories, article 55 of the Constitution has provided that the number of votes which an elected member of Parliament or of the Legislative Assembly of a State is entitled to at the election of the President shall be determined in accordance with a formula on the basis of the prescribed arithmetical calculations which take into account the population of each State and the total number of the elected members of each Assembly and the Parliament. The number of

Number of votes of each elector.

votes to which each such member was entitled was found on calculation to be as follows :—

<i>Name of Legislature</i>	<i>Number of votes for each member of the Legislature</i>
Parliament	496
<i>Legislative Assemblies</i>	
Andhra Pradesh	104
Assam	84
Bihar	122
Bombay	122
Kerala	108
Madhya Pradesh	91
Madras	146
Mysore	93
Orissa	105
Punjab	105
Rajasthan	91
Uttar Pradesh	147
West Bengal	104
Jammu and Kashmir	59

Ballot boxes and ballot papers.

The Election Commission arranged for the supply of ballot boxes to the Returning Officer and the Assistant Returning Officers in the States. Ballot boxes of a special design had been manufactured for use at the Presidential election in the year 1952. These ballot boxes were used also during the Presidential election in the year 1957. The Election Commission arranged to print the ballot papers in two colours, pink and green. The pink ballot papers were meant for use by the members of the Parliament while the green ones were for the members of the State Legislative Assemblies.

Arrangements for poll.

The Election Commission made suitable arrangements for enabling the members of the Legislative Assembly of each State to cast their votes in their own State in the premises of the State Legislative Assembly. A member of Parliament was given the option of voting either in the Parliament House at New Delhi or in the State from which he had been elected. In addition, the Commission issued special permits to accommodate 25 elected members of Parliament who had represented that they were unable to cast their votes either at New Delhi or in the State from which they had been respectively elected and requested for permission to vote in some other States. The members elected to the Parliament from the Union territories of Manipur and

Tripura were given the option to vote either at Calcutta or at New Delhi.

After the close of the poll in each State, the sealed ballot box, the sealed cover containing the key of the ballot box and the packets containing all other papers relating to the poll were sent by the Assistant Returning Officer to the Returning Officer at New Delhi under a special police guard. It was not necessary to issue any postal ballot paper to any elector in view of the fact that no member of Parliament or a State Legislative Assembly was under preventive detention on the date of poll.

Transmission of ballot boxes to Returning Officer after poll.

The Returning Officer counted the votes in the Parliament House, New Delhi, on the 10th May, 1957. Counting was completed on the same day and the total number of valid votes polled by the contesting candidates was as follows :—

Counting of votes and declaration of result.

1. Dr. Rajendra Prasad	..	4,59,698
2. Shri Nagendra Narayan Das		2,000
3. Chowdhry Hari Ram	..	1,498

Dr. Rajendra Prasad was declared duly elected to the office of the President of India on the 10th May, 1957. The notification announcing his election as President was published on the same day.

ELECTION OF THE VICE-PRESIDENT

Any citizen of India who has completed thirtyfive years of age and is qualified for election to the Council of States is eligible for election as Vice-President. The members of both Houses of Parliament assemble at a joint meeting to elect the Vice-President in accordance with the system of proportional representation by means of the single transferable vote. The list of electors for the Vice-Presidential election was prepared by the Commission. The voting is by secret ballot.

Qualifications for candidature.

A candidate for election as the Vice-President is required to be qualified for election as a member of the Council of States (and not the House of the People, as in the case of the President) apparently because the Vice-President is the *ex-officio* Chairman of the Council of States.

Shri M. N. Kaul, Secretary to the House of the People, was appointed as the Returning Officer for the election of the Vice-President and Shri N. C. Nandi, Deputy Secretary, Lok Sabha Secretariat, was appointed as the Assistant Returning Officer to assist the Returning Officer.

Appointment of Returning and Assistant Returning Officers.

On the 9th April, 1957, the Election Commission published the following programme for the election :—

Programme for election.

- (a) the 18th April, 1957, as the last date for making nominations;

- (b) the 20th April, 1957, as the date for the scrutiny of nominations;
- (c) the 23rd April, 1957, as the last date for the withdrawal of candidatures; and
- (d) the 11th May, 1957, as the date for taking the poll, if necessary.

Declaration of result. As Dr. S. Radhakrishnan was the only validly nominated candidate, the Returning Officer declared him to have been duly elected to the office of the Vice-President on the 23rd April, 1957.

Non-participation of the snow-bound constituencies in the Presidential election. On the date of the poll for the Presidential election, the Parliamentary constituencies in the Himachal Pradesh and the Kangra Parliamentary constituency in Punjab were still snow-bound in part and had not been able to complete the election of their members to the House of the People. For the same reason, the Kulu Assembly constituency of Punjab had not been able to elect its member to the Punjab Legislative Assembly. Although these constituencies had been called upon to elect members along with the other constituencies in the rest of the country, the poll had to be postponed by the Election Commission in these constituencies until the snow melted and a poll became practicable. Accordingly, the poll was yet to be held in these constituencies, when the Presidential election took place. As a result, these constituencies were deprived of the right and privilege of participating in the election of the President. If the election of the Vice-President had been contested, they would have been denied the opportunity of participating in that election as well.

Legal position. A Constitutional doubt was raised as to whether the Presidential election could be legally held before every constituency in the country had elected its member or members to the Legislative Assembly or the House of the People. The view was eventually taken that in view of the provisions of section 73 of the Representation of the People Act, 1951, the failure to complete the elections in the snow-bound constituencies and the resulting existence of vacancies in the House of the People and the Punjab Legislative Assembly on the date of the poll for the Presidential election did not affect the due constitution of the House of the People or the Punjab Legislative Assembly for the purposes of the elections to the offices of the President and of the Vice-President. These elections were accordingly held despite the existence of these vacancies. The Commission feels, however, that such a contingency should, if possible, be avoided in the future and the Houses of Legislature should be fully constituted before elections are held to these high offices.

The climatic conditions which necessitated the postponement of the poll in the snow-bound constituencies will create the same

difficulty on future occasions as well. There is therefore hardly any prospect of these constituencies completing their elections along with the rest of the country in any future general elections. It may be urged, of course, that the Presidential or the Vice-Presidential election may not for all time to come happen to take place as in the past immediately after the general elections inasmuch as a casual vacancy might arise sometime or other as a result of which subsequent Presidential or Vice-Presidential elections might take place somewhere about the middle of the term of the House of the People or the Legislative Assemblies. In such a case, the problem would no doubt cease to exist. This can, however, be only a fortuitous solution of the problem. It is accordingly desirable that the law itself should provide for some better solution of the difficulty than has been provided at present. It may be examined whether provision may be made, for instance, enabling the outgoing member or members representing any constituency which has not been able to complete its poll due to unavoidable reasons to vote at the Presidential and the Vice-Presidential elections as if they continue for this purpose to be duly elected members of the respective Houses of Legislature notwithstanding the fact that the Houses have been dissolved or have completed their terms. In the Commission's opinion, such a solution would be fairer and less anomalous than the present position in which several constituencies are deprived practically permanently of the right and privilege of participating in the elections to these high offices.