

Friday, 7th January, 1949

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**CONSTITUENT ASSEMBLY  
DEBATES  
OFFICIAL REPORT**

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## CONSTITUENT ASSEMBLY OF INDIA

*Friday, the 7th January 1949*

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The Constituent Assembly of India met in the Constitution Hall, New Delhi, at Ten of the Clock, Mr. Vice-President (Dr. H. C. Mookherjee) in the Chair.

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### Article 149—(Contd.)

#### DRAFT CONSTITUTION—(Contd.)

**Mr. Vice-President** (Dr. H. C. Mookherjee): We shall now resume discussion on article 149.

**Shri L. Krishnaswami Bharathi** (Madras : General): Mr. Vice-President, Sir, article 149 is under general discussion. Sub-clause (3) is very important. Mr. T. T. Krishnamachari has moved two amendments with a view to reduce the scale of representation to 75,000 per representative. The clause refers to a scale of not more than one representative for every lakh of the population and further the proviso limits the number of members to a maximum of 300. The effect of the amendment of Mr. Krishnamachari, if accepted, will be to have not more than one representative for every 75,000 and the maximum of the total strength of the House will be 500. It is very difficult to understand whether an increase in the number of members to a particular legislature will add to the efficiency of the Assembly. But certain major provinces like the U.P. and Madras have desired this increase, and it is perhaps well that we accept it, but at the same time, I would like to impress the need for not filling up the total strength or the maximum fixed.

Sir, in America, though the scale of representation is fixed at about 30,000 per representative, I understand, actually it is ten times that number. If for every 30,000 a representative were to be elected, the Senate will be somewhere about 4,000, but really it is much less, and therefore, it must be borne in mind that this is only a maximum and it is for the Provincial Legislatures concerned to fix the number. Some Honourable Members felt the need for adding certain more representatives if States accede or merge later on. I would submit it is not wise to exhaust the number—500—and then ask for more. The wiser course will be to reduce the number, say to 450, at the initial constitution and then, if certain States merge later on after the Assembly is constituted, to provide for them. That will be a better course instead of adding further provisos to the clause.

Mr. Krishnamachari yesterday said that the idea of reducing the number to 75,000 is with a view to provide for backward areas, that is to say, the proportion in certain backward areas will be less; that is, in those areas there will be a representative for every 75,000 whereas in other areas naturally the proportion will be much higher. While I perfectly sympathise with the idea we should not, I feel, Sir, allow any loop-hole for gerrymandering later on. We have already had a similar provision in article 67, where we have stated that there shall be uniformity of representation throughout India. I would very much like, Sir, that within a province there must be uniformity as far as practicable in the scale of representation, that is to say, the variation ratio between the number and the total population in one particular constituency

[Shri L. Krishnaswami Bharathi]

shall as far as practicable, be uniform throughout, that particular State or Province. It is not absolutely possible to have mathematical uniformity. We cannot have 82,824 everywhere. It is necessary that we will have some variations, but that variation shall not be so great. It cannot be 75,000 in one constituency and two lakhs in another constituency.

**Shri S. Nagappa** (Madras : General): Not two lakhs but a lakh and fifty thousand.

**Shri L. Krishnaswami Bharathi** : There is no lakh and fifty thousand here. The principle of uniform scale of representation should be adopted. As far as practicable, there shall be uniformity. Sir, with the maximum of 500, I have certain figures. In the United Provinces the ratio of representatives will be a lakh and ten thousand per seat. In Madras it will be 98,682 per seat on an average, if we exhaust all the 500 seats, which is very unlikely; if the number is reduced, the proportion will be increased. I think though there is the scale of 75,000, both the U.P. and Madras cannot have the advantage because if they have 75,000, the maximum will be exceeded, and therefore, we have a lakh and ten thousand in the U.P. and 98,682 in Madras, per seat.

Sir, no doubt Mr. Krishnamachari said that it is with a view to provide for certain backward areas. I am afraid that cannot be introduced into the Constitution with this principle I mentioned in view.

I must inform this House of certain important matters in this connection. Madras is a composite province, consisting of 4 linguistic areas, the Andhras, Tamils, Malabar and Canarese. Sir, there are five districts, known as Rayalaseema in the Andhra part, which are really backward and which deserve every encouragement. There has been some understanding between the two groups of Andhra areas with reference to this matter. Rayalaseema consists of five districts, Bellary, Cudappa, Anantapur, Kurnool and Chittoor. There is another group called the coastal districts consisting of five or six districts, Vizagapatam, East Godavari, West Godavari, Kistna, Guntur and Nellore. In 1937, there was a kind of understanding between these two groups under which Rayalaseema, the famine stricken area, shall have equal representation on the basis of district. Sir, it has to be mentioned that these districts are sparsely populated and they very rightly claimed weightage, and came to some kind of understanding. We have it from the report of the Linguistic Provinces Commission that this matter has not been finally agreed to by the two groups. I do not want to go into the details of the question. I am only submitting that it is only with a view to provide for these backward areas that this limit is reduced. So far as I am concerned, it must be entirely a matter between the Andhras themselves to decide and into which I shall not go. But so far as other areas are concerned, if these five districts, the famine stricken districts of Rayalaseema are given representation at the rate of 75,000 per seat, and other areas have to provide otherwise, the ratio will be 107,000 per seat. I have worked out certain figures. They will show that Rayalaseema will get 116 seats, the rest of the Andhras will get 118 seats, Tamil Nad will get 216 seats, Malabar 36 seats and South Canara 14 seats on this basis. On this scale of representation, the balance will be entirely upset by this. That is to say, the Andhra group will get 234 seats whereas Tamil Nad will get 216 seats; the population of Andhras is twenty millions and that of the Tamils is twenty-three millions. So, all these things will raise difficulties. It is not in this province alone that we come across this difficulty; I am told similar is the case in other provinces. An honourable Member was telling me that in Bombay there are certain areas which are backward. It is just possible that there are other backward areas also. If we introduce this kind of thing, it will bristle with difficulties and it is not very good that we have it in the Constitution. At the same time, we must have

this principle. If this cannot be introduced, at least, we must inform the proper authorities, the Delimitation Committee that as far as practicable, there shall be uniformity throughout the State. That is the most important thing and therefore though I have great sympathy with the backward areas I support the amendment moved by Prof. Shibban Lal Saksena.

**Shri Kuladhar Chaliha** (Assam : General): Sir, it is really difficult to follow the argument of the previous speaker. We have our own difficulties in our province. For certain reasons, the last census was made in a way which did not show exactly what the population was. It was manipulated in such a way that the party in power had the figures according to their wish. In fact, there was inflation of certain communities and the figures were manipulated in such a way that the correct figures did not come out properly. It was like this: the General community was so reduced that it became only about 39.2 per cent. We find that the Tribal community went up as far as 29 per cent., the Muslims about 22 per cent. and the Scheduled Castes about five per cent. If a proper census is taken, probably, the General community would be further increased. Therefore, a census is necessary to be taken in Assam as well. I support Mr. Lakshmi Kanta Maitra that a new census should be taken in Assam; otherwise, the General community will suffer very severely and grievously.

It is necessary that in the fixing of seats and in the allocation of seats to different communities we should be fair and just to everybody. In the last census the figures were so manipulated that the General community has become a minority in Assam and if reservations are to be given with so-called minorities then, I think, they would be further reduced and they will have no proper place in the Constitution. It is like this. The General community has already suffered in the last census taken by the party in power. If reservations are going to be given to the tribal and other people who have not got the necessary number, seats will be taken out of the General community and the majority will be reduced to such a minority that they will have to be protected and they will have to be given reservation. I therefore request the House to take this into consideration that a new census should be taken in Assam also.

Apart from that, there has been a certain amount of immigration from Eastern Pakistan and West Bengal. There are certain Scheduled Castes and members of other communities who have also to be properly enumerated. There are a certain number of people who just go there for a few months and come back from Eastern Pakistan. We should ascertain the number of these people who go there simply for the purpose of earning something in the tea estates and other places. If without ascertaining these things, seats are given then probably we will be doing an injustice to the General community and other communities. I request the House that proper census be taken for Assam also and Assam be included in the census for which an amendment has been given by Mr. Rohini Kumar Chaudhari.

**Shri S. Nagappa:** Mr. Vice-President, Sir, this is a very important point especially from the point of view of the representatives of Rayalaseema. I do understand according to the fundamental principles, one cannot ask for weightage but this is not a communal weightage. We are not asking as a matter of social backwardness or political backwardness but this is economically an area that has been backward for centuries and ages and that is why representation given to this area will enable the representatives of this area to fight for their betterment. That was one of the reasons why the people of Rayalaseema especially in Andhra Desa have agreed to a pact called the Sree Bagh Pact in 1937, and there they said the representation between Rayalaseema and the Circars will be in the ratio of 6:5. There are five districts in Rayalaseema and 6 in the Circars and these 11 districts have entered into a pact that representation should go, irrespective of population, on the ratio of 6:5 even in the Cabinet but that is a pact entered by only two sections of one and the same province.

**Shri L. Krishnaswami Bharathi** : Representation in the Cabinet is not in the Pact.

**Shri S. Nagappa** : We are not asking this representation from Tamil Nadu. Now according to the principles laid down in the constitution here the representation will be given to Madras province and out of that there will be an Andhra quota. Out of this Andhra quota between Rayalaseema and Circars we will have our own agreement. For instance, if the Circars get a seat for every 125,000 for 75,000 the Rayalaseema may get one representative. It solves our problem. Why we ask this is because Rayalaseema is two-thirds of Andhra Desa in area but the population is only one-third.

**Shri L. Krishnaswami Bharathi** : That is not correct.

**Mr. Vice-President** : Please do not interrupt the speaker.

**Shri S. Nagappa**: From the figures here I can give my friend if he wants, the population of Circars is two-thirds and that of Rayalaseema one-third roughly, but the area in Rayalaseema is two-thirds of Andhra Desa.

This was the agreement we have entered into and I would request members to see that our agreement is respected. I do not claim this on broad principles; but it is due to the backwardness of the area economically and politically, that we have to claim this.

**Prof. N. G. Ranga** (Madras : General): Mr. Vice-President, we are all in favour of the general principle that so far as possible there should be no distinction within the same State, between one constituency and another, as far as its quota of representation in the local legislature is concerned. But at the same time there are certain special needs of certain areas based upon their social and economic conditions excluding communal considerations, religious considerations, any anti-national or unnational considerations in regard to which certain special provisions have to be made to enable the peoples of the politically and economically backward or underdeveloped areas to stand on their own legs and minimise the distinctions between them and the other more advanced areas if mere principles of uniformity were to be accepted. Sir, as Mr. Nagappa has just now told you, the representatives of these two sections of the Andhra Desa had met together in 1937 and come to an amicable settlement among themselves. I need not go into details in respect of population or their areas, but it is true that one area known as Circars is very thickly populated and the other area known as Rayalaseema is very thinly populated. The Circars is also economically a little more advanced and much less subject to famines than Rayalaseema. Therefore, these peoples have agreed among themselves that, from out of the usual quota of representatives that the Circars should be entitled to according to the principle of uniform representation as between one constituency and another, they would like to give away a portion and distribute it between these districts of Rayalaseema as per their own population basis. Now, this is an agreement that was reached when the Provincial Congress Committee was presided over by Dr. Pattabhi who happens to be the Rashtrapathi today of the Indian National Congress. I happen to be the President of the Provincial Congress Committee today, and I am bound to honour that agreement. It is the universal wish of all the Andhras to see that this agreement is put into practice and is honoured so far as practicable under the present conditions, constitutionally and politically. Small variations this side or that side may have to be made and the parties concerned will be quite agreeable to that but this much of weightage we are all agreed to give to Rayalaseema. How it is to be given in terms of this constitution is a ticklish problem. All these years we have been very much worried about it and it is because of this uncertainty the relations between these two areas have come to be a little strained, because it was felt by the representatives of Rayalaseema that quite possibly this House might stand in the way of the

implementation of the Sree Bagh Pact. But now that this House has already given its consent to the principle of a certain amount of variation in the total strength of the population as between different constituencies so far as the Central Legislature is concerned varying from 500,000 to 750,000 as between any two constituencies, there has arisen the hope in our hearts that quite possibly the House might be willing to make it possible for us to make a similar distinction between the constituencies of Rayalaseema on the one side and the Circars on the other. It is only reasonable on our part to ask for this much of consideration from this House for three reasons. One is, this distinction has already been agreed to so far as the Central Legislature is concerned. Another is, the people concerned in these two areas are within the Andhra Desa and have already agreed upon it and there has been no dissentient voice at all in regard to this matter and the acceptance of this will only be conducive to the development of better relations between these peoples and greater contacts between them; and after all this House is interested in fostering more and more co-operation between the different sections of people in any one State than in simply sticking to some dull principle of uniformity and then not swerving this side or that side and not making any special provision in favour of any one area within this country. Thirdly, this House also accepted the advisability of making such exceptions when it has made this exception in the case of Assam. Assam also is faced with a similar difficulty so far as the tribal people are concerned. There, in the so-called autonomous tribal areas certain special provisions are made in this constitution in order to protect their interests and in order to safeguard or assure their orderly and speedy progress in the near future.

Sir, for the above three reasons, I appeal before this House, and also before those who are responsible for the drafting of this Constitution, and for helping us in drafting the various alterations we are deciding upon, to accommodate these special needs of Andhra, and thus to help us in looking after the special interests of Rayalaseema, and thus bring about greater harmony between these people.

Sir, I have to state only one more fact. The most important consideration that was placed before the Linguistic Commission which visited our areas recently is this. Some of the representatives of the Rayalaseema urged for the immediately formation of the Andhra Province and for the implementation of the Sree Bagh Pact, so far as it is practicable under the present circumstances, in the manner that may be accepted by this House and by Parliament so that it would be possible for the Rayalaseema people also to wipe out all the differences that there may be, between the Circars and the Rayalaseema. If you were to remove the difficulties that stand in the way of their coming together, then I can assure you that so far as this particular area is concerned—and it is nationally separated even now from the rest of the province, or State of Madras,—it will be possible for the Central Government to create this Andhra province without any difficulty whatsoever,—social, economic, religious or financial or any other difficulty. Therefore, I urge most sincerely before this House the advisability of making a special provision in the case of this area, just as it has already agreed to make a special provision in the case of Assam.

Thank you, Sir.

**Shri Deshbandhu Gupta** (Delhi : General): Mr. Vice-President, Sir, my Friend Pandit Thakur Dass Bhargava has already given arguments in favour of taking census of East Punjab and West Bengal before the next elections take place. I do not wish to take the time of the House, therefore, by elaborating the arguments which he has already advanced yesterday. I only wish to point out that Delhi falls under the same category as East Punjab and West Bengal.



**Pandit Thakur Dass Bhargava** (East Punjab : General): I mentioned that also.

**Shri Deshbandhu Gupta:** Thank you. Delhi too is in the same category because not only has there been exodus of many Muslims from Delhi to Pakistan, but Delhi is particularly affected by the large number of people who have come from Pakistan and who are now living in Delhi. Perhaps, Delhi is the only city whose population has been almost doubled by these changes of populations. According to the last census, the population of Delhi was about nine lakhs, whereas it is believed that at present the population is somewhere near 19 lakhs; taking the city alone it is about 15 lakhs. It is only fair, therefore, that when this question is concerned, Delhi's claim should not be ignored, and that it should be treated in the same manner as West Bengal or East Punjab.

Sir, I have nothing more to say, except that whatever assurances are given and whatever methods are adopted by Government for the satisfaction of East Punjab and West Bengal, for assessing the present populations of these areas which have been affected by the partition of India, the same methods should be made applicable in the case of Delhi as well.

**The Honourable Shri Gopinath Bardoloi** (Assam : General): Mr. Vice-President, Sir, I am speaking in reference to the amendment of Pandit Thakur Dass Bhargava, in respect of the census in East Punjab and West Bengal. I am sorry to point out that although in this House several references have been made regarding the population of Assam, the case of Assam was not taken into consideration along with those of East Punjab and West Bengal. Mr. Chaliha has just now spoken about the population position in Assam, under the last census. The last census was strongly opposed by the Congress Party in the Assam Legislature in 1941 on the ground that it did not actually represent the actual population strength of Assam. Now, things have very much changed under the partition arrangements and in the altered circumstances that have come into existence in the meantime. According to the official figures that we have got, about three to four lakhs people have come from East Bengal as refugees in the same way as large numbers have come from.....

**Mr. Vice-President :** May I ask the honourable Members there to take their seats?

**The Honourable Shri Gopinath Bardoloi :** People have come into Assam in the same way as people from West Punjab have come to East Punjab and people from East Bengal have gone to West Bengal. A population of four lakhs is not a small number, and to exclude them from any representation would, I believe be a grievous wrong, and it would be unjust. I therefore, suggest that Dr. Ambedkar be pleased to accept, in the category of East Punjab and West Bengal, Assam also. It is more or less, a formal amendment and the facts I have submitted have already been placed before the House. I have only to repeat my request that Assam also may be included in the category of East Punjab and West Bengal. I consider that any attempt at representation, without taking into consideration the inequity of the last census, as well as the populations that have come into Assam in the meantime, would be something which should not be tolerated. In view of this, Sir, I beg to submit that my proposal to include Assam with East Punjab and West Bengal be taken into consideration.

**Shri Kallur Subba Rao** (Madras : General): Sir, I wish to make a few remarks on this subject as I come from Rayalaseema districts. If the constitution-makers had provided in this article for maximum and minimum population strength for a seat, as they have done in the case of representation of the States in the People's House, it would not have been necessary to speak on this occasion at all. You have provided 75,000 as the minimum, but

have not set any upper limit. The difference between the Rayalaseema people and the Andhras is only about this. The Ceded districts are famine districts and are known to be so from the beginning of history. They comprise mainly mountainous areas. I represent a constituency or a taluk which is the largest in area or size with the lowest number of people. Even if you fix the minimum at 75,000 population for a seat, the voters of a constituency like mine would have to go 15 miles to the nearest polling booth to exercise their franchise. That is why we want that, on the population basis, the Ceded districts must be given more representation. And they are economically and politically backward. This drawback of the population of the Ceded districts has long ago been recognised and an agreement reached between the Andhras of the Circars and the Rayalaseema people. This arrangement does not affect Mr. Bharathi or the people of Tamil Nad. We are not going to deny the right or representation of Madura to Mr. Bharathi. We are only considering the representation of the Andhra area and whether Rayalaseema should get more and Circars less under the agreement. That is why we request the House to make a provision for upper limit so that in the State that is going to be formed, there may be amicability and agreement. There is no question of Rayalaseema being against the Andhra province. But the difficulty is one of representation. The population of Rayalaseema is 60 lakhs and that of the Circars is 125 lakhs. I request the House to accept the amendment.

**Dr. B. Pattabhi Sitaramayya** (Madras : General): Mr. Vice-President, Sir, I am sorry to have to intervene in this debate which has proved to be a somewhat controversial one. But, as one intimately connected with that part of the country around which the controversy has centred, I feel it my duty to say what we all exactly feel in the matter. There appears to be a little more in the controversy than appears on the surface. Whenever a controversial issue arises it is our habit of mind to say to the parties that are involved in it to come together, sit around a table and convince each other by easy arguments of love and not refer it to a third party for arbitration or adjudication. That is a noble principle. This noble principle has been adopted by the Andhra people. They are the second largest community in India, next to the Hindi-speaking people. Even leaving out the 85 lakhs of our people in the Nizam's territory whom we do not want to absorb unless they want to come in,—let there be no misunderstanding,—we who form three crores in all are about eighteen million in the Madras presidency in the northern part thereof. The Madras presidency has Madras as its capital and there, nearly half the population is Andhra and the other half is in the south of the city. They speak four different languages. In the Legislature of Madras, there is a babel of tongues. People do not understand one another. But that is a different matter.

Sir, we have been asking for a separate province for the last thirty five years. We were asked to wait till a National Government came to power. Though that National Government has now come into existence it appears that the claim for the division of Andhras appears to recede much further than ever before. Whatever it be, we have come to some kind of understanding amongst ourselves.

When I was President of the Andhra Provincial Congress Committee— an office which was thrust upon me—during the regime of the first Congress Ministry, we came to an understanding with the Ceded Districts or Rayalaseema on certain principles and on a very good basis. There it was a question of give and take. The people of the coastal districts, who are more advanced and who enjoy deltaic cultivation, are in every way more prosperous and have got the better of the people of Rayalaseema in trade, in commerce, in industry, in education and in public services, though the whole of the

[Dr. B. Pattabhi Sitaramayya]

Andhradesa itself is behind-hand, taken as a whole, when compared to the people of the southern part of the province. As between the two parts of the Andhradesa, the coastal regions are highly advanced and the other areas are highly backward. In these two parts, even the soil conditions are totally different. On our side you cannot even get a stone with which to drive away a dog, and on their side, you cannot get a clod of earth for any purpose what so ever. That side is stony and mountainous and its three-fifths of the area is inhabited by only about one-third of the population; and the rest of the territory, two-fifths in area is inhabited by two-thirds of the total population. Apart from the cultural, social commercial, industrial and economic advance, taking mere numbers into consideration, we are two times more numerous and more dense per square mile than they. If that be so, is it not a matter deserving the consideration of this House? Are you going to adopt your principles and your policies on the basis of the steam road-roller which levels down the tall oaks to the height of the short poppies? That is not desirable.

Sir, the other day, the case of Assam was presented to the House and the House was good enough to say, Well, we will make an exception in the case of Assam. There are four kinds of areas there. Therefore the rule of thumb does not apply. We cannot apply the same measure of representation to all the provinces of India. India is a huge continent with a variety of climates as well as surface and soil and civilization more or less. Therefore there are different degrees of progress in different areas. In those circumstances there must be some kind of elasticity in the methods and measure of representation employed. And what is the elasticity that we plead for? It is only this: Do not put the basis of representation as high as one lakh. Have 75,000 as the minimum so that the sparsely populated areas of Andhradesa may get 90 seats. When they get 90 seats, and for the rest of the area you have the quantum as one lakh, we will get 120 seats. By this means the disparity in representation between the two areas can be brought down and it will not be easy for the people of one area to override the interests of the people of the other area.

Now take the administration in the two areas. There is a complaint that one part of the country has not received that amount of attention which it is entitled to and therefore it has remained in a backward state. There is no tank-water or well-water to drink in that part of the country and perpetually famine reigns supreme. Almost every three years it has to be declared a famine area and operations costing crores of rupees have to be taken on hand. It would have been of great help if constructive endeavours had been made in time to ensure water-supply and other amenities in those areas. But nothing of that kind is done. Nobody listens to them. When the Andhra provinces comes into existence pretty large sums will have to be spent in that area. It is not an easy matter. But even so we have to give them help in order to bring their representation to a higher level. What is the good of India having self-government if the States are lacking in equal representation? I never considered India free so long as one Unit was under a despotic ruler. We have fortunately tided over that condition. What is the good of a province being considered independent when half of it, may two-thirds of it is backward, has no water to drink and no food to eat and is behind-hand both economically and educationally? We want to bring up the hilly areas of our country to the same level as ourseleves, even if progress in that direction may be slow. When that is the case, what is the meaning in the framing of a rule which will arrest the progress of the country? Therefore I say an off-hand solution may not be found helpful and in this behalf I wish to appeal to Dr. Ambedkar who has taken so much trouble in order to push this draft Constitution through this House. He has been circumspect, reasonable and eloquent and he has brought a comprehensive judgment to bear upon these

matters. We agreed day before yesterday to grant a seat for every 75,000 of the population. Unfortunately I had to go to Amritsar yesterday evening and came back this morning. In the meantime this amendment has come up. This amendment is harsh on one portion of the area. If it is not there, it would be harsh on the Punjab, it is said. Therefore the case of the Punjab has to be considered, the case of Assam has to be considered and the case of Andhra has to be considered. All these matters require attention. Make your rules therefore as elastic as possible. Give details attention to each of these subjects and then deal with them at leisure and not in a hurry. After all, for the preparation of the electoral rolls, all these details may not be necessary, though the furnishing of these details will greatly facilitate that task. Even if the electorates have to be formed, they can be formed in the month of May or June. We are in a hurry to prepare the electoral rolls and we must know the basis and we have passed a rule that twenty-one years should be the age limit. Therefore the provincial governments can go on with the preparation of their electoral rolls, but even if other points be necessary, I say, please take a little time and do consider and bring up this subject tomorrow so that we may have an agreed solution instead of trying to confuse the whole audience who may not be really able to grasp the full details or all the bearing of this subject. Beyond this, I will not say anything. Whenever we bring up a question, it is said, "Oh, let the Tamils and the Andhras agree". We agree. Then you raise the question, "Let all the Andhras agree". We agree. Then you say, "No this does not answer my rule of thumb." This kind of thing is meaningless and it looks as though the result, if not the intention, is to sidetrack the major problem. If the more advanced people say, "We do not want a seat for every seventy-five thousand or one lakh; we want a seat for two lakhs; we want to raise you to a position of equality with us", is it repugnant to your sense of justice? Is it repugnant to your political principles or administrative policy? I cannot understand that. Therefore please allow this matter to come up at leisure so that an agreed understanding may be arrived at.

**Mr. Vice-President :** So much goodwill has been shown to me by the House, so much kindness is bestowed on me that I suggest that I do not call upon Dr. Ambedkar to make his reply today but that we pass on to some other business, so that all the parties concerned may have an opportunity of putting their heads together and arriving at an agreed solution. After all, framing the Constitution is a co-operative effort and we must do all that we can to make it a success.

**Some Honourable Members:** Thank you, Sir.

### Article 63

**Mr. Vice-President :** We shall now pass on to article 63.

The motion is:

"That article 63 form part of the Constitution."

(Amendment Nos. 1339 and 1340 were not moved.)

Amendment Nos. 1341 and 1342 are disallowed as being merely verbal amendments.

Amendment No. 1343 standing in the name of Mr. R. V. Thomas. I understand that he is no longer a Member of the House.

Amendment No. 1344 standing in the name of Mr. Naziruddin Ahmad may now be moved.

**Mr. Naziruddin Ahmad** (West Bengal : Muslim): Mr. Vice-President, Sir, I beg to move—

“That for clause (4) of article 63, the following clauses be substituted, namely:

- (4) The Attorney-General shall retire from office upon the resignation of the Prime Minister, but he may continue in office until his successor is appointed or he is re-appointed.
- (5) The Attorney-General shall receive such remuneration as the President may determine’.”

Sir, I have brought in this amendment to make this clause similar to a corresponding clause which appears in the provincial constitution. The House may be pleased to consider article 145. In article 145 there is provision for an Advocate-General for each State.

I feel that arguments which I may advance should be listened to by at least one Member upon whom so much rests, but with the lapse of time and experience one has to grow a little indifferent to the effect his speeches really produce in the House. In fact I find that Dr. Ambedkar is engaged in a very much more important conference, a subject which must be much more important than the subject matter of this amendment, but I think it will be needless or useless for me to wait upon the pleasure of Dr. Ambedkar's attention, and I think I should go on with the amendment, trusting that the House may by some chance accept my view.

Sir, article 145 deals with the Advocate-General who corresponds to the Attorney-General at the Centre. Clause (1) of article 145 deals with the appointment of the Advocate-General. Clause (2) corresponds to clause (2) of the present article. Clauses (1) and (2) of article 145 really correspond to clauses (1) and (2) of the present article. Clauses (3) and (4) of article 145 are really important. Clause (3) provides that “That Advocate-General shall retire from office upon the resignation of the Chief Minister in the State, but he may continue in office until his successor is appointed or he is re-appointed.” Clause (4) provides that “That Advocate-General shall receive such remuneration as the Governor may determine.” The provisions of these two clauses do not appear in article 63. I submit, Sir, that the provisions of these two articles, 63 and 145, should be similar as they deal with two similar offices. One is the Attorney-General of India and the other is the Advocate-General of a State. The principle which I want to introduce by this amendment is that the position of the Attorney-General of India and that of the Advocate-General in the Provinces should stand on the same footing. In fact in the Provinces the Advocate-General is to form so much a part of the Ministry that on the fall or resignation of the Ministry he has also to retire. This is the principle in the U.K. where the Attorney-General has to retire along with the retirement of the Ministry. It is a wholesome principle that the Advocate-General forms part of the Ministry and stands or falls with the rise and fall of the Ministry. It is also necessary that the Advocate-General must function so long as he is not re-appointed or a successor to him is appointed, because routine work cannot otherwise be carried on by the Governor or any other officer, he being a specialist and his retention in office for that temporary period is desirable, and that he must receive a pay which the Governor may determine. I submit that a similar principle should apply to the Attorney-General of India. In fact he should also so much form part of the Government that he should also retire with the retirement of the Ministry. There is no reason why a difference should be made between the Attorney-General of India and the Advocate-General of a State. It may be, I do not know, that this difference was not intentional. It may be due to an accidental omission rather than deliberate policy. It is for this reason that I have attempted to draw the attention of the House to the difference and I suggest that the difference should be eliminated. As many honourable Members may not have any opportunity of considering individually

the difference between these two articles, I have pointed out the difference and I hope they will give the matter due consideration.

**Prof. K. T. Shah** (Bihar : General) : Sir, I beg to move:

“That in clause (4) of article 63, for the words ‘as the President’ the words ‘as the Parliament by law’ be substituted.”

The amendment if adopted would change the article to read :

“The Attorney-General shall hold office during the pleasure of the President and shall receive such remuneration as the Parliament may by law determine.”

I do not like even as it is the proviso of this article which would make the Attorney-General hold office during the pleasure of the President. But it may be that a convention would be established whereby the Attorney-General, as suggested in the preceding amendment, may form part of the cabinet, and may retire or take office along with the Ministry. If the constitution does not provide specifically to the contrary there is no bar to a convention of this kind developing and the Attorney-General ranking as the Chief legal adviser of Government, so that his office will technically be at the pleasure of the President.

So far as his emoluments are concerned, I think it would be proper if his emoluments are left not to be determined by order of the President, but by an act of Parliament as those of the Ministers. The President would, it is quite true, act on the advice of the Ministers; but even so the salary and allowances of the Attorney-General should be determined I think by an Act of Parliament, and should not therefore be varied in any particular term while, a given individual holds office, to the prejudice of that individual. I think the ground is perfectly simple and I hope the amendment will commend itself to the House.

**Shri Prabhudayal Himatsingka** (West Bengal : General) : Sir, I beg to oppose the amendments moved by Mr. Naziruddin Ahmad and Prof. K. T. Shah. The article as it stands is what should be accepted by the House. There is certainly difference between the Advocate-General of a province and the Attorney-General of India. Sub-clause (4) provides that the Attorney-General shall hold office at the pleasure of the President and I think that should serve the purpose. If there is a change in the Ministry that necessarily need not mean the going out of office of the Attorney-General also, but in the provinces with the change of ministry the Advocate-General should be required to retire unless he is appointed again. Therefore, I oppose the amendments moved and I support the article as it stands.

**Mr. Vice-President** : Dr. Ambedkar.

**Mr. Naziruddin Ahmad** : He has not listened. He is getting his instructions, Sir.

**Mr. Vice-President** : That is hardly a charitable remark to make.

**Mr. Naziruddin Ahmad** : It is not. I am forced to make the remark, Sir.....

**Mr. Vice-President** : Will the honourable Member kindly resume his seat?

**The Honourable Dr. B. R. Ambedkar** (Bombay : General) : Sir, I do not know whether any reply is necessary.

**Mr. Naziruddin Ahmad** : No, not at all ! There has been no debate on the amendment. It would be unfair to the House to be called upon to vote without any reply. Rather than have the amendment put to vote without any consideration, I would beg leave of the House to withdraw it.

**Mr. Vice-President** : Has the honourable Member the leave of the House to withdraw his amendment No.1344?

**Some Honourable Members**: No.

**Mr. Vice-President :** The question is:

“That for clause (4) of article 63, the following clauses be substituted, namely:

- ‘(4) The Attorney-General shall retire from office upon the resignation of the Prime Minister, but he may continue in office until his successor is appointed or he is re-appointed.
- (5) The Attorney-General shall receive such remuneration as the President may determine.’”

The amendment was negatived.

**Mr. Vice-President :** The question is :

“That in clause (4) of article 63, for the words ‘as the President’ the words ‘as the Parliament by law’ be substituted.”

The amendment was negatived.

**Mr. Vice-President:** The question is:

“That article 63 stand part of the Constitution.”

The motion was adopted.

Article 63 was added to the Constitution.

#### Article 64

**Mr. Vice-President :** We now come to article 64. The motion before the House is:

“That article 64 form part of the Constitution.”

There are two amendments (1346 and 1348) standing in the name of Prof. K. T. Shah. He may move them one after the other.

**Prof. K. T. Shah :** Sir, I move:

“That in clause (1) of article 64, for the word ‘President’ the words ‘Government of India’ be substituted” and,

“That in clause (2) of article 64, for the word ‘President’, where it occurs for the first time, the words ‘Government of India’, for the word ‘President’, where it occurs for the second time, the words ‘Council of Ministers’, and for the word ‘President’ where it occurs for the third time the words ‘Government of India’ be substituted respectively, and the following proviso be added at the end of clause (2):—

‘Provided that nothing in this article shall invalidate any act or word of Government expressed in the name of a particular Department or Ministry.’”

The amended article would then read :

“All executive action of the Government of India shall be expressed to be taken in the name of the Government of India.

Orders and other instruments made and executed in the name of the Government of India shall be authenticated in such manner as may be specified in rules to be made by the Council of Ministers, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Government of India:

Provided that nothing in this article shall invalidate any act or word of Government expressed in the name of a particular Department or Ministry.”

While accepting that the President would be the head of the Government, I shall do not quite understand why all the Government business should be carried on and orders issued in the name of the President. Even if you are following the practice in England, according to this draft, the orders etc. of the Government in England are by “His Majesty’s Government”. It is surely not so in India—at least I hope it is not intended that the Government in India would hereafter be described as “the President’s Government”. The Government is the Government of India, and I do not see why the impersonal and collective form should be substituted by the personal and direct form of the

President. In my reading of the Constitution this offends against every principle that this Draft Constitution is otherwise based upon and I see no reason why decisions of the Government of India in their executive sphere should be expressed in the name of the President. By the express provision of this Constitution the President is outside the turmoil of parties, while the Government of India is definitely going to be a party Government or even a coalition Government which may have varying fortunes. If so there is every ground to suggest that the orders of Government be in the name of Government themselves collectively and not in the name of the President. It is for that reason that the first amendment has been suggested.

The second amendment is consequential. Rules which will regulate the framing and issue of orders will of course be made by the Council of Ministers. The President should, therefore, not intervene at all in this direction and the orders will be expressed in the name of the Government of India. If by any chance or for any special occasion any Department has to issue, let us say, a circular or an ordinance or some particular orders relating to the doings of that particular Department, and the order concerned is expressed in the name of that Department or Ministry, that should not be itself invalidate the order merely because it is not spoken of as in the name of the Government of India. To me this procedure seems to be not only more simple but more in accordance with the theory of the Constitution, and therefore I hope the House will accept it.

(Amendment No. 1347 was not moved.)

**Mr. Vice-President :** The article is now open for general discussion.

**Shri M. Ananthasayanam Ayyangar** (Madras : General) : Sir, Prof. K. T. Shah who has moved the amendments Nos. 1346 and 1348 has tabled his amendments in accordance with a different scheme which he envisaged; and in pursuance of that he has tabled amendments almost to every clause, or to the majority of the clauses, in this Constitution. He wanted a different kind of Government in this country, namely, the Presidential system is opposed to the Parliamentary system.

**Prof. K. T. Shah :** On a point of correction, this is keeping the President outside the Presidential system that I wanted. It is on their Draft that I wanted to make the amendment.

**Shri M. Ananthasayanam Ayyangar :** I am glad that for once my friend has tried to help the other party. My friend, Prof. Shah will find that we have already given our seal of approval to article 66, which says :

“There shall be a Parliament for the Union which shall consist of the President and two Houses to be known respectively as the Council of States and the House of the People.”

Therefore the President of the Union becomes an integral part of the Parliament of the Indian Union. In another section, the executive power is co-extensive with the powers of the Legislature. Thus at one stage he becomes a necessary element and at another stage he ceases to be in the turmoil of the day-to-day administration. Prof. Shah wanted by an amendment to article 66 to do away with the President and restrict it only to the two Houses—he wanted only one House. But the amendment was lost and the President has become a permanent fixture. So far as Parliament is concerned, I do not see any reason why the executive authority ought not to be exercised in his name.

Let us turn to article 42. It says:

“The executive power of the Union shall be vested in the President and may be exercised by him in accordance with the Constitution and the law.”

That was also passed by this House. In view of articles 42 and 66, where in the one of case the President is the executive authority and in the other the



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President, with the two Houses, constitutes Parliament, the President has been firmly fixed up in both the places. This Article, that is article 64, is only carrying out the substantive provisions of articles 42 and 66, by saying that “all executive action of the Government of India shall be expressed to be taken in the name of the President”.

He is the chief executive authority. He is the first person and in case of dissolution of Parliament, who is the person to dissolve it? It is the President who is vested with the authority. During day-to-day administration, except in regard to legislative portions and legislative enactments, who is to sign in the absence of Ministers? If the Parliament is dissolved the Ministry also is dissolved. If an occasion arises like that, the President has to exercise the powers.

Let us address ourselves to another reason that has been given. My friend Prof. Shah wants that executive action should be taken in the name of the Government. The President means the President on the advice of the Ministers. He cannot act independently. Action is taken in his name though it is action of the Government as a whole, that is, consisting of the President and the Ministry. Thus it is impossible to get him out of the framework. The President is the chief executive authority and he is an important link in Parliament. It naturally follows that executive action should be taken in the name of the President.

I oppose both the amendments of Prof. Shah—Nos. 1346 and 1348—and request the House to pass article 64 as it stands.

**Shri Raj Bahadur** (United State of Matsya) : Mr. Vice-President, Sir, I come here to oppose the amendment that has been moved by Prof. K. T. Shah. From the various amendments that he has been moving from time to time, I am led to think that he is moving according to a set plan and that he wants the Presidential system of constitution instead of the Parliamentary system of democracy for the country. But, with all respect to his erudition and experience, I see that he has not been consistent even in that. When we discussed article 42, by which the entire executive power of the Union is vested in the President, he himself moved two amendments, Nos. 1040 and 1045 to that article and one of his amendment reads as follows:—

“The sovereign executive power and authority of the Union shall be vested in the President, *and shall be exercised by him* in accordance with the Constitution and in accordance with the laws made thereunder and in force for the time being.”

By implication it means obviously that all executive actions should be taken by and in the name of the President, which is exactly the import, meaning and the implication of article 64, under discussion. I, therefore, fail to see any reason for Prof. K. T. Shah to go now behind the terms of his own amendment, which he moved to article 42. What we mean clearly enough is that the entire executive power of the Union vests in the President and all governmental orders, and instruments shall be made in the name of the President. It is no anomaly and no inconsistency under any known democratic principles to get the orders issued in the name of the President and as such, I submit, there is no reason for the House to accept the amendment which has been moved by Prof. Shah.

**The Honourable Dr. B. R. Ambedkar** : Mr. Vice-President, Sir, I do not think any reply is called for.

**Mr. Vice-President** : The question is:

“That in clause (1) of article 64, for the word ‘President’ the words ‘as the Parliament by law’ be substituted.”

The amendment was negatived.

**Mr. Vice-President :** The question is:

“That in clause (2) of article 64, for the word ‘President’, where it occurs for the first time, the words ‘Government of India’, for the word ‘President’, where it occurs for the second time, the words ‘Council of Ministers’, and for the word ‘President’ where it occurs for the third time the words ‘Government of India’ be substituted respectively, and the following proviso be added at the end of clause (2):—

‘Provided that nothing in this article shall invalidate any act or word of Government expressed in the name of a particular Department or Ministry.’”

The amendment was negatived.

**Mr. Vice-President :** The question is:

“That article 64 stand part of the Constitution.”

The motion was adopted.

Article 64 was added to the Constitution.

### Article 65

**Mr. Vice-President :** Amendment No. 1349 has the effect of a negative vote, and is, therefore, disallowed.

Amendment No. 1350 stands in the name of Shri H. V. Kamath and may be moved.

**Shri H. V. Kamath (C.P. & Berar : General) :** Mr. Vice-President, I move. Sir,

“That in clause (a) of article 65, after the word ‘President’ a comma and the words ‘as soon as they are made,’ be inserted.”

This clause as it stands at present, reads as follows:—

“It shall be the duty of the Prime Minister—

to communicate to the President all decisions of the Council of Minister,.....”

If my amendment be accepted by the House, the clause, as amended, would read thus:—

“It shall be the duty of the Prime Minister—

to communicate to the President, as soon as they are made, all decisions of the Council of Ministers.”

The amendment is more or less formal, and only makes for clarity of the meaning of the clause. In my judgment, there is no need whatever for such a clause in the Constitution and I think that it may as well be incorporated in the Rules of Business of the Cabinet. But somehow or other, it has found its way in the Constitution and any amendment which seeks to eliminate it would be disallowed as it seeks to negative the motion. Personally I should have wished that the article as a whole were not there, because it is merely some of the Rules of Business of the Cabinet; and what they should do in this matter must be purely a routine affair and must have been embodied in the Rules of Business of the Council of Ministers. But as it has come before us, I would only move this amendment, with a view to obtaining greater clarity of this particular sub-clause(a), because decisions of the Council of Ministers, if they are not communicated as soon as they are made,—it may be, of course, that they will be communicated very soon after that—but to make it absolutely clear, we might as well provide for this, that all the decisions of the Cabinet must be communicated to the President as soon as they are made, so that if a contingency arises, as visualized in sub-clauses (b) and (c), the President may call for information and if the President so requires, any matter which has been considered by the Cabinet already, may be re-opened by them, as provided for in sub-clause (c) of this article. Delay perhaps may be dangerous in this matter as in so many others, and therefore with a view to eliminate any

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delay, any procrastination in these matters, I move, Sir, that decisions of the Cabinet must be communicated to the President as soon as they are made. I move amendment No. 1350 of the List of Amendments and commend it to the acceptance of the House.

**Mr. Vice-President :** There is an amendment to this amendment No. 71 of List No. V (Sixth week) standing in the name of Mr. R. K. Sidhva—Member not in the House.

Then we come to Amendment No. 1351 standing in the names of Shri. A. K. Menon and Shri B. M. Gupte.

(The amendment was not moved.)

Amendment No. 1352 stands in the name of Prof. K. T. Shah.

**Prof. K. T. Shah :** This is a matter of detail and I would like to be excused from moving this amendment.

**Mr. Vice-President :** There is only one amendment now before the House and the clause is open for general discussion. Dr. Ambedkar, would you like to say anything?

**The Honourable Dr. B. R. Ambedkar :** No, Sir, I do not accept Mr. Kamath's amendment.

**Mr. Vice-President :** The question is:

"That in clause (a) of article 65, after the word 'President' a comma and the words 'as soon as they are made,' be inserted."

The amendment was negatived.

**Mr. Vice-President :** The question is:

"That article 65 stand part of the Constitution."

The motion was adopted.

Article 65 was added to the Constitution.

**Mr. Vice-President :** Ordinarily, we close at 1 P.M. in order to accommodate our Muslim brethren. Today, we close just now to accommodate ourselves. The House stands adjourned till 10 A.M. tomorrow.

**Shri M. Ananthasayanam Ayyangar :** May I request you, Sir,.....

**Mr. Vice-President :** The House has been adjourned; no further business can be transacted now.

The Assembly then adjourned till Ten of the Clock on Saturday the 8th January, 1949.