

CONSTITUENT ASSEMBLY OF INDIA

Friday, the 20th May 1949

The Constituent Assembly of India met in the Constitution Hall, New Delhi, at Eight of the Clock, Mr. President (The Honourable Dr. Rajendra Prasad) in the Chair.

Maulana Hasrat Mohani (United Provinces: Muslim): Mr. President, Sir, I beg to bring to your notice a very serious matter about the suppression of a major portion of the proceedings of this House as published in the Constituent Assembly Debates of the 5th January 1949 (page 1267). The proceedings say that the Honourable Sardar Vallabhbhai Patel moved that the Bill to amend the Government of India Act be taken in to consideration. As a matter of fact, he moved for leave to introduce the Bill I wanted to oppose that motion and urged that I had a right to do so at that stage. But the Vice-President did not allow me to speak. He declared that if I wanted to say anything he would put it to the vote; it was rejected. None of these is in the printed Report. Who is responsible for suppressing these things? I want that all these things should be placed in the printed proceedings, so that people may know that the Vice-President did not wish to hear anybody whom he did not like.

This is a very serious matter and I would invite your attention to it.

Mr. President : I understand the honourable Member's point to be that certain things happened in the last Assembly which do not appear in the printed proceedings, and his complaint is that a correct report should have been given of all that happened there. I am not aware of what happened at that stage and I cannot say anything without looking into the matter. If the honourable Member has got any complaint he may kindly give it to me in writing so that I may have it investigated.

DRAFT CONSTITUTION—(*Contd.*)

Article 86

Mr. President : Article 86.

(Amendments Nos. 1632 and 1633 were not moved.)

Mr. Z. H. Lari (United Provinces: Muslim): Sir, I move :

“That in article 86 the words ‘and until provision in that respect is so made allowances at such rates and upon such conditions as were immediately before the date of commencement of this Constitution applicable in the case of members of the legislature of the ‘Dominion of India’ be deleted and the following new proviso be inserted:—

‘Provided that salary payable to members of the Parliament shall not be less than one-fourth or more than one-third payable to a Cabinet Minister:

And provided further that the Leader of the Opposition shall be entitled to get salary payable to a Minister without Cabinet rank.’ ”

Sir, this amendment consists of three parts, but it is the third part which is the soul of the amendment and I will take it first. It is that a salary be fixed for the Leader of the Opposition. The House knows well, and it may take it

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from me as gospel truth, that I have not in me the germs of a future Leader of the Opposition. But I move it for four weighty reasons. Firstly, I feel that it is necessary to promote parliamentary opposition which along with the rule of law and a strong press constitutes the bulwark of democracy. Secondly, I want to give statutory recognition to the institution of parliamentary opposition, which unfortunately has come to be regarded in certain circles as tantamount to sedition, and thereby dispel a misconception. Thirdly, I want to create conditions in which a dead chamber may revive into a lively legislature. And lastly, I want to complete the edifice of parliamentary democracy which is being transplanted from the surroundings of England to Indian environments. With your permission, Sir, I will elucidate these four points I have mentioned.

In spite of strenuous efforts made by some Members, this House rejected the conception of Presidential Cabinet that prevails in America. Even the solution of a coalition cabinet that is in vogue in Switzerland did not find favour with the House which has approved the system of party government as obtains in England. This Party government means that the powers of the state for the time being are vested in a party and through that party in a number of individuals. Every one knows that power corrupts and absolute power corrupts absolutely. It is also a truism to say that every party that comes into power tries to make its hold permanent. The only check on degeneration of party government into a despotism is the existence of another party which keeps a strict eye on the doings of the cabinet and the party and thereby prevents degeneration of a party government into a dictatorship. Besides, there cannot be a proper functioning of any party government unless there is constant criticism of the doings of that party. There is always discussion and at least correction of various policies that are pursued by that party. Apart from that I feel that in the absence of an alternative party the very party which is in power begins to disrupt and cliques grow thereunder. If you look, not beyond the seas, but within all the party governments as they obtained in India during the last ten years, in all those legislatures where there was no effective opposition, not only have Cabinet members begun to resent criticism but in the parties themselves there have grown factions which have led to the downfall of one ministry after another. There have been challenges, counter-challenges, and there have been attacks even on the ground of misappropriation of public money and the like. The reason is that the party government is not brought face to face with a strong opposition to make them feel that they have to face public opinion. And who is to create public opinion? Who is to make the public aware and take interest in the doings of Government, unless there is opposition in the House to bring all the actions of Government into the lime-light? Everyone knows that in these days the functions of Government have grown and any party which wants to be wide-awake and effective must be a whole-time opposition. You can not have a whole-time opposition unless there is a leader who devotes all his time and energy to fostering responsible opposition throughout the country. It is not necessary only to have an opposition in the House, but that opposition must be broad-based; it must have public opinion throughout the country to back it. I therefore feel that you can not have a vigorous and wide-awake opposition working in the legislature and outside unless it has a leader who is a whole-time worker and is paid, as is done in England and other countries.

You know that so long as the conservatives or the other rich people were one party or the other in Opposition in England, there was no necessity of paying the Leader of the Opposition. But, the moment Labour formed the Opposition in England—I dare say that in India it is only either the Socialists or the Communists that can form the opposition—they fixed salaries for the Leader. In India, as I said, you can have Opposition of only middle class people. You can not expect that class to throw up a man who will devote all his time and all his

energy to create a party unless he paid. Therefore I feel that in the interests of creating an effective opposition as soon as possible it is necessary that we should have a provision like that which I have placed before you.

But, besides this, as I suggested at the outset, during the last ten years there has not been any effective Opposition at all either in the Dominion Parliament or in the Provincial Assemblies. The result is that there have been utterances from certain responsible persons which have gone to suggest as if the party and the State are same. I know of them, but I do not want to place before the House those utterances and create misunderstandings. But everybody must be aware that there have been utterances by responsible Prime Ministers, not of the Dominion, but of the Provinces, which have given rise to misgivings as if to criticise the Government in power is something like sedition. But the moment you accept the amendment I have placed before you, you give statutory recognition to the existence of the Opposition, this misconception that has grown in the country, that if you criticise the Government it means you want to create disaffection, will disappear.

There is second reason why I want that this provision should find a place in our Constitution and it is that that at the very outset of parliamentary democracy, we must not create a condition in the country wherein one-party Government becomes permanent and a party thinks that it has come into power and it has to remain in power for all time to come. It is necessary to create a psychological change. I can not point to so many utterances which have made the public at large feel that the Party and the State are convertible terms, that if you criticise the Party you necessarily try to weaken the foundations of the State. In England that is why the Opposition is called His Majesty's Opposition. Those words are enough to create the impression in the minds of the electorate that the Leader of the Opposition has also a role to play and function to discharge and that therefore when he does anything in his capacity as Leader of the Opposition he is doing nothing but his duty. The same impression I want to create here by having this amendment inserted. If this is inserted the public at large and everybody will feel that the Constitution itself recognises the existence of the Leader of the Opposition and that when he criticises or attacks the Government and carries on agitation in the countryside and rouses public opinion against the party's misdeeds, really he is doing a duty assigned to him by the Constitution. This is my second reason.

My third reason, as I said, is that if there is no effective Opposition we will have dull Chambers; not only dull Chambers but, as is said in some papers, the legislature becomes 'docile, meek and submissive'. Does that not create a bad impression in the public mind that the legislature is a mere sham, that it does not do any work, that members get up to criticise simply for the sake of appearing in print, that the amendments are all withdrawn and that whatever comes from the Treasury Benches is accepted without the change of a comma or a full-stop. It is not an interesting, but a dull Chamber. The result is that the public loses interest in all parliamentary work. Democracy cannot function unless the public evinces interest therein. What is the way to create interest in the public? How is it possible to make the public feel that its destiny is being moulded in the legislature by means of frank and open criticism and after due deliberation? Who is to create that interest? I find that in all the legislatures in the Provinces the Opposition has been dwindling. In our own Dominion legislature there is no Opposition whatsoever and the result has been only tall talk somewhere at some places by certain individuals. There has been no well-informed criticism. Neither has there been any effective Opposition.

Therefore the third reason which I placed before you for consideration is that if you want to avoid becoming a dead Chamber, if you want to avoid loss of all

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interest by the public in parliamentary activities, and ultimately in democracy itself, it is necessary to have an institution like the one which is there in other countries.

At every stage you say you prefer British Institutions. You say at every stage the everything that is good is to be found in British institutions, in party Government. If that is so,—and I feel there is a great deal of truth in that—then it is necessary that you should have all the component parts of that parliamentary democracy so that it may not fail in India. The moment the British people felt that they must pay the Leader of the Opposition so as to keep the Opposition going, they accepted such an amendment as the one I have placed before you. The latest to accept this principle is South Africa. For all these reasons I feel that this amendment deserves consideration at your hands.

I have heard of two criticisms: one is, where is the Opposition party—where is the Leader of the Opposition, whom you are going to pay? My submission is this: you have to create conditions. The dangerous part in India is that we have begun this democracy by having one party and one party alone and that party is determined to keep others out. There is the case in the United Provinces where a man of the stature of Acharya Narendra Deo was not allowed to come in. The party in power did not think it necessary to have an Opposition. Therefore I say it is your duty as Constitution-making Body to create conditions in which a party may grow into an Opposition. If you say “let the party grow and then I will fix the salary,” it means that you do not want an Opposition. You have to create conditions so that the public may feel that the Opposition has also a duty and is of service to the country. Unless that feeling is created, you cannot have a proper Opposition.

The second criticism is that, what will happen if there is more than one party, what will happen if there are three parties? Whom are you going to pay? It is a curious criticism. Everybody knows that in parliamentary practice the biggest party constitutes the Opposition. All other parties, if there are more than two, are mere parties. The privilege of the Opposition goes to the largest party after the party occupying the Treasury Benches which is the biggest party. Therefore these two criticisms are absolutely unfounded.

As I said before, this amendment is the soul of all these amendments. But there are two other parts which I will take up now. Article 86 says that the members of Parliament shall receive such salary as may be determined by Parliament from time to time. It goes on to say that until other provisions are made, they will be paid according to the rules previously prevailing. Sir, you are framing a Constitution. Why encumber it with provisions like this? Is it not possible for Parliament, the moment it meets, to pass a Salary Bill? When in 1936 responsible legislatures came into existence was there any difficulty in enacting an Act for that purpose? When the Constituent Assembly came into existence was it difficult to decide what will be our remuneration?

The second thing is that in many new Constitutions the pay is laid down in the Constitution itself. It is not desirable to leave it to the Parliament to determine the pay from time to time, but if you are doing this, then you must fix the proportion between the member's salary and the pay of the Ministers. Why? For two reasons. In India unfortunately the gap between the classes is very wide. On the one side you find multi-millionaires, on the other side you find the poorest of the poor. The same disparity should not be there between the pay of the Members of the legislature and of the Ministers. I do not want that there should be a great disparity between the of a Member of Parliament and the Minister, so that the member of Parliament may feel that he will always have to please the honourable Ministers to get

some more remuneration. There must be some relation between the pay of the members of Parliament and the Ministers' salary for another reason. Once you have determined the pay of the Members of Parliament in relation to the pay of the Ministers, naturally you have to be careful what salary you fix for the Ministers so that the burden on the exchequer may not be very heavy. Therefore this serves two purposes. Firstly, it serves as a check on the great disparity between the salaries of the Members of Parliament and of the Ministers. No doubt it is true that the Minister work for twelve months and the members of Parliament work only for about four or five months. Even if you take that into consideration, the proportion comes to the same proportion that I have indicated. It is this proportion which is to be found in Australia and New Zealand. Therefore, what I want is this, that there must be some relation between the pay of the Members of Parliament and Ministers so that no inferiority complex may develop. The first two amendments are of very great significance, but you may or may not accept them. But the third raises a point of vital importance. I hope that the House will, irrespective of party decisions, take into consideration the reasons which I have placed before the House and consider how far it is desirable that they should recognise the principle of party opposition. It is very easy to say that we accept the principle, and say that when the Parliament comes into being, it will fix the salaries of members of Parliament. When you have such a voluminous Constitution running into hundreds of pages and sections, when you are not leaving even minor things to be determined afterwards, why leave such a provision to be determined afterwards, a provision which is really of vital importance, in the interests of democracy and in the interests of the proper functioning of party governments in this country? In India during the last several centuries we had despotism. We are just beginning with democracy. It is necessary that we must create conditions in which democracy may not prove a failure. We must take steps to ensure its success and one of the essential things is that we must ensure that when the new legislatures meet after the enactment of the present Constitution there is a full-fledged and vigorous opposition to make party governments a success.

(Amendment No. 1635 was not moved.)

The Honourable Shri K. Santhanam (Madras: General): Sir, I beg to move:

"That in article 86, for the words 'Legislature of the Dominion of India' the words 'Constituent Assembly' be substituted."

Sir, the present words are inappropriate. There is no body existing today which may be called the Legislature of the Dominion of India. Under the adapted Government of India Act as well as under the Parliament Act, the Constituent Assembly functions as the legislature of the Dominion of India for certain purposes. The only body that exists today is the Constituent Assembly, and the new Members of the Parliament of India would prefer to derive their succession from the Constituent Assembly rather than from the non-existing Legislature of the Dominion of India. At one time there was some difference between the allowances between the members of the Constituent Assembly sitting as a Constitution-making body and the members of the Constituent Assembly in the legislative section, but now all have been brought on the same scale. Therefore there is no practical difficulty whatsoever. I commend the amendment for the acceptance of the House.

Shri L. Krishnaswami Bharathi (Madras: General): Sir, in Mr. Santhanam's amendment the wording should be "Constituent Assembly of India" and not merely the "Constituent Assembly".

The Honourable Shri K. Santhanam : I have no objection.

Mr. President : Amendment No. 1637 is the same as 1636. All amendments have been moved, and now the amendments and the original proposition are open for discussion.

Shri T. T. Krishnamachari (Madras: General): Mr. President, Sir, the object of my standing before the House is to say a few words on the amendment of Mr. Lari. Mr. Lari's complaint about the omission of any mention of the salaries of members in the constitution and also his suggestion that the Leader of the Opposition should be paid a salary are suggestions which are intrinsically worth considering, but I do not think it is necessary that we should enumerate in the Constitution details such as these so long as there is no embargo in the Constitution on the payment of a salary to the Leader of the Opposition, and salaries to members of Parliament. At the same time I am afraid Mr. Lari used the occasion for riding a hobby horse by projecting into the discussion those matters which perhaps concern him immediately, *viz.*, those relating to the United Provinces politics. I wonder whether in considering the Draft Constitution it is possible for us to devise ways and means of creating an opposition such as he wants by, putting the provision in the Constitution which Mr. Lari desires. After all we are not placing any embargo on any opposition party coming into power. I am afraid, Sir, that for a long time I have been hearing, almost from 1937, ever since the 1935 Act came into operation in the provinces, of the cry made by people who unfortunately are without any chance of coming into office or power that there is no opposition, that the Congress Party is doing its best to see that an opposition does not arise, and that where an opposition exists it does not function. In fact I wonder how Congress Party or any other party that might take its place in the future can create an opposition as such. How can an opposition be created by paying salaries to the members of the opposition party or the Leader of the Opposition? Are you going to insert in the Constitution a Provision by means of which we set apart a particular amount in the budget for the purpose of creating an opposition? I would like members here who are not satisfied with the type of government obtaining in this country to tell us exactly what they want. Do they want that in the Central budget a sum should be set apart in order to create an opposition? Sir, a cry like, this in a House which is functioning in a business-like manner is something of a diversion and my honourable Friend Mr. Lari has provided such a diversion so that the proceedings of the House need not be considered very dull by people who read the papers. So far Mr. Lari has done a service by his speech but I think somebody has to say that this is hardly the time and the place to make complaints the existence of which cannot be helped by the party who is in power. Nor is it the place to provide anything statutorily because I do not think that an Opposition can be created merely by accepting the amendment of Mr. Lari. Supposing this amendment of Mr. Lari is accepted, which I think we should not, will an opposition be created? Will a Leader of the Opposition who is paid a salary be able to organise a party? Even granting that the Leader of the Opposition is paid the same salary, allowances and emoluments as the Prime Minister of India, does that mean that he would be able to create a party? I think the very eloquent arguments put forward by Mr. Lari are likely to mislead the House into believing that there is something lacking in the state of affairs at present, conditions which are not existing by means of accepting Mr. Lari's amendment, an amendment which ordinarily could have no place in the Constitution.

Reference was made by the honourable Member to the Opposition in the House of Commons, and in regard to British practice. Yes: I have followed the progress of payment of salaries to Members in the British Parliament

and also the creation of a status to the Leader of the Opposition and the payment of the salary to the Leader of the Opposition. All these have developed over several decades. I do not think there is anything to prevent the Indian Parliament of the future to provide for a salary for the Leader of the Opposition if it so chooses and if it is thought desirable and wise. I do not see the need to put in a provision like this in the Constitution here in respect of an article which merely is a permissive article; it merely gives permission for Parliament to legislate in future in regard to salaries and allowances of members and, between the time that the Parliament does legislate and the time that it meets, to allow the *status quo* to continue.

He also objected to the provision for *status quo* to be prolonged. I do not see what sense there is in objecting to a thing which is very reasonable. After all the Parliament of the future will have such a lot of work to do in the initial months of its existence and the payment of salaries to members or allowances to members will be, in comparison to the other important matters that it will have to face, comparatively unimportant and in fact, I would rather that the House had enable Mr. Ananthasayanam Ayyangar to moved his amendment which gives power to the President to vary salaries and allowances, if it is necessary, until the time, Parliament enacts a legislation, which would have made the *status quo*, the position as it is in the Government of India Act as adapted to remain in operation. Sir, I think the charge that Mr. Lari made that a provision for continuance of the *status quo* is wrong is absolutely baseless, because it would not be possible for Parliament of the future to attend to all and sundry and the hundred and one matters immediately and it might probably take two or three years before it might settle down to do something on the lines that Mr. Lari wants. I have no doubt the future Parliament and those who are going to be in charge of the destinies of this country would bear in mind the suggestion of Mr. Lari to pay a salary to the Leader of the Opposition, if that would encourage the creation of an Opposition, of a healthy Opposition Party. By all means let it, but to put a provision of the nature that he has suggested in the Constitution, I think is wrong, and the arguments he has adduced in favour of his amendment are far beside the point and completely beyond the knowledge and concern of this particular House. Sir, I oppose Mr. Lari's amendment and support the amendment moved by Mr. Santhanam and the article as it would be amended by that amendment.

Shri M. Ananthasayanam Ayyangar (Madras: General): Sir, I oppose the amendment of Mr. Lari, not that I am against having a healthy Opposition. The Article, as it stands, is sufficiently wide to make a provision and it makes a provision for giving salaries to members of Parliament and also when providing for a salary for members of the Parliament, it does not say it must be uniform. It may take into note if there is a healthy Opposition and there is a Leader of the Opposition, and make a provision for giving him a special salary or a salary in a higher degree than the salary that is given to the other members. As I said the provision is wide, and there is no similar provision in any Act, in any Constitution in any part of the world saying that you must make provision for the Leader of the Opposition in the body of the Constitution itself. Rules and regulations have to be made by Parliament and there is nothing to prevent Parliament from making a law giving a salary to the Leader of the Opposition. Now, let us read the amendment that has been tabled by Mr. Lari. It says: "Provided that salary payable to members of the Parliament shall not be less than one-fourth or more than one-third payable to a Cabinet Minister". His Assessment of the worth of his members is that a Cabinet Minister is equal to three or four members of the House and it will be very wholesome incentive in the hands of the members of the House, for constantly agitating for increasing their allowances, so that the Ministers'

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allowances also may go on increasing. If the member's allowance must not be less than one-fourth and if it is Rs. 500, the Minister's salary must be four times that is, Rs. 2000 and if they claim Rs. 1000, the Minister's salary must be Rs. 4000 and so on. I do not see why it ought to be not less than one-fourth or more than one third; it becomes too rigid; you can say one-fourth or one-third or one-half, but there is a no meaning in fixing a proportion here, and I do not see there ought to be a definite proportion between a member's salary and the Minister's salary.

The amendment further says: "And provided further that the Leader of the Opposition shall be entitled to get salary payable to minister without Cabinet rank." If Government recommend that we may abolish ministers with cabinet rank, then the amendment of Mr. Lari goes to the wall. The moment our minister are made ministers without cabinet rank, then there is absolutely no provision for what Mr. Lari suggests, in so far as the wording is concerned. As regards the substance, since the 15th August 1947 the Constituent Assembly has been functioning as a Legislature to this day for nearly two years, but is there a healthy Opposition? I have noticed some keen opposition was there when a debate took place with respect to Hyderabad. On no other occasion was there an Opposition at all. Is there a policy, is there a programme? If there was an Opposition on communal matters, do we want to perpetuate that? If there is any section strongly opposed to Government which want to make this country an absolutely Socialist State here and now, I can understand it. You have no policy or programme. Are you therefore to go on as the Irishman said when he was ship-wrecked? He landed on an island and the first question he put was "Is there a Government"? And somebody said that there was and he promptly said that he was in the Opposition. Mr. Lari wants to create an Opposition. May I ask him whether there is an Opposition and what kind of Opposition, communal or healthy Opposition? I agree there ought to be a healthy Opposition. Perhaps they are wanting communal factions. Is there a communal party which will go as an Opposition? Are we to pander to communal bickerings and say to those who create them "You can carry on in the manner in which you have been carrying on, vertically, horizontally and diametrically and then I will pay in addition a salary"? I am really surprised to see this day the very protagonist of this healthy Opposition had an ample opportunity and I do not know why he did not start an Opposition. What is their policy or programme? Are they interested in the welfare of the country? Are their action calculated to improve the welfare of the country much better than what the Congress Party has stated in its manifesto? I therefore think that to say in the Constitution itself that there must be an Opposition is not necessary. You may leave this matter to the Parliament. If there is a healthy Opposition and for want of separate provision for his maintenance the Leader of the Opposition is not able to devote all the time and attention that is necessary in the interests of public welfare and democracy, in the interests of parliamentary administration and in the interest of bringing to the notice of the public the defects in the administration, then there is time enough to make such a provision. The article as it is does not prevent any such provision being made. But, from now on just to dangle an opportunity or temptation in the way of a number of members is not proper. Four or five members may join and say, "we will have an opposition and an opposition leader, let him be paid a salary of Rs. 4,000 and let us divide it among ourselves". If a healthy opposition grows, certainly, there will be provision made. So long as there is no healthy opposition, a salary ought not to be placed on the Statute Book by way of temptation. I oppose Mr. Lari's amendment both in its form as impracticable and in substance, because there is no opposition and it not intended to create an opposition willy-nilly.

My honourable Friend Mr. T.T. Krishnamachari said that he approved of my amendment. I only wanted to say that during the transitional period, the question of salary may be modified by the President as there is a similar provision in the Government of India act giving power to the Governor-General to modify the rules regarding the allowances from time to time until provision is made by Parliament. Mr. Santhanam thinks that it is not necessary to clothe the President with such a power. I also agree that the President ought not to override the legislature. But, I think so far as allowances are concerned, nothing prevents Parliament from bringing an enactment to remedy any defects and we need not clothe the President with any extraordinary powers of this kind. I therefore advisedly did not move the amendment.

Mr. Tajamul Husain (Bihar: Muslim): Mr. President, article 86 says that Members shall get salaries fixed by Parliament and that till Parliament meets and fixes the salary, they should be paid the amount as members of the Dominion Legislature or the Constituent Assembly are paid at present. An amendment had been moved by my honourable Friend Mr. Lari to the effect (i) that members should get their salaries which should be one-fourth of what a Minister of Cabinet rank would get, that is, he had fixed that whatever salary is fixed for a Cabinet Minister, one-fourth of that should be the salary of each individual members, and (ii) that there should be a Leader of the Opposition and that Leader of the Opposition should get the same salary as a Minister of State, that is not of Cabinet rank. I have very carefully listened to the speeches of my honourable Friend Mr. Lari and of the two preceding speakers. The argument of Mr. Lari appears to be very sound that a salary has to be fixed. There has to be a Leader of the Opposition. The argument of Mr. Ananthasayanam Ayyangar is that there should be no Leader of Opposition at present on account of communal groups. But, there will be no communal groups in the future, because, there is not going to be any reservation of seats and even if there is going to be reservation of seats, there are not going to be separate electorates. Everybody feels that there should be a Leader of the Opposition.

On the other hand, there is a flaw in the argument of Mr. Lari and it is this. You will find that wherever there is a Parliament on democratic lines, there are leaders of the opposition and there are members of Parliament and all of them get their salaries. But, their salaries were never fixed by the Constitution. The salary of the Leader of the Opposition and of the members in every country has been fixed by an act of Parliament. Whether it is the Dominion of South Africa, Canada, Australia or New Zealand or any other Dominion, you will find that this is the case. While this is the case everywhere, why should we create a new thing and include this in our Constitution? After all, in a Constitution, we need not go into the details. We must fix the principle. There is the article which says that salary shall be paid to the members. What that amount will be, will be decided by Parliament and not by this House. For this reason, I am not in agreement with the amendment. If you will permit me, Sir, I would make the task of Mr. Lari easy and obviate all difficulties by proposing an oral amendment. I would suggest that instead of putting it as one-fourth of the salary of a Minister, the salary of the members and the Ministers should be equal. Then, I think everybody would be happy.

With these words, I oppose the amendment.

Shri Biswanath Das (Orissa: General): Sir, I believe that Mr. Lari has proposed an amendment which is unfair to the country and unfortunate in itself.

Let me first take the provision in article 86 of the Draft Constitution. It lays down that Parliament shall provide for such allowances as were being

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given to the members before the operation of the Constitution and afterwards that the Parliament will determine, by law, the salary and allowances that are to be given to members. If Mr. Lari had wanted to agitate in the way he has proposed to do, the proper course for him was to come before the Assembly when a law was proposed to be enacted after the elections in terms of the Constitution that we are going to pass.

Sir, the Constitution provides for salaries and allowances for myself, I do not believe nor do I go with those who profess to advocate Parliamentary democracy that members should be paid salaries for the work that they have to do in their constituencies or in the Assembly here. I believe, Sir, that allowances, without pay, is the desirable course. However, we have to submit to the joint wisdom of the honourable Members of this House and we agree to the scale of pay and allowances to be fixed hereafter by law by Parliament. That being the position, I for myself and some friends like me feel that no pay is called for under the circumstances but we have to submit to the joint wisdom of the Members. However, that does not make one feel to say that parliamentary democracy that is going to be installed in this country should give a statutory recognition to the Opposition, not only give recognition to the Opposition, but also provide a scale of pay for the Leader of the Opposition. I plead with Mr. Lari to point me out any Constitution in the world which is in operation today wherein a fixed salary has been provided for in the Constitution for the Leader of the Opposition. True it is that the Leader of Opposition in British Parliament gets his scale of pay and status equal to that of a Minister but that has nothing to do with a specific provision in the Constitution. Sir, parliamentary democracy needs the existence of two parties *viz.*, the majority party in charge of office and the minority party to play the functions of Opposition so as to give it full work. Therefore Opposition is a necessary evil. An Opposition party is also a necessary evil in the operation of Parliamentary democracy that is however in itself and by itself no justification why a specific provision should be made as it is sought in the amendment in the Constitution of this country. After all, many things have to be done by precedents for course of events that have to come in the future. I do not find any justification whatsoever for giving a statutory recognition to the Opposition and to the Leader and also to his status and pay.

Having said so much about the Opposition Leader, I come to his proposals regarding the scale of salary he proposes for the members of the House. I feel it is unfair to the country, a country wherein the differences in the earning capacity of the top man and the people who are down trodden is so wide that the scale of pay that he proposes for members merely perpetuates the existing order and is therefore far beyond my conception. The scale of pay that he proposes is to range between one-fourth and one-third of the pay of a Minister. If the existing pay of Ministers is going to be Rs. 3,000 as has been fixed by Statute by the honourable Members of this House, then his one-third and one fourth fixes the scale of pay of members is to range from Rs. 750 to Rs. 1,000/- a month. I put it straight to him whether it is fair to himself and to his country to propose to fix a scale of salary to range between Rs. 750 and Rs. 1,000/- for each member of the House.

Mr. Z. H. Lari : We are getting Rs. 1,300 a month now.

Shri Biswanath Das : He may be getting Rs.1,300 if he is a member of too many committees and if he is a member who attends the Assembly regularly. Even then I would plead with him that his facts are far from being correct. Because no member to my knowledge draws Rs. 1,300 a month as allowance.

I am one of those members who choose to draw only Rs. 30 feeling that Rs. 45 a day is too much for a member and I for myself, an ordinary worker. I do not need Rs. 45. I know there are members in my province who draw their monthly salaries as members of the Assembly and straightaway hand over to the Secretary of their District Congress Committee and receive a scale as fixed by the Congress Committee in preference to the pay that they draw and they go on as whole-time workers. That being the position I think he has been very unfair to his constituents and to his country in bringing a proposal such as this before the House.

Sir, for myself I feel that I can have absolutely no truck with any point covered in his amendment and I feel that it is unnecessary, unfortunate and undesirable. Therefore I support clause 86 as it is, however much I would desire that there should be no scale of salary fixed for the honourable Members of this House who ought to agree to work and serve the country being satisfied with the allowances that the Assembly would fix for themselves.

Kazi Syed Karimuddin (C.P. & Berar: Muslim) : Mr. President, the amendment moved by Mr. Lari is a very important amendment and all those speakers who have spoken in opposition to Mr. Lari have given two grounds: Firstly, that in no Constitution in the world there is such a mention or provision: Secondly, that such a salary of the Opposition Leader is based on conventions. I have heard with great interest the speech of Mr. Das who thinks that opposition is a necessary evil. If there were any doubts as to the importance of the amendment, after listening to his speech I am now convinced that in this country there are people who think that it is a necessary evil and it is very necessary that such a thing should be embodied in the Constitution itself. Sir, Mr. Krishnamachari said that this is not a question of principle but it is a question of detail. My submission is that in this country when we find that Opposition is not tolerated, it is neglected and generally it is punished, it is very necessary that the Constitution should create a Statutory Opposition. There is no democracy in the world which can function efficiently without opposition. The mistakes and failures of the Party have to be pointed out by the Opposition and the party in power has to be vigilant because of the Opposition in the House. India is a new-born democracy, where we find in every province, even in the Centre in this Dominion Parliament, the Opposition is not tolerated and is treated with scant courtesy. What is happening in the provinces? Because of the Public Safety Act, because of other measures, the Opposition Leaders or those who are in opposition are threatened, not only threatened but the Opposition parties in the provinces are dwindling. The only reason is that if a Muslim opposes, the Government says that he was a believer in the two-nation theory and that he does not give up his opposition and his opposition is not to be tolerated at all. If a socialist opposes, it is said that he is an enemy of the Government and if a Communist-opposes, he is of course a dangerous character. This is the state of affairs that is prevailing in the provinces and in the Dominion Parliament. Therefore this is the greatest occasion to create a Statutory Opposition. Mr. Lari has said that this is a question of principle. This is not a question of salary, My submission is that if the Leader of the Opposition is granted a salary, he will be able to devote all his time in criticising the Government and in carrying on campaign against Government in power if there are mistake and failures. Therefore, my submission is that this is an occasion when there should be Statutory opposition and by accepting the amendment of Mr. Lari you will be accepting that a healthy Opposition in the country is very necessary. Mr. Ayyangar has said that a healthy Opposition is to be tolerated. In my opinion, if it is to be left to the party in power to decide what is healthy criticism, and what is unhealthy criticism, then, in my opinion, every criticism of the party in power

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will be treated as unhealthy, and every opposition against the party in power will be treated with scant courtesy. Therefore, I support Mr. Lari's amendment and I commend it to the House for its acceptance.

Mr. Naziruddin Ahmad (West Bengal: Muslim) : Mr. President, Sir, I beg to support Mr. Lari's amendment so far as the second proviso is concerned. I support the amendment on principle; but I should request the House also to consider the amount of the pay. I support the amendment as it has raised a very important constitutional principle. I should, first of all, ask the House to consider the principle itself. It is not the pay that matters. It is rather a statutory recognition of an opposition. It is rather giving the Opposition a recognised place in the Constitution. It is this important principle that is involved in the amendment. The question of pay and other things dwindles into insignificance in the face to this important consideration. I would there, draw the attention of the House to this important aspect of the question.

Three very important and sober Members of the House, namely, Mr. T.T. Krishnamachari, Mr. Ananthasayanam Ayyanagar and Mr. Biswanath Das were at great pains to oppose the amendment. They were labouring under a great difficulty in explaining away this important proposition. Mr. Krishnamachari who is a great economist tried to play the part of a lawyer, in finding out legal argument against this proposition. Mr. Ayyanagar, of course, is a great lawyer, but I am sorry to find that he did not rise above a mere lawyer. Sir, opposition in a democratic House is a great necessity. It is an indispensable condition of all democratic institutions. We propose to call ourselves, and we propose to make our country, a "democratic sovereign republic". If we cannot ensure any opposition, we should rather call the constitution that of an "undemocratic, sovereign republic". It is the essence of democracy that there should be effective Opposition. Mr. Krishnamachari has said that pay "does not create" an opposition, and he is of opinion that the opposition must "grow up" and it is something that cannot be "created". But he failed to notice that pay gives the opposition a status and it also recognises the Opposition. The difficulties which are felt by Members of the Constituent Assembly sitting in the Legislative side and who want to oppose Government measures are very great. For the absence of an effective Opposition, I submit, the House gets spoilt. The very tolerance which an effective Opposition will engender among the majority Party, is lost. As soon as some criticism is made, some Members of the majority Party get impatient. As soon as arguments are advanced, the so-called prestige of the Government is supposed to be at stake, and therefore those arguments are opposed, resented, and sometimes treated with indifference and contempt, Yesterday I made a motion which was, to my mind, a very logical one, but it was characterised as absolutely illogical and absurd by Dr. Ambedkar. I do not blame him for that. It is the result of a situation of having a huge majority party, in the face of a tiny, microscopic opposition. It is the absence of an effective opposition that creates this situation. It is the result of huge confidence backed by a huge party-it is that which creates this indifference, and also intolerance of Opposition. I submit, Sir, that the want of an effective opposition induces the Government to proceed in a careless fashion, regardless of public opinion. And what has been the result? People outside lose all interest in the proceedings. They believe that in the Assembly, the Members have nothing to do beyond crying "ditto" to what is said by the Government. I submit that this is not good or healthy for the growth of a real democracy. There has already been very unhealthy Opposition to governments in the Provinces. There has been in the Provinces a very unhealthy growth. I should like that the Congress should resign. There is now no alternative Government that I can think of. Therefore, I feel that the Congress should be in power for some time to

come. But I would put in this condition, that it should try its very best to create and encourage some amount of opposition. Opposition can thus be and should be created. I would submit that the Leader of the Opposition should not only be given pay, but ample secretariat facilities. Those members who had the unfortunate, and unpalatable duty of opposing the Government felt the difficulty of the absence of secretariat help, and in those circumstances opposition has not grown very much. It is therefore the patriotic duty of every Member of this House to see that an effective opposition grows. If you want to be a stable government if you want to be in the good books of the people, if you are not desirous of creating anti-Congress feeling in the country which is growing very fast, if you think that you should keep the people from joining the forces of disorder and chaos, it is very necessary to consider this matter very seriously. It is very necessary for you to create an opposition, if necessary be some members volunteering to go to the opposition and making it healthy and strong. It is by such recognition and encouragement that you can create a healthy opposition. Then, Mr. Krishnamachari has said that the provision should find no place in the Constitution. He further says that opposition should grow convention. That has certainly been the case in England where everything has grown by convention. There the Leader of the Opposition gets a pay of £ 2,000 and secretariat facilities. But so far as our Constitution is concerned, it is a written constitution, and when we have made a special mention about the pay of Ministers and the pay and allowances of members in our Constitution and when you make no mention of the pay of the Leader of the Opposition, then the acknowledged, rule of interpretation would be that the Constitution does not desire to give the Leader of the Opposition any pay. I should, therefore, think that this should have a special place in the Constitution, though the question of the amount of pay and other things may be open for consideration.

I, therefore, ask this honourable House to consider the important principle first of all and make up their minds as to whether they should agree to the principle of creating and fostering opposition for the safety of the country, and secondly decided what pay should be given to the Leader of the Opposition. If the principle is agreed to, the fixation of pay should be a minor matter.

I submit, Sir, that one of the arguments of Mr. Ananthasayanam Ayyangar struck me as somewhat surprising. He points out that the amendment links the pay of the Leader of the Opposition with that of a Minister without Cabinet rank and he has posed a question: Suppose we abolish the post of minister without Cabinet rank, what will happen to the Leader of the Opposition? This looks like the quibbling of a lawyer. He overlooked the fact that we may create the post of a Minister without Cabinet rank, though we may not appoint one, or we may even remove him. As I have already said the exact amount of pay, or the exact provision relating thereto is not a matter of great importance. At any rate, I feel that his argument is without foundation.

During the debate the three distinguished honourable Members of the House said nothing about the status of the Leader of the Opposition. I am glad that none of them questioned the need of an organised opposition.

Another argument used by Mr. Ananthasayanam Ayyangar is that the present Opposition has no definite programme. I quite admit, in all humility, that there is now no opposition at all and, therefore, no recognised programme. It is this very situation which this amendment seeks to remedy. I agree that the opposition is not organised; it has no Secretariat; it has no money, it has not enough strength to meet an organised Government like that of the Congress. I say that it is the desire of many members of the opposition to support the Government, when they agree with its policy and oppose it when

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they feel that the Government is wrong. They support it while they may, and oppose it when they must. Mr. Ayyangar again suggested that the only opposition was in regard to the Hyderabad issue. Somehow or other, in one form or another, the communal bogey is raised now and then in this House. I think, Sir, that is a very weak and unsubstantial argument. In fact, the opposition—if there is one—the very feeble opposition which you find in the House has never been confined to the Hyderabad issue. There have been great controversies, of course, carried on by humble individuals in their individual capacity, but that is not confined to the Hyderabad issue. Take the well-known question of the Hindu Code Bill. On this issue the Muslims of India have shown that they are not communal in their outlook. The Muslims have been wholeheartedly supporting the Government in all their constructive measures. So, I submit, that the communal argument should be brushed aside, killed and buried once and for all.

I therefore reiterate that if you want to exist as a Government, respected and loved by the people, you should, for your very existence, create an opposition. Now there is a feeling in the country that the party in power is all too powerful. In fact, there is a feeling even amongst the Members of that Party that the party is all-too powerful and that individual members have no liberty. Even the Press of late has not been very articulate. In fact, the debates in the House which put the Government in an inconvenient light are hardly reported in the Press and it is hinted that this is due to some unofficial pressure on the part of Government.

This, Sir, is not a healthy state of affairs. Where are you leading the country to? China is already engulfed in the Communist menace; Burma is in the grip of Communism; the Communist activities have already reached the gates of Bengal. Would you place the country under the Communists? If you want to save the country from the Communist menace, you should create a healthy opposition, and thereby rally the country in your support. If you have no opposition, the people will lose their confidence in the Government and the country will go to the dogs.

In Bengal—I speak with personal knowledge—there is widespread antipathy against the Congress Government. Allegations of a very serious type are levelled against the Ministry. I believe the country should be saved from chaos and disorder towards which we are heading. We want to strengthen the hands of Government; we do not want to join the forces of disorder, chaos and the like. It is by creating a healthy opposition that you will be saving the India of the future.

Sir, I think I have wasted the time of the House for a few minutes longer than I had desired to, but I feel the subject is extremely important and deserves more care and attention than it has so far received. Sir, I beg to support the principle of the last part of the amendment.

Dr. P. S. Deshmukh (C. P. & Berar: General): Mr. President, Sir, I think this simple article has taken an unreasonably long time to get through the house and Members on both sides—I beg to be excused for saying so—have brought in issues which are, strictly speaking, not at all relevant to this article. Sir, the article is a very simple one. It provides that the future Parliament should decide the salaries and allowances of the Members from time to time by law. By law is meant by a Bill of Parliament. There will be ample opportunity in that Bill to provide for the salary of the Leader of the Opposition—if there is one—as well as to correlate the salaries of the Members of the House with any functionaries of the State if the Parliament

so desires. All those things are naturally left for the Parliament of the future to decide. I think the provision in the article is so appropriate that there should be no quarrel so far as its inclusion in the Constitution is concerned.

Many Members have said that the party in power should create an opposition, as if the creation of an opposition is like the planting of a tree. Nor is it appropriate to bring in the present state of affairs either in the provinces or at the Centre. This is not also I think an opportunity for ventilating individual or group grievances, so far as the present state of affairs is concerned. We are discussing the future Constitution of India. So in this article there is hardly room for controversy. It is open to the next Parliament to have a Leader of the Opposition and pay him if necessary even more than the Prime Minister. The post may be deliberately and substantively created, if that is thought necessary. I do not think this was the proper place to bring in the matters which have been brought up. If the Honourable mover of the amendment attached such importance to the existence of an opposition and statutory provision for the Leader of the Opposition he should have taken up matter independently and in any case on some other occasion where a discussion could have been said to be appropriate. So I feel that the article is thoroughly unobjectionable and should be adopted.

There is one thing I must say and that is that the members' salaries must be adequate. I feel very apprehensive that there should be many members of Parliament who are needy. It is a dangerous thing which will vitiate the proper working of democracy in any country, more so in a poor country like India. So although certain people are nervous about talking of their own allowances, etc., and some people feel patriotic about sacrificing them partly or wholly, I should insist there should be no temptation in the way of these members so as to make them deviate from the path of strictest duty and honesty. I am constrained to say this because of the conduct of many members of the legislatures all over India, central and provincial. I would ask any Government to face the bitterest criticism from an understanding public, but pay adequate salaries and allowances to the members so that they may not be tempted to derive any benefit from any other source whatever.

Sir, I oppose the amendment and support the article.

Shri R.K. Sidhwa (C.P. & Berar: General): Sir, I am always in favour of opposition but it must be a healthy opposition. But we have heard today that there must be opposition just for the sake of opposition and the supporters of the amendment went to the length of saying that there must be a regular campaign carried on against Government. My Friend Syed Karimuddin said that for opposing the Government you must pay the Leader of the Opposition. I strongly oppose that.

Kazi Syed Karimuddin : On a point of personal explanation, I said there should be a campaign against the mistakes of Government.

Shri R.K. Sidhwa : Yes. That is, exactly what I say. You stated there should be a campaign. Sir, healthy opposition to bring Government to their senses is surely commendable, but to say there should be a campaign to discredit government is another thing. My Friend Syed Karimuddin mentioned Communists and Socialists and said whatever they stated we disliked. That is not so. What I object to is the kind of campaign, which is neither healthy nor in public interest. There is a class of people who believe in throwing acid on innocent people, burn tram-cars and buses, throw bombs. Supposing their leader happens to be in the legislature and he advocates this kind of policy, could it be called healthy opposition? I would call that class of people enemies

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of the country, and surely their leader you expect to be paid from the public exchequer? It is of course true that the Leader of the Opposition in England is paid out of State funds. I do not know the history of that. But there the Leader of the Opposition not only opposes but sometimes also supports the Government. But whatever may be the case in England I am opposed to the principle of paying the Leader of Opposition out of the State funds. Every party has its own funds and if the party desires that he should be a whole-time worker let their party pay him; the State should not pay him for its being attacked in and out of season. It is a very wrong principle and I strongly oppose it.

Shri Ramnarayan Singh (Bihar: General) : Sir, although I do not support Mr. Lari's amendment I think he has raised an important constitutional issue which the House should consider. I am not an admirer of the British constitution. They have got the party system which I think strikes at the very root of democracy. We are told that in that country there is opposition and the Leader of the Opposition is paid. It is a sound principle. In this country we have just got freedom, and our own party *i.e.*, the Congress Party, has got no opposition to it. I have seen how things have been going on here and I feel that there must be a strong opposition to criticise our actions and review them. In the Mahabharata we find Bhishma and Arjuna fighting in opposition to each other and there Bhishma tells Arjuna how to kill Bhishma himself. In the same way I think that Government is good which creates and encourages opposition and which is always ready to retire. A Government which does not like opposition and always wants to be in power is not a patriotic but a traitor Government. In several provinces, in my own province of Bihar, I know what is happening. There is no opposition to the Congress Government and all sorts of scandals are going on. I therefore feel that there should be an opposition to criticise Government and this opposition should be encouraged. This need not be in the constitution itself but we must consider it as soon as the constitution is passed.

The Honourable Dr. B.R. Ambedkar : (Bombay: General): Sir, I am sorry I cannot accept the amendment of my Friend Mr. Lari. I think it unnecessary to give an elaborate reply to the arguments advanced by the mover in view of my complete agreement with what has been said on the other side by Mr. Ananthasayanam Ayyangar and Mr. T. T. Krishnamachari. I do not think it would be desirable to waste the time of the House in adding anything to what they have said. Their reply I find is quite complete.

I however, accept the amendment of Mr. Santhanam for the substitution, of the words, 'Constituent Assembly', for the words 'Legislature of the Dominion of India.'

Mr. President : I will now put the amendments to vote one by one.

The question is:

"That in article 86 the words 'and until provision in that respect is so made allowances at such rates and upon such conditions as were immediately before the date of commencement of this Constitution applicable in the case of members of the legislature of the Dominion of India' be deleted and the following new proviso be inserted:—

'Provided that salary payable to member of the Parliament shall not be less than one fourth or more than one-third payable to a Cabinet Minister.

And provided further that the Leader of the Opposition shall be entitled to get salary payable to a Minister without Cabinet rank.' "

The amendment was negatived.

Mr. President : The question is:

“That in article 86, for the words ‘Legislature of the Dominion of India’ the words ‘Constituent Assembly of India’ be substituted.”

The amendment was adopted.

Mr. President : The question is:

“That article 86, as amended, stand part of the Constitution.”

The motion was adopted.

Article 86, as amended was added to the Constitution.

Article 87

Mr. President : The House will take up article 87 for consideration. I find that amendment No. 1638 of Professor Shah is covered by article 98 which comes a little later.

Prof. K.T. Shah (Bihar : General): Sir, the second part is not covered. I shall move the second part only. Sir, I beg to move:

“That the following new clause be inserted before clause (1) of article 87:—

‘Either House of Parliament shall be entitled to receive petitions or representations from the people of India or from the people of any unit forming part of the Union of India.’ ”

Sir, I consider this a very important right of the people, and a privilege of Parliament, if I may say so, that the people whom the Parliament is supposed to represent should have the right to approach directly the sovereign legislature, and place before it grievances, or cases which require Parliament’s attention as the body concerned in any legislation pending before it.

Such petitions may also be in regard to any financial matter or administrative acts. In all such cases, in the ordinary way, unless some privilege of this kind is provided, the people, who theoretically are supposed to be sovereign will have actually no right of presenting their grievances, or views on any given matter to the sovereign legislature.

It may be—it frequently happens—that given the life of Parliament extending over five years, the House of the People elected four or five years before such an occasion arises, may have ceased to be in real contact, and therefore any real response to the wishes of the people, which in the period during which it has been in sessions has changed and is changing considerably, may be impossible.

Nor, is there any regular machinery by which Parliament may from time to time be able to test popular opinion, except in so far as the Ministry or Government chooses to place these matters before it. I suggest that the people should have the right of direct access for placing before Parliament on any given subject their views, and getting the Parliament’s reactions thereon. It is in this country an old privilege of the poorest, that fancying themselves aggrieved, or any individual fancying himself aggrieved, had a direct right of access to the Sovereign, even in the days of the old absolute emperors. In modern times, when we profess so much regard to the people as sovereign, when we are declaring from the house-tops that the ultimate sovereign is the people, and that we are only the servants or representatives of the people, I think it is not asking too much at all to suggest that this which forms admittedly the right of the people and the privilege of Parliament in Britain on which our Constitution is modelled, should also be included in our Constitution, namely that the people should have the right of direct access to Parliament and present petitions for that purpose.

I do not quite like the word ‘petition’ myself; but, as it has been used and as it is of popular use, in this matter I have adopted the word in presenting