

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

“That article 127, as amended, stand part of the Constitution.”

The motion was adopted.

Article 127, as amended, was added to the Constitution.

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#### **New Article 127-A**

**Mr. President :** Then there is notice of an amendment for adding a new article, article 127-A—that is amendment No. 1989 by Professor Shah.

**Prof K. T. Shah :** Sir, the principle of this having been rejected by the House earlier, I do not want to move it.

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#### **Article 128**

**Mr. President :** Article 128.

Mr. Naziruddin Ahmad has given notice of an amendment regarding the heading of the Chapter; that we shall leave out now.

Amendment No. 1991 is a negative one and cannot be moved.

1992 is of a drafting nature, I think.

**Shri T. T. Krishnamachari :** Sir, the word “State” has been current right through; so the amendment need not be accepted.

(Amendments Nos. 1993 and 1994 were not moved.)

**Mr. President :** So, there is no amendment to article 128.

The question is :

“That article 128 stand part of the Constitution.”

The motion was adopted.

Article 128 was added to the Constitution.

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#### **Article 129**

**Mr. President :** There are a number of amendments. To begin with, there is an amendment by Mr. Naziruddin Ahmad relating to the heading of the Chapter. We shall leave it over.

(Amendments Nos. 1996 and 1997 were not moved.)

**Shri Lakshmi Narain Sahu :** \*[Mr. President, I move :

“That the following be added at the end of article 129 :—

‘of whom there shall be at least one from each of the States of Part I of the First Schedule.’ ”

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\*[ ] Translation of Hindustani speech.

I mean to say that there should be one Governor from each of the States. It means that, in all the provinces constituted by us, each should have one of its men as Governor. Unless it is done the self-respect of each and every province could not be maintained. Therefore, I would like to introduce that every province should have at least one man as Governor. If the election is held it will take place there, otherwise he would be selected out of the panel. If he is not appointed as a Governor in his own province he can be appointed as such in some other province.

I come from Orissa and I find that in the present Central administration we have no representation in the services. All provinces are there in foreign services, but we have no share in it as yet. This makes us limited to such an extent that our provinces cannot make any progress. I, therefore, want that sufficient attention should be paid to this.

**Shri R. K. Sidhwa** : May I know whether the Mover wants that the Governor should be from that very province?

**Mr. President** : I understand what he means is this. There shall be one Governor from each State, though he may be posted to another province.

The next amendment stands in the name of Pandit Lakshmi Kanta Maitra. He is not moving it. So only one amendment has been moved to this article.

**Shri Brajeshwar Prasad** (Bihar : General) : Mr. President, I do not know how far it will be permissible for me to express the views I hold dear to my heart. I feel that there is no necessity for a Governor in any province of India. The Commissioner of a Division may be brought under the administrative superintendence, direction and control of the Centre. Vest more powers in the hands of the Divisional Commissioners. I feel that the existence of a legislature, a Ministry, and a Governor is harmful in the interest of all the provinces.

Sir, nobody knows more than you, how Provincial administrations are being run these days. I understand that what I am saying runs counter to the accepted principles of provincial autonomy, federalism and democracy. I plead for a change of attitude. When we accepted provincial autonomy, we were under British rule. We then raised that slogan in order to oust British power from India. We knew well that the British people were not prepared to give any concession or power at the Centre. The provinces were the weakest link in the chain. Even there they did not vest full autonomy. They had reserved powers in their own hands. Now the times have changed. Provincial autonomy means distrust of the Centre. This distrust was justified at that time because at the Centre there was foreign rule. Now we have got freedom. How is it possible or desirable or necessary now to vest powers in the hands of the Provinces and appoint a Governor who has got practically no power? He is a mere puppet. If so, why should we have these Governors?

One thing more, Sir, before I conclude. Now it is well recognised that the doctrine of separation of power has been exploded. This doctrine has got not only relevance to the question of separation of judiciary from the legislature and the executive, it has got a vital bearing upon the whole question of federalism. It means separation of powers. If the doctrine of separation of powers has been exploded, then the whole federal structure crashes, crumbles and goes down. I feel that by not hurrying through the Constitution since 1946, we have stood to gain. Now it has been stated that we must hurry up, because we have taken too much time. By taking too much time in passing the Constitution, we have managed to do certain things which we would have been unable to do if we had passed the Constitution in 1946 or 1947. Firstly, the States have been integrated. This would not have been possible if we had passed the Constitution in 1947. Such Constitutional changes it is not easy to make.

[Shri Brajeshwar Prasad]

The Constituent Assembly has the power to change or make any new law. Sardar Patel has been able to integrate the Indian States, form new States, dissolve certain units and merge the States with different provinces. Secondly, if we had passed the Constitution in 1947, the provision for the reservation of seats for the different minorities in India would have been incorporated in it. By waiting, we have achieved what in 1947 appeared to be impossible.

Sir, I feel that the whole Chapter, Part VI of the Constitution should not be hurried through. We are quite content with the present Government of India Act. We have got the power to amend it to suit our changing needs and conditions. Today within five minutes the Honourable Dr. Mookerjee was able to get a Bill passed here. If it had been in a different House, it would have probably taken a few hours to pass it. I do not see any reason why we are in such a great hurry to pass the Constitution. Probably we look more to international opinion and to the opinion of our Anglo-American friends, to the opinion of the capitalist press and to the opinion of those who have no sympathy with our national aspirations and hopes. I hope more emphasis is laid upon the existing conditions in India. What is today required is that there should be rapid improvement in the economic condition of the poor people and in the removal of illiteracy. Instead of doing these things we are trying to impose a new Constitution on the people and waste public money on elections. I, Sir, oppose article 129.

**Dr. P. S. Deshmukh :** Sir, I rise to support the point of view just placed before the House by my honourable Friend. It is known to many Members of the House that it was with this intention that I had given notice of a resolution. In that resolution I wanted that the basis of our Constitution should be altered from semi-unionistic and semi-federalistic to a proper unitary system. It was with that end in view that I had given notice of a resolution by which I wanted that the present condition of world politics made it imperative that India should be a well-knit, homogeneous and powerful nation so that she may play a prominent and decisive part for the maintenance of world peace. I then in my resolution stated the various causes that led me to that conclusion. Some people will say : 'Why was this not pressed when we were drafting the Constitution? Fortunately or unfortunately the present administration has made apparent the pitfalls and the dangers of the present basis of the Constitution far more than anybody could have or did anticipate or imagine. Actual experience has shown that the present Constitution has many dangers ahead and I think it will be for the good of India if we could avoid those dangers and take a somewhat revolutionary decision to do away with the present basis of the Constitution. And where was the present basis of the Constitution laid? It was not laid in Delhi. It was not laid anywhere in India. It was laid in Britain and it was intended to meet a far different situation than the one with which we are faced at the present day. The draft Constitution is a mere reproduction of the Government of India Act of 1935. The ever-increasing demands of Mr. Jinnah, separate electorates, reservations & weightages, the existence of tiny little States spread over the whole length and breadth of India, that was the problem that we were trying to meet and to solve by meeting several times in London in Round Table Conferences and it was for meeting the political exigencies of that situation in India that the framework of the Constitution which we are trying to copy at present was really shaped and hammered. I think that this Constitution and the principles underlying it are entirely foreign to the genius of our people and I have been all along urging that we must search our hearts and find out a political solution for the administration of our country in a way which will be more suited to the genius of people of this country. We do not now have the abstacle of the States in our way. We do not have the intransigence of the Muslim League in our way. Under

these circumstances why should we not take the only logical step and decide upon a unitary type of constitution by which we will have the fullest co-operation of our people, by which we will be able to harness the energies and intelligence of the Indian people as a whole and by which we will be able to build the Indian nation far more quicker and at the expense of much less energy than would be the case if we retain the fundamentals of this Constitution?

The main point, Sir, which I have urged in this Resolution is the apparent instability of the Ministries in the States, Unions and in the provinces. We read everyday in the papers, almost every morning, of some conflict or other between the various provinces and of lack of co-operation with the Centre. We have had the instance of the Agricultural Minister complaining bitterly, when we were meeting as the Legislative Assembly, that he was not receiving the co-operation of the provinces in regard to the increase in our food production. There is a similar complaint with regard to the rehabilitation of the refugees. There are also questions about the systems and methods of provincial taxation. Only this morning's paper told us about the incidence of the sales tax imposed by the various provinces. I am told on reliable authority that whatever article comes to the C.P. is charged sales tax in the province of Bombay because it has necessarily to go through that province, and the same article is again charged with a sales tax in the C.P. also. Apart from this, Sir, there are many financial issues over which we will talk for days and days before we can come to any decision. We get proposals from the provinces which are diametrically opposed one to the other. There are perpetual demands for greater subsidies from the Centre.

Then there is the question of linguistic provinces. We know that the whole country at the present time is agitated over this issue. We have had one or two Committees appointed to go into the question but unfortunately instead of making an improvement in the situation, the situation is worsening to the sorrow of many thinking people. Now, so long as we want provinces to be maintained, we cannot but grant linguistic provinces. We might with difficulty, after using all the influence that our leaders command, be able to stave off or postpone this issue of linguistic provinces for a short time but certainly and surely linguistic provinces will be there and even if my Friend, Mr. Munshi, does not want Bombay to be included in Samyukta Maharashtra, he will never be able to prevent it. So, my solution for all these difficulties,—and the greatest difficulty of them the demand for the creation of linguistic provinces over which people's minds are exercised to such an alarming extent,—is to take away the autonomy of the provinces. When once you do this, all quarrels and jealousies will disappear. The quarrels are there and the jealousies are there only because the provinces are there. When there is only one government at the Centre, there is only one legislature, one Ministry and one law, all these quarrels and jealousies will disappear and it would also be possible then to harmonise all these demands and claims in such a way that no difficulties will remain. So from all these points of view, I would very much request the honourable Members of this House to search their hearts and see if the unitary system is not the only logical, suitable and practicable system of government for this country. After all, federalism is consistent only with the desire of the people to have union and not unity. But in India everybody desires unity, not only union. That being the general feeling of people, I do not think it will be wise on our part to brush aside my resolution by saying that it is too late to adopt any fundamental change in our Constitution. When once the principle is accepted, the whole Constitution will become very simple. The whole Constitution can be hammered out with complete satisfaction to all within about two or three weeks. Even if we are not able to do so, there will not be any difficulty because so long as the unitary system is there, you will have all the subjects with the Centre and there will not be any necessity for discussing

[Dr. P. S. Deshmukh]

what should be concurrent, what should be provincial and what should be Central. I want all honourable Members to think seriously and say whether this is not for the good of India, for India emerging as a strong nation and not having to go through all the dangers and ultimately coming to the same thing. If we do not accept this proposal now, it will come fifteen years hence I have not a shadow of doubt about it. Then it will be rather too late. By that time there will be so much time lost; so many quarrels, enmities and antagonisms may arise in the whole of India that although you will come back to the unitary system but it will be too late. All these fruitless sacrifices and tribulations, will all be saved if you adopt the system now. Therefore I would urge all honourable Members of this House to give more thought to this proposal and see if it is not possible for them to accept it. It is not too late to mend even today.

**Mr. President :** I would ask honourable Members to confine themselves to the article which is under discussion. I have allowed Dr. Deshmukh to express his views on the larger question because I know he has held those views all along very strongly. I have given him an opportunity to express those views but beyond that we should confine ourselves to the article under discussion.

**Shri R. K. Sidhwa :** I am very glad that you have given the ruling because several times I wanted to stand on a point of order but I thought that I should not take the odium. After we have decided on the broad principle of this Constitution, both the speakers previous to me were out of order. That is my humble submission. You have now made the position very clear. Otherwise I would have taken fifteen minutes to refute those arguments. I hope, Sir, no other Member will be allowed to say anything on this matter. Dr. Deshmukh took the opportunity to express his views on his resolution which was ruled out by the Steering Committee.

Now, Sir, coming to Mr. Sahu's amendment, his amendment states that each province should be given an opportunity to send a Governor. I sympathise with the idea that every province should have the opportunity to send Governors to the various provinces. While I entirely agree with the present procedure of appointing Governors not from the same province but from some other province, I do feel that each province should have this right provided they possess persons of merit and qualifications to become Governors. That should not be ignored; otherwise Governors must not be sent from only one or two provinces. While I entirely agree with this argument, I do feel it is not proper to put an amendment in the Constitution and it should be left as it is. The subject will come hereafter when we take up the question of the appointment of Governors and then we might discuss the matter further. Sir, while I agree with the views expressed that each province has got able men to govern, it should be borne in mind when the appointments are made that the various provinces are not forgotten. Despite my views, I do not like this amendment to go into the Constitution.

**Shri Rohini Kumar Chaudhuri** (Assam : General) : Mr. President, Sir, I want to make it perfectly clear to the honourable Members of my party as well as to the honourable the Chief Whip that I oppose this amendment which has been moved by Mr. Sidhwa.

**Mr. President :** He has not moved any amendment.

**Shri Rohini Kumar Chaudhuri :** I am sorry; I refer to Mr. Sahu. Mr. Sidhwa's name is in my mind because he made a very astounding proposition today. He goes to the length of saying that every province has able men. If he looks at the facts, he will find that he is completely mistaken. Is there any able man in Assam? If there was any able man, he would have found a place

either in the Ministry or in the State Ministry or Sub-State Ministry or in any governorship of a province. If there was any able man in the province of Assam, he might have found his way to place outside India, either in an Embassy or in some such post. There are no such able men in Assam. There are eminent judges in India and those judges have decided that there is not a single person in Assam who is able either to act as a Governor or be appointed in the Ministry or in the State Ministry or in an Embassy. Secondly, is there any able man in Orissa? Is there any one in Orissa any man from Orissa who has found a place in any important place either in the Ministry or in an embassy or holding the post of a Governor? You must admit that you cannot say. You cannot say that the persons who are responsible for choosing people for these appointments are not found responsible persons or who do not exercise sound judgment; you cannot say that, and therefore, the proposition which is laid down by my honourable Friend, Mr. Sidhva is absolutely incorrect. We must wait. Able men must be born; they must be qualified and they will in due time take their places in these provinces.

Then, Sir, I oppose my honourable Friend, Mr. Sahu, on the ground that his amendment is absolutely premature. If article 131 is accepted by this House, namely, that the Governor in every province shall be elected, in that case you can get your Governor from your own province. If in a province no man of the province is elected as a Governor, then it is the province which has to blame itself. The only possible way, as far as I can see, for getting a man of a province raised to a position to a Governor, will be to allow that post to be an elected one. If an election is held automatically, I suppose ten to one, you will get one of the men of the province elected to that post. Otherwise you will never get that position. I also oppose Mr. Sahu's amendment on the ground that his argument is absolutely wrong, for supposing the post, instead of being elected, is held by person nominated, then what will be the position? I can challenge him that instead of one for each province, if you say three for each province, you will not get it; so long as it remains to be a nominated office, there is very little chance.

**Mr. President :** May I point out that the question of election or appointment is not before the House yet? This article does not deal with the method of the appointment of the Governor.

**Shri Rohini Kumar Chaudhuri :** I most respectfully submit that Mr. Sahu's amendment is quite premature for if the post is an elected one, then the question of a man coming from some other province does not ordinarily arise, because, if he is elected, the men of that province will elect a man of the same province ordinarily and therefore, that question does not arise. The amendment of Mr. Sahu would only arise in case it is presumed that this office will not be an elected office; in that case only this arises and in that case we can say that in filling up the post by nomination care should be taken to see that each province gets a share in the position of Governor. So, I say on the ground, I oppose the amendment of Mr. Sahu, which is premature now.

Well, Sir, so long as you lay down that the office will be a nominated one you cannot expect every province to get a share. Let us look at actual facts at the present moment : The Bombay people have three posts as Governor, the U.P. and Delhi have three Governors whereas an important province like Bihar and Bengal have not any Governor of their own; and in Bengal there is none at present, even though there was, of course, Mrs. Sarojini Naidu, who was a Bengali and therefore, I submit that if you give it entirely to nomination, you must leave it to the pleasure of the person who nominates and you cannot lay down a condition that you must nominate from every province; and although I oppose the motion of Mr. Sahu, I am in entire sympathy with him and I

[Shri Rohini Kumar Chaudhuri]

think till we settle this policy regarding nomination, the claims of each province will be certainly satisfied.

**Shri T. T. Krishnamachari :** Sir, the question be now put.

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

“That the question be now put.”

The motion was adopted.

**Mr. President :** I shall put the amendment to vote.

The question is :

“That the following be added at the end of article 129 :—

‘and of whom there shall be at least one from each of the States of Part I of the First Schedule.’ ”

The amendment was negatived.

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

“That article 129 stand part of the Constitution.”

The motion was adopted.

Article 129 was added to the Constitution.

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### Article 130

**Mr. President :** Amendment No. 2000 is of a drafting nature.

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

“That in clause (1) of article 130, for the word ‘may’ the word ‘shall’ be substituted.”

The amended article would read thus :

“The Executive power of the State shall be vested in the Governor and shall be exercised by him accordance with the Constitution and the law.”

There is a considerable force in the substitution suggested by me in this amendment. The Constitution should make it imperative upon the Governor to use his powers in accordance with the Constitution and the law, that is to say, on the advice of his Ministers, as provided for in the subsequent clauses and in other parts of the Constitution. The Governor has a considerable number of powers, not necessarily those for which Ministers are responsible to the legislature, but other powers as well to be exercised in his discretion, so it is said. I suggest that, under the new system that we are inaugurating, in the democratic regime that we are establishing under this Constitution, it is but right and proper that the Executive head of a State shall use his powers in accordance with the law and the Constitution, that is to say, on the advice of his Ministers where such powers or actions in accordance with those powers are likely to involve any item of ministerial responsibility. It is not merely a verbal change I have suggested; it is an important change in principle and I hope it will command itself to the House.

**Mr. Mohd. Tahir (Bihar: Muslim) :** Sir, I beg to move :

“That in clause (1) of article 130, after the word ‘may’ the words ‘on behalf of the people of the State’ be inserted.”