

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