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ANDHRA STATE

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On division, Madras State will continue as before, but with territory diminished, and the Andhra State will be formed under Article 3 (a) by separation from the Madras State of the Andhra Districts. On separation, Andhra State may be either a Part A State or Part C State. If the former, it must have a Governor and a High Court. If the latter, it will be governed by the President acting through Chief Commissioner, or Lieut. Governor or the Governor of a neighbouring State ; if administered through Chief Commissioner or Lieut. Governor, it will have a Legislature or Council of advisers or both, and a High Court created for it or any Court in that State declared to be High Court. The Parliament may extend the jurisdiction of the High Court of Part A State to Part C State, in which case the jurisdiction of the Madras High Court may be extended to Andhra State also. But Andhras will not consent to have their State a Part C State.

If it is a Part A State, it must have a Governor and a High Court. Part VI of the Constitution applies to Part A States. It contains Article 153 which provides that there shall be a Governor for each State and Article 214 which provides that there shall be a High Court for each State. The specific provision excludes the possibility of one Governor and one High Court for two Part A States ; for then each will not have a Governor and a High Court. The analogy of British Crown cannot apply, for there the Sovereign occupies a unique position as the Constitutional Head of many Governments. Can a single person occupy the position of Governor of two States ? Article 158 (2) provides that the Governor shall not occupy any other office of profit. The Governor of Madras State will occupy an office of profit if he accepts the Governorship of Andhra State also. Under the Constitution the Executive power of the State vests in the Governor. If the Executive power of two States should vest in a single Governor it will give rise to a confusion in the exercise of those powers. Such Executive power extends to all matters with respect to which the Legislature of the State has power to make Laws. Each Legislature can make Laws only for itself and not for the other. If one Legislature made some Laws and the other did not, or the other made Laws to the contrary, what is the Government to do ? The Governor is to be advised by a Council of Ministers. Where their interest conflicted, if the Ministers of one State advised one way, and the Ministers of the other the other way, what is the Governor to do ? Under Article 168 (1), the Governor is a component part of the Legislature. When the Legislatures are different for the two States, can they have a single Governor as the component part. If one Legislature passed one Bill and another Legislature passed a different Bill, is the same Governor to assent to both ? If one Legislature sat and the other did not, can the Governor promulgate any Ordinance ? Is he to play the part of Jekyll and Hyde ? The above are a few of the considerations

which clearly demonstrate that having a single Governor for two States is inconsistent with the Constitution.

The provision that there shall be a High Court for each State rules out the possibility of a single High Court for two Part A States. But Article 230 contains provisions which allow a High Court of one State to exercise jurisdiction over another State and Article 232 makes provision for such a contingency. The consequence is that the Governor of the State in which the High Court has its principal seat shall have the powers conferred on him by part V and the consolidated fund with reference to such High Court with such extended jurisdiction will be the consolidated fund of the State in which that High Court has its principal seat. In the present case as the High Court will have its principal seat in the Madras City, the State of Madras will have the power to be consulted as to the appointment of District Judges of the Andhra State and to exercise control over Subordinate Courts of the Andhra State. It is not likely that Andhras will consent to this. The said Articles are intended to cover cases such as East Punjab and Delhi where a High Court of a Part A or Part B State has jurisdiction over the Courts of a Part C State.

If for Andhra there should be a separate Governor and a separate High Court can they be located at Madras? If so located, the Governor and Judges would be amenable to the jurisdiction of the Madras State as its subjects which will be anomalous. Will the Andhra High Court have no original jurisdiction? Unless they are specifically excluded, the Courts in Madras will have jurisdiction over them. Art. 227 vests in the High Court powers of Superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction. The fiat of the one court will be available over the other. Where will be the principal seat of the Andhra High Court and how will Articles 230 and 232 affect the powers and jurisdiction of the State of Madras and its Governor over such a High Court?

The problem will not be solved by converting the Madras City into a Part C State, but on the other hand it will become more complicated, for then, instead of two States having a single capital it will be three States having a single capital. A Part C State will be administered by the President and Madras and Andhra States by their respective Governors. If all of them were to be located in the same city, the confusion will become all the greater. If the State of Madras were to have another capital in Tamil Nad, and the Andhra State to have its own capital in the Andhra State and Madras City be constituted into a Commissioner's Province, the result may only be that the city will be shorn of its importance, but it will solve no problem nor do good to anyone, but, on the other hand, it may do infinite harm to South India.

If Madras City can be the seat of Madras and Andhra States, why should not Hyderabad, which the Andhras expect may become their future capital, be now made the seat of its present capital?