# CONSTITUENT ASSEMBLY OF INDIA DEBATES (PROCEEDINGS) - VOLUME XI

***Monday, the* 14*th November* 1949**

**----------**

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

---

## TAKING THE PLEDGE AND SIGNING THE REGISTER

**Mr. President :** I understand that there are two Members who have to take the Pledge and sign the Register.

The following Member took the pledge and signed the register:--

**Shri M. R. Masani** (Bombay General).

---

**Mr. President :** We have now to take up the consideration of the Draft Constitution.

**Shri R. K. Sidhva** (C.P. & Berar : General) : Mr. President I wish to draw your attention to the Resolution I have given notice of in connection with the sending of a message by the Constituent Assembly to the people of Indonesia for their having achieved their freedom after a great struggle. I think the proper body to send such a message is the Constituent Assembly of India who have achieved freedom and are preparing the Constitution. The Indonesian people are also preparing their Constitution. Sir, if my Resolution is not to taken up here, I request you as President to send a telegram of congratulation and felicitation.

**Mr. President :** I propose to place the notice of that Resolution before a meeting of the Steering Committee and take such steps as we are adviced by that Committee.

We have now to take up the consideration of the Report or the Drafting Committee together with the amendments made by the Drafting Committee and other amendments of which we have received notice. I propose to explain the procedure which I wish to follow in this connection. After the motion for the consideration of the Report has been passed, the amendments will be taken up. Those amendments of which notice has been given by the Drafting Committee will be taken as moved and there will be no formal motion with regard to the amendments included in the Report of the Drafting Committee.

As regards the amendments of the Drafting Committee, they are of two kinds. Many amendments have been incorporated in the Report and printed in italics in the

copy of the Constitution which is now in the hands of the honourable Members. There are certain other amendments of which we have received notice from the Drafting Committee but which are not included in the Report or printed in the Draft Constitution. So far as those amendments are concerned which are included in the Report and indicated in italics, the Members have had an opportunity to send in amendments and they have given notice of amendments to them. But so far as these new amendments of which the Drafting Committee has given notice now are concerned, the Members have had no notice and no opportunity of giving notice of amendments. I would allow amendments to those amendments which are now included in the Second List of Amendments till we start work tomorrow morning. Honourable Members will thus have time to consider these new amendments and give notice of amendments, if they wish, till tomorrow morning. As regards the procedure to be followed in considering the amendments, under the rules which were adopted in the last session, I think no amendment which does not arise out of any amendment which is moved on behalf of the Drafting Committee will be in order. So I propose not to take those amendments unless in the case of any particular amendment I find that there is any special reason to make an exception. The rules have given me that discretion and I shall consider any particular amendment which does not come under the rules but which I consider to be reasonable and necessary and permit it to be moved. At present I must say that I do not feel it advisable to admit any of those amendments which are outside the rules. But I am open to consider the matter further and if any honourable Member draws my attention--not in the House but in writing--to any particular amendments to which he attaches special importance, I shall consider that amendment specially and allow that to be moved or not as I deem fit.

When an amendment to an amendment is moved, I do not know whether Members would like to discuss each separately, but then we have a limited time at our disposal and all this process of disposing of all the amendments must be finished by one o'clock day after tomorrow. Under the rules I could give only two days for this business, but I have stretched the point in favour of the Members by fixing the time up to one o'clock on Wednesday. I have done this because I feel that the previous consideration of the motion might take a little time today and it would not be fair to the Members to give them less than two days for considering all the amendments. Therefore I would suggest that if any Member wishes to speak about any amendment of his own, he will confine his remarks to the barest minimum possible, so that we may have more time for other Members.

I hope all the amendments to the amendments of the Drafting Committee, except those contained in List II, will be moved in the course of this day and tomorrow we may take up the amendments to List II of Amendments. We may have a discussion of all the amendments tomorrow. I must put them all to vote day after tomorrow, say by about twelve of the clock, and finish the voting by one of the clock day after tomorrow. This is the procedure which I propose to follow. I trust this will give an opportunity for all important amendments to be discussed and also for expediting the work.

**Shri R. K. Sidhva :** I want to know whether we will have two sittings today.

**Mr. President :** We shall sit every day from tomorrow from 10 o'clock to 1 o'clock and from 3 o'clock to 5 o'clock.

**Shri R. K. Sidhva :** Why not today also.

**Mr. President :** Yes, today also.

**Shri H. V. Kamath** (C. P. & Berar : General) : With regard to the time fixed for the consideration of the amendments to the Draft Constitution as revised, under the rules adopted in the Assembly last time you have powers to relax or suspend any of the rules.

**Mr. President :** I am not inclined to extend the time beyond 1 o'clock day after tomorrow. Within that time I shall be prepared to relax any of the rules which I consider need relaxation.

**Shri Mahavir Tyagi** (United Provinces : General) : Sir, are you going to take the amendments in italics article by article ? If you do, it will be difficult for us to finish the work within the prescribed time. Moreover, in certain cases, the changes are such that they are absolutely new and which we have not discussed before. Some changes have been introduced which were not discussed in the House at all. In such cases Members may like to oppose those amendments.

**Mr. President :** Members may depend upon my discretion to decide such cases.

**Mr. Naziruddin Ahmad** (West Bengal : Muslim) : I have a point of order.

**Pandit Lakshmi Kanta Maitra** (West Bengal : General) : How can a point of order be raised on the observations of the Chair ?

**Mr. Naziruddin Ahmad :** I have nothing to say against the observations of the Chair.

**Shri R. K. Sidhva :** How can a point of order be raised when there is nothing before the House ?

**Mr. President :** I think the honourable Member only wants to make some observations as some other Members have done.

**Mr. Naziruddin Ahmad :** I do not want to obstruct the proceedings. Sir, you have kindly observed that the amendments put before the House today during this session should be relevant to the amendments made by the Drafting Committee. That I submit, should apply not only to out amendments but also to the amendments proposed by the Drafting Committee. If any amendment of ours is outside the scope of being relevant to the amendments already suggested by the Drafting Committee, it should go. I quite agree; but along with it, I think, must also go the amendments proposed by the Drafting Committee which were circulated last night. Amendments to amendments again must be governed by the same rules. Our rules do not make any distinction between further amendments to be moved by the Drafting Committee and the amendments to be moved by the Members. So they should either sink or swim together. I ask you whether you would consider the later amendments suggested by the Drafting Committee on the same basis as our amendments.

So far as the amendments suggested by the Drafting Committee in the revised

draft are concerned, in some cases the changes have not been indicated in the text. In some cases they have been shown in italics, In some cases important changes have not been indicated at all. So, it would be extremely difficult for you and for the office to find out whether our amendments are relevant amendments to the amendments made. This is a very difficult matter. I ask you to consider all these.

Then I should like to make a suggestion that amendments which may be strictly outside the scope of the rules may be considered by the draftsmen. I would like the draftsmen to consider them and in case they are agreeable, I submit that those amendments, although they are strictly outside the rules, may be allowed to be moved. I submit that they may improve the text and they should not be allowed to be ruled out on mere technical grounds. I think these things should be carefully considered.

**Mr. President :** As regards the first point raised by Mr. Naziruddin Ahmad with regard to the amendments of which notice has been given by the Drafting Committee now and which are contained in List II, I think the discretion given to me under the rules is intended to cover such cases and I shall use my discretion in regard to those amendments and also in regard to other amendments too, but naturally the amendments of which notice has been given by the Drafting Committee have a certain value which does not attach to every amendment of which notice has been given by every private member. Subject to that, I shall consider those amendments also and use my discretion. If I find that any amendment really does not arise, I will rule that out.

**Mr. Naziruddin Ahmad :** What about my other point, Sir, that the draftsmen should consider all formal amendments and if they are acceptable to them they should be allowed ?

**Mr. President :** As regards those amendments, I expect that the Drafting Committee has been considering all these amendments and if they have not done so up till now, they will do that. It is for that reason that I do not wish to put any amendment to the vote now but put them to the vote only day after tomorrow so that in the meantime the Drafting Committee may have time to consider those amendments on their merits. If it is inclined to accept any of them, they may be accepted, or if the Drafting Committee is inclined to accept any of the amendments which do not come under the first class of amendments but are amendments to amendments, they can do so. I shall take up on Wednesday all these amendments at one time. For this reason I think I would not put to the vote any amendment at this stage, in order to give time to everybody to consider the amendments so that we may have the best consideration given to each amendment.

Now, as regards the time for moving any amendment, I would not like to give more than five minutes. If on the other hand, as has been pointed out by Mr. Mahavir Tyagi, there is any amendment which is a substantial amendment and which goes beyond the decision of the Constituent Assembly in its previous session, probably I might give a little more time for discussion. I might allow some speeches on those amendments.

**The Honourable Shri K. Santhanam** (Madras : General) : Members should not make speeches on merely formal amendments.

**Mr. President :** I hope that Members will not insist on delivering speeches because they will remember, as I have already said, that we have got to finish by 1 o'clock day after tomorrow. If they insist on making speeches on amendments which are of an inconsequential or unnecessary nature, they will be only taking up the time of the House which should actually be reserved for discussion of the more important ones.

**Pandit Thakur Das Bhargava** (East Punjab : General) : Sir, the amendments of the Drafting Committee leave one rather cold in respect of some matters. The Drafting Committee has gone beyond its powers in putting forth amendments which are against the considered verdict of the House. The House defeated some amendments but those amendments have been re- incorporated. My humble submission is that in the third reading it is beyond the powers of the Drafting Committee so to arrange matters that the previous amendments which were carried by the House are tampered with. My humble submission is that those amendments which were defeated before and which were the subject matter of discussion in the House should not be touched in the third reading at all.

The Drafting Committee were only allowed to make formal and consequential amendments and such amendments which were absolutely necessary. Necessary amendment does not mean that they sit as a revising body over the considered verdict of the House, and therefore my humble submission is that so far as these amendments are concerned, they ought to be ruled out as inadmissible. When the amendments come, it must be decided on merits whether those amendments should be allowed or not.

**Mr. President :** As I have said, I shall consider each amendment on its merits and Mr. Thakur Das Bhargava has not said anything which requires any further reconsideration. What he has said is covered by what I have said already.

**Shri H V. Kamath :** Is Wednesday 1 o'clock absolutely final ?

**Mr. President :** Yes, it is final.

**The Honourable Dr. B. R. Ambedkar** (Bombay : General) : Mr. President, Sir, I have to present the report of the Drafting Committee together with the Draft Constitution of India as revised by the Committee under rule 38-R or the Constituent Assembly rules. Sir, I move--

"That the amendments recommended by the Drafting Committee in the Draft Constitution of India be taken into consideration."

Sir, I do not propose to make any very long statement on the report or on the recommendations made by the Drafting Committee for the purpose of revising or altering the articles as they were passed at the last session of this Assembly. The only thing that I wish to say is that I would not like to apologise to the House for the long list of corrigenda which has been placed before the House or the supplementary list of amendments included in List II. In my judgment it would have been much better if the Drafting Committee had been able to avoid this long list of corrigenda and the supplementary list of amendments contained in List II, but the House will realise the Stress Of time under which the Drafting Committee had been working. It is within the knowledge of all the Members of the House that the last session of the Constituent

Assembly ended on the 17th of October. Today is the 14th of November. Obviously, there was not even one full month available for the Drafting Committee to carry out this huge task of examining not less than 395 articles which are now part of the Constitution. As I said, the Drafting Committee had not even one month, but that even is not a correct statement, because according to Rule 38-R and other rules, the Drafting Committee was required to circulate the Draft. Constitution as revised by them five days before this session of the House. As a matter of fact the Constitution was circulated on the 6th of November, practically eight days before the commencement of this session. Consequently the time available for the Drafting Committee was shorter by eight days. Again, must be taken into consideration that in order to enable the Drafting Committee to send out the Draft Constitution in time, they had to hand over the draft they had prepared to the printer some days in advance to be able to obtain the copies some time before they were actually despatched. The draft was handed over to the printer on the 4th of November. It will be seen that the printer had only one day practically to carry out the alterations and the amendments suggested by the Drafting Committee. It is impossible either for the printer or for the Drafting Committee or the gentleman in charge of proof corrections to produce a correct copy of such a huge document containing 395 articles with in one day.

That, in my judgment, is a sufficient justification for the long corrigenda which the Drafting- Committee had to issue in order to draw attention to the omissions and the mistakes which had been left uncorrected in the copy as was presented to them by the printer on the 5th. Deducting all these days, it will be noticed that the Drafting Committee had barely ten days left to them to carry out this huge task. It is this shortness of time, practically ten days, which in my judgment justifies the issue of the second list of amendment now embodied in List II. If the Drafting Committee had a longer time to consider this matter they would have been undoubtedly in a position to avoid either the issue of the corrigenda or the Supplementary List of Amendments, and I hope that the House will forgive such trouble as is likely to be caused to them by having to refer to the corrigenda and to the Second List of Amendments for which the Drafting Committee is responsible.

Sir, it is unnecessary for me to discuss at this stage the nature of the amendments and changes proposed by the Drafting Committee in the Draft Constitution. The nature of the changes have been indicated in paragraph 2 of the Report. It will be seen that there are really three classes of changes which the Drafting Committee has made. The first change is merely remembering of articles, clauses, sub-clauses and the revision of punctuation. This has been done largely because it was felt that the articles as they emerge from the last session of the Constituent Assembly were scattered in different places and could not be grouped together under one head of subject-matter. It was therefore held by the Drafting Committee that in order to give the reader and the Members of the House a complete idea as to what the articles relating to any particular subject-matter are, it was necessary to transpose certain articles from one Part to another Part, from one Chapter to another Chapter so that they may be conveniently ground together and assembled for a better understanding and a better presentation of the subject-matter of the Constitution.

The second set of changes as are described in the report are purely formal and consequential, such as the omission of the words "of this Constitution" which occurs in the draft articles at various places. Sometimes capital letters had been printed in small type and that correction had to be made. Other alterations such is reference to Ruler

and Rajpramukh had to be made because these changes were made towards the end when we were discussing the clauses relating to definition. The other change may be compendiously called 'necessary alterations.' Now those necessary alterations fall into two classes, alterations which do not involve a substantial change in the article itself. These are alterations which are necessary because it was found that in terms of the language used when the articles were passed in the last session, the meaning of some articles was not clear. or there was some lacuna left which had to be made good. That, the Drafting Committee has endeavored to do without making any substantial change in the content of the articles affected by those changes. There are, however, other articles where also necessary changes have been made, but those necessary changes are changes which to some extent involve substantial change. The Drafting Committee felt that it was necessary to make these changes although they were substantial, because if much substantial changes mere not made there would remain in the article as passed in the last session various defects and various omissions which it was undesirable to allow to continue, and the Drafting Committee has therefore taken upon itself the responsibility of suggesting such changes which are referred to in sub-clause (d) of paragraph2, and I hope that this House will find it agreeable to accept those changes. As to the substantial alterations that have been made, in regard to some of them sufficient explanation has been given in paragraph 4 and I need not repeat what has been said in the report in justification of those charges.

Sir, I do not think it is necessary for me to add anything to the report of the Drafting Committee and I hope that the House will be able to accept the report as well as the changes recommended by the Drafting Committee both in the report as well as in List II which has already been circulated to the Members of the House.

**Amendments of Articles**

**Mr. President :** Dr. Ambedkar has presented the report and the motion now before the House is that the amendments recommended by the Drafting Committee, and the Draft Constitution be taken into consideration.....

**Shri H. V. Kamath :** I have got an amendment, Sir.

**Mr. President :** I think it is only a verbal amendment.

**Shri H. V. Kamath :** This is with reference to Rule 38-R and I shall take only half a minute.

**Mr. President :** I shall be looking at the clock; take half a minute.

**Shri H. V. Kamath :** Sir, I shall not read the amendment* to the House. While moving this amendment. I would only endorse the remarks made by my honourable Friend Pandit Thakur Das Bhargava and state before the House that so far as the amendments suggested by the Drafting Committee are concerned, they have more or less acted like, may I say, chartered liberties. I would therefore request you, Sir, to be so good as to exercise your discretion generously so far as the amendments suggested by us other than to those recommended by the Drafting Committee are concerned. That is my only submission.

**Mr. President :** You have not spoken anything about your amendment to this

motion. Well.....

**Mr. Naziruddin Ahmad :** May I know, Sir, whether the amendments include also the huge number of corrigenda and whether they have also to be read as part of the Constitution ?

**Mr. President :** Corrigenda are corrigenda and they are included.

Since Mr. Kamath has insisted upon moving his amendment, I would put his amendment first to the vote.

**Shri H. V. Kamath :** Since it is more or less of a drafting nature, I do not press it.

**Mr. President :** I put the motion moved by Dr. Ambedkar.

The question is :

"That the amendments recommended by the Drafting Committee in the Draft Constitution of India be taken into consideration."

The motion was adopted.

**Mr. President :** We shall now take up the amendments. Preamble. There is no amendment by the Drafting Committee to the Preamble and I cannot take up any amendments to the Preamble. Then, we go to article 1. There is an amendment by Mr. Naziruddin Ahmad and by Mr. Kamath*. Mr. Kamath, do you wish to move and do you require to make any speech ?

**Mr. Naziruddin Ahmad :** Sir, so far as my punctuation amendments are concerned, I should rather leave them all to the draftsmen.

**Mr. President :** *(To Shri H. V. Kamath)* It is only a punctuation here also. You will remember that you are taking the time of more important amendments.

**Shri H. V. Kamath :** I should like to know whether the Drafting Committee is accepting it.

**Mr. President :** Nobody is accepting or rejecting any amendment.

**Shri H. V. Kamath :** Sir, the Draft as passed by the House reads, "India, that is, Bharat.....". The revised draft presented to the House says, "India, that is Bharat.....". That I do not think is what was intended by the House when we accepted article 1. What was meant was, India, that is to say. Bharat. That is why two commas were inserted and the phrase was interposed. I does not mean, "India, that is Bharat,". This is wrong English, so far as the meaning intended is concerned. I think the original was perfectly correct and it was absolutely wrong on the part of the Drafting Committee to change the wording.

**Mr. Naziruddin Ahmad :** Sir, I should rather suggest that some of my formal amendments may be put to the draftsmen and if they agree to accept, shall move

them; otherwise, I am not moving.

**Mr. President :** Let them consider and if they are inclined to accept, they will accept them even without being moved.

We now pass on to article 5. There is no amendment by the Drafting Committee and these amendments do not arise.

**Shri B. Das** (Orissa : General) : I am not moving the amendment. (Amendment No. 15).

**Mr. President :** It is covered by article 9.

Article 13 : Sri Raj Bahadur, amendment No. 33.

**Shri Raj Bahadur :** (United State of Matsya) : Sir, I move:

> "That in sub-clause (a) of clause (3) of article 13.
>
> (i) after the word 'having' the words 'the force of law' be inserted;
>
> (ii) after the word 'India' the words 'or any part thereof' be inserted ; and
>
> (iii) the words 'the force of law' be deleted."

It is obviously for the purpose of making the object of the article clearer that I beg to move this amendment.

**Mr. President :** We pass on to article 14 : Mr. Naziruddin Ahmad.

**Mr. Naziruddin Ahmad :** Sir, I do not wish to move it formally; I only wish to point out one or two things for the consideration of the draftsman. So far as the definition of a State is concerned, in article 12 as well as in article 36 the word 'State' has been defined as "the State". That binds the two words in a rather tight union. As a result of this, we have to use the expressions, the State has this right, the State has that and so forth. Remembering that the expression "the State" as defined in articles 12 and 36 includes not only the Government of India, but also the Government of the Provinces, the Government of the States, District Boards and Municipalities, Local Boards, and Union Boards and others, there will be hundreds of thousands of similar institutions which would be comprehended within the expression "the State." As we have defined the expression used in Part IV beginning with article 37 up to article 50, we have always used the expression. "The State shall, etc."

The word "the State" would be really appropriate if there was only one State to which we refer. But in view of the multiplicity of States which would be meant and in order to enable us to use freely the expression, 'this State', 'that State', 'any State', 'every State' and so forth, in order to give us full latitude to use any article or word that may suit the context, the word 'the' should be separated from the definition. The words 'the', 'any' or 'every' must depend on the context and should not be prejudiced by the definition. I do not want to move the amendment but, as I have suggested, this is a matter of drafting and can be more profitably left over to the Drafting Committee

for consideration, and if they agree, then these things can be taken as moved.

**Mr. President :** Amendments Nos. 35 and 36 are not moved. We pass to article 18.

I think No. 54 is covered by what you said just now, Mr. Naziruddin Ahmad ?

**Mr. Naziruddin Ahmad :** Yes.

(Amendment No. 55 was not moved.)

**Mr. President :** We pass on to article 22. Mr. Shibban Lal Saksena.

**Prof. Shibban Lal Saksena** (United Provinces : General) : Sir, in clause (4) and clause (7) I have some amendments. I beg to move :

"That in clause (4) of article 22, for the words 'No law providing for preventive detention, the words, brackets. letters and figure 'Nothing in sub-clause (b) of clause (3)' be substituted; and at the end of sub-clause (b) of clause(4),the following be added:--

'authorising such longer detention."

My other amendment is :

"That in clause (7) of article 22, the words 'for a period longer than than months' be deleted."

I only want that the phraseology of clause (4) should be improved and in clause, (7) I want that the words 'for a period longer than three months' should be deleted. Parliament must have the power to make laws for shorter as well as longer detention periods.

**Mr. President :** Mr. Saksena, as regards No. 82, does it not go against a previous decision?

**Prof. Shibban Lal Saksena :** That means Parliament can make law for less than three months or more than three months. I do not want to restrict the power of Parliament only to periods above three months. I do not want the Executive to use the power.

**Mr. President :** How will it stand if it is read along with clause (4) ?

**Prof. Shibban Lal Saksena :** It will read--

"Parliament may be law prescribe the circumstances under which and the class or clause of cases in which a person may be detained under any law providing for preventive detention etc."

What I want is that Parliament should have power to legislate authorising Government to detain persons either for less than three months or more than three months. According to this Parliament will not have power to make laws for less than three months.

(Amendments Nos. 83 and 84 were not moved.)

**Mr. President :** We proceed to article 31.

(Amendment No. 115 was not moved.)

**Mr. Naziruddin Ahmad :** Sir, in connection with my amendment No. 116, I wish to draw the attention of the House, the Drafting Committee and especially the draftsman to the use of the word 'Government of India'. In fact this is to distinguish this expression from 'Dominion of India'. I would submit that the word 'Dominion of India' really covers the period from 15th August 1947 up to the 25th January, 1950. Before that we had the expression 'Government of India', the expression 'Government of India' should be confined to Government before the 'Dominion' stage came in. After the Dominion stage is over, I submit that the expression 'Union Government' or the 'Government of the Union' should be used. This would be in accord with what we have done. We have already used 'The Union of India' in article 300 clause (i) and in other places. Then we have used in some articles the expression 'Affairs of the Union.' We have also used in other places the expression 'the Union'. So we have already described the Government of India as the Union. So I submit that instead of using the expression 'Government of India', which would also include the Government before the Dominion stage, there should be some distinctive expression which may be fittingly described as the Union Government or the Government of the Indian Union. We have already in article 1, said that India shall be a 'Union' of States. So in the new set-up-things instead of the expression 'Government of India', the expression Union Government or 'The Government of Indian Union', or similar expression should be used. I have suggested some amendments, only desire that this may be considered by the drafting Committee.

**Mr. President :** No. 117--Mr. Sidhva.

**Shri R. K. Sidhva :** I understand that the word 'otherwise' as suggested by the Drafting Committee covers the contention of my amendment. Therefore I do not propose to move the amendment.

**Mr. President :** Then I come to amendment No. 118, standing in the name Mr. Naziruddin Ahmad.

**Mr. Naziruddin Ahmad :** Sir, with regard to amendment No. 118, it is merely a drafting amendment, and I should leave it to the draftsman.

**Mr. President :** Then I come to article 34 which is a new article, and we have a number of amendments to it. Mr. Das. That is for deletion.

**Shri B. Das :** Sir, I do not move it.

**Prof. Shibban Lal Saksena** Sir, I want to move it.

**Mr. President :** You want to move for its deletion ?

**Prof. Shibban Lal Saksena :** Yes, Sir, this article 34 is a new article. It says that when martial law is declared, then Parliament will have the power to indemnify the

officers. I think that this new article should be ruled out of order. It was never passed by the Assembly before. Secondly, I think the provision of this article will encourage officers working in the martial law area to commit excesses and hope for indemnification by an Act of Parliament. Therefore, I say it is not proper. Martial law whenever proclaimed, should be proclaimed according to the law about it. It should not be permitted to go beyond the law. So I think this article is not necessary and it should be removed from the Constitution, and also as I said, it is out of order. I move :

"That article 34 be deleted."

**Shri. Brajeshwar Prasad** (Bihar : General) : May I speak on this amendment, Sir.

**Mr. President :** We shall have all the amendments first, and then Members can speak.

Amendment No. 122, Mr. Kamath.

**Shri H. V. Kamath :** May I know move all the three amendments together ?

**Mr. President :** Yes.

**Shri H. V. Kamath :** Mr. President, Sir, I move amendments Nos. 122, 123 and 124.

"That in article 34, the words 'or any other person' be deleted."

"That in article 34, for the word 'order' the words 'public order' be substituted."

And the last one is No. 124 which says--

"That in article 34, for the words 'done under martial law' the words 'done by such person under martial law' be substituted."

Sir, at the very outset, let me make it clear that I would welcome the deletion of any reference to martial law in the Constitution, as suggested by my Friend Prof. Shibban Lal Saksena. There are sufficient provisions in the Constitution for the maintenance of public order and peace and tranquility in the country. We have also adopted Chapter I dealing with emergency provisions in the Constitution. But once we accept, or assume that a situation may arise when martial law will have to be proclaimed, then certain consequences follow. There are certain acts done during the administration of martial law. We are all very well aware of the operation of marital law, and there are acts done by persons in charge, or in authority which strictly under the law of the Constitution may be illegal, and so those persons may have to be indemnified later on so as to safeguard their position against any undue penalty or punishment for acts done by them. It is with a view to this that I submit these amendments to the House.

Article 34, as moved by the Drafting Committee, seeks to indemnify any person in the service of the Union or of a State, and any other person also. I do not desire that

we should go so far as to indemnify any person, whoever he may be. We may make an exception of persons who are in the service of the Union or of a State. But the change proposed is to insert a provision with regard to all persons. Such a change is far too sweeping, and must not be allowed to find a place in the Constitution. Therefore, I have moved this amendment, that the words "or any other person" be deleted. If we indemnify at all, we should indemnify only those persons who are in the service of the Union or of a State during the administration of martial law in any area.

The other two amendments are, more or less, formal ones. The first one seeks to bring article 34 in conformity with the phraseology of article 33, where the words used are "public order" and therefore, I have suggested that this article also may be on the same lines as article 33 and the word "order" be replaced by the words "public order".

The last amendment follows from the wording of the first part of article 34. When we refer to acts done by any person in the service of the Union or of a State, it is necessary to make it specifically clear in the latter part of the article as well, when we refer to the acts of such persons. Therefore, the word "such" in my judgment, is necessary so as to avoid any confusion with regard to acts done by any person other than the public servants referred to in the first part of the article.

Sir I move amendments Nos. 122, 123 and 124 and I commend them to the House for its earnest consideration.

**Mr. President :** As this is a new article altogether, the question arises whether I should allow it to be moved by way of an amendment. I think in all Constitutions, either written or unwritten, I do not know, but my idea is that all Constitutions allow such indemnity Acts to be passed after martial law has been in force; and difficulty might arise if there was no specific provision in our Constitution for indemnifying acts done during the period of martial law, if we do not have a specific provision here. And therefore, I allow this amendment of the Drafting Committee.

As regards the other amendments which have been moved, they are now for discussion. Members, if they wish, can speak now on this article as well as on the amendments which have been moved.

**Shri Brajeshwar Prasad :** Mr. President, Sir, I rise to support this new article. I will not traverse the ground already covered, or repeat the arguments in favour of it, as you have, Sir, already admitted this article. The Drafting Committee had the power to suggest the necessary amendments. Therefore, I think that they have not gone out of the scope of their jurisdiction. I think, that when a revolutionary situation has arisen in the country, then the Government may be forced to resort to martial law. And extraordinary situations cannot be tackled by the ordinary law of the land. It is only when a revolutionary situation has arisen that martial law is enforced. Revolutionary situations can only be tackled by revolutionary methods. The danger that all officers will escape scot-free is not a real danger or a serious danger at all. I say this because Parliament has got the power to review such cases. If an officer has acted without jurisdiction, if he has exceeded the requirements of the martial law, then Parliament will not indemnify those officers. Parliament has got the full right to review the conduct of these officers who have acted in an arbitrary manner. But it is only in an arbitrary manner that you can tackle the situation which has arisen in the country when martial law has been enforced. I support this provision not merely on the ground that similar provisions exist in other Constitutions of the world but also because it is a

necessary and desirable, provision. Having due regard to the facts of our political life, I heartily support this article.

**Mr. President :** Any other Member wishes to say anything about this ?

**Mr. Naziruddin Ahmad :** No.

**Mr. President :** We shall now pass on to the next article. I think Dr. Ambedkar will reply to this at the end.

We come to article 35, and Mr. Kamath's amendment. But that, I think, is only a verbal amendment?

**Shri H. V. Kamath :** Yes, Sir I leave it to the discretion of the Drafting Committee.

**Mr. President :** Then we have to pass on now to article 47. Mr. Kamath and Mr. Naziruddin Ahmad have their amendment No. 140 to this article.

**Shri H. V. Kamath :** As far as I am concerned, I shall leave it to the Drafting Committee.

**Mr. President :** So that is left over.

**Prof. Shibban Lal Saksena :** Sir, I beg to move:

"That in article 48, for the words 'improving the breeds of milch and draught cattle including cows and calves and for prohibiting their slaughter' the words 'preserving and improving the breeds of cattle and prohibit the slaughter of cows and other useful cattle, especially milch and draught cattle and their young stock' be substituted."

Here again there is a substantial alteration in the original article as passed by this House. Sir, the original article stated:

"The State shall endeavour to organise agricultural and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds of cattle and prohibit the slaughter of cows and other useful cattle specially milch and draught cattle and their young stock."

So the original article is that "the State shall prohibit the slaughter of cows". The present article has been watered down. It says:

"The State shall endeavour to organise agricultural and animal husbandry on modern and scientific lines and shall, in particular, take steps for improving the breeds of milch and draught cattle including cows and calves and for prohibiting their slaughter."

So it does not say "That the State shall prohibit the slaughter of cows." Here it says "It shall take steps to improve the breeds of milch and draught cattle including cows and for prohibiting their slaughter." Here it is said that it shall prohibit the slaughter of cows and other useful cattle, especially milch and draught cattle. This is a very substantial alteration and I do not think the Drafting Committee was authorised to make such an alteration on such a fundamental thing on which there were strong discussions and it was agreed to after a very prolonged debate. I do not think anyone has the authority to change things in this manner and to substitute the original. I

appeal that the original should be kept. It is out of order because the Drafting Committee was not permitted to make any such alteration as in this article.

**Mr. President :** Pandit Bhargava, is not your amendment more or less covered by the amendment of Prof. Shibban Lal Saksena?

**Pandit Thakur Das Bhargava :** It is partly covered but there are other things. With your permission, as my amendment No. 142 is not exactly the same as Prof. Saksena's, I beg to move:

"That in article 48, for the words milch and draught cattle including cows and calves and for prohibiting their slaughter' the words 'cattle and prohibit the slaughter of cows and other useful cattle, especially milch and draught cattle and their young stock' be substituted."

With your permission I also beg to move:

"That in article 48, for the words 'for prohibiting their slaughter', the words 'prohibit the slaughter of such cattle' be substituted."

*or, alternatively,*

"That in article 48, for the words 'and for prohibiting their slaughter, the words 'and prohibit their slaughter' be substituted"

In dealing with this article I would first of all beg to remind the House that this article was fairly hotly debated in this House. This article has the sanction of the whole House and of the largest party in the Assembly. Moreover, Sir, this article, if I am not encroaching upon any privilege, I may say, is one which was approved by the Chairman of the Drafting Committee. The original wording was quite different but we took good care to see that the drafting was done by such hands that no one could possibly take exception to it. Previously it was a much stronger one, but ultimately it was drafted in this form. When it was debated by the House, full reasons were given why these words were selected. My submission is that in a matter of this kind, when a particular article has been passed, after being supported or opposed, there is no reason why the Drafting Committee should tamper with the wording of such a section like this. Moreover, if the House will remember, there were many other amendments moved in this House to this article. Seth Govind Das moved an amendment from the religious point of view, but it was not accepted. My submission is that every word in this article is to my mind a sacred one, in this sense that it has got the imprint of the whole House. Secondly, I submit that on the basis of this article, some of the Provincial Governments have taken action. They have gone further and prohibited the slaughter of cows. Therefore, when this article has practically been acted upon by some of the provinces, it is not fair now to tamper with it.

Coming to the article which is sought to be amended as it is now before us I would beg of you to consider it. Now the article runs:

"The State shall endeavour to organise agricultural and animal husbandry on modern and scientific lines and shall, in particular take steps for improving the breeds of milch and draught cattle including cows and calves....."

The original words were: ".. for preserving and improving the breeds of cattle..."

May I submit that "improving the breeds of cattle" is different from "preserving and improving the breeds of cattle....". It may be said that no breed can be improved unless it is preserved but I think it is wrong to think so.

It may happen that a breed has to be practically destroyed for the purposes of improvement. It may be argued by some that cattle of a certain breed should be destroyed so that there might be subsequent improvement in regard to others. Now this is a matter of very delicate importance.

**Shri Brajeshwar Prasad :** What about "prohibiting" ? It means preservation!

**Pandit Thakur Das Bhargava :** In times of famine it is the duty of the Government to preserve certain breeds though it may not be improving them. Therefore, these words have a special meaning and they should not be tampered with.

Now to turn to the point of Mr. Brajeshwar Prasad to which he has drawn my attention. He says that the word "prohibiting" is there and therefore it would include "preservation". If he reads into the section he will find that this "prohibition" has been tampered with in this way, the words now being:

"..... the breeds of milch and draught cattle including cows and calves and for prohibiting their slaughter."

If this "their" refers to cows and calves, then what about bulls and bullocks and buffaloes and he-buffaloes? If it refers to milch and draught cattle, then the question will have to be gone into as to what is a milch cattle. Then again "dry" cattle is not milch cattle. Then what is draught cattle? There are bound to be difficulties about all this. In my humble submission, a fair reading of article 38-A would mean that so far as cows and young stock are concerned, there is absolute prohibition. The words are "and shall prohibit the slaughter of cows." This usefulness of the cattle relates to drought cattle. The useful cattle should not be slaughtered. Now the question is what is a useful cattle? In the amendment the word "useful" does not appear. The House remembers that the Government appointed a Committee and the report of the Committee was accepted by the Government. The Government is now committed to the preservation and the prohibition of slaughter of useful cattle. There are Bills pending before the Legislative Assembly in regard to these kinds of cattle.

If you compare the wordings, it would appear that in the original article it was:--

".... take steps for preserving and improving, the breeds of cattle and prohibit the slaughter of cows and other useful cattle, specialty milch....."

Now these words shall go away and be replaced by :--

"..... for prohibiting their slaughter". My humble submission is that though there may not be a violent difference between the two, all the same the emphasis on the word "shall" which made this directive principle almost as an imperative article in the Constitution disappears. I beg of You not to tamper with it but allow it to remain in its present form. The first thought which Dr. Ambedkar gave to this provision was a right one and now if he wants to improve the wording. I submit the meanings also are altered. In view of this, I would beg of the House not to tamper with this article. It is a very delicate matter. We have practically substituted this article for the article which other Members wanted from a religious point of view. It is now simply a utilitarian

measures but still a measure in which the religious sentiments of crores of people are involved.

I would submit one word more in regard to amendment No. 144. The words "and their slaughter" are capable of more than one meaning. They might refer only to cows and calves, they might refer to milch and draught cattle. whether they refer to one or both meanings, it is objectionable in both ways. I would beg of you to consider the more extensive meaning of the original section 38A which includes both these meanings. No doubt if falls for short of the expectations of the general populace but it was a measure on which the House was agreed as a compromise. This compromise ought not to be interfered with.

**Mr. President :** Mr. Naziruddin.

**Mr. Naziruddin Ahmad :** I am not moving my amendment.

**Mr. President :** Does anyone wish to say anything about this article or the amendments?

Then we shall pass on to article 53. Amendment No. 151, Mr. Kamath.

**Shri H. V. Kamath :** Mr. President, I move, Sir, amendments Nos. 151 and 152.

151 to the effect--

"That in clause (i) of article 53, for words 'this Constitution' the words 'the Constitution' be substituted."

Then amendment No. 152 to the effect--

"That in clause (i) of article 53, after the words 'Constitution' the words 'and the law' be added."

If the amendments moved by me were accepted by the House, this clause (i) of article 53 would read as follows:--

"The executive power of the Union shall be vested in the President and shall be exercised by him either directly or through officers subordinate to him in accordance with *the* Constitution *and the law."*

This was the form in which we adopted this "article during the last session of the Assembly. I see no reason why the changes that are being sought to be made by the Drafting Committee should be at all made in this clause of the article. I see no point whatever in the changes that have been suggested by the Drafting Committee. Let us examine it a little more closely. If the reference in this clause had been only to the President of the Union, then perhaps there is some force in not referring to the law of the land, because so far as the President is concerned he is bound to act under the Constitution, and we have also a provision for impeachment of the President for any violation of the Constitution. But during the last session these words were specifically added--suggested by the Drafting Committee and accepted by the House. What were those words?

"President..... either directly or through officers subordinate to him".

We fought against those words, we suggested that these words were absolutely unnecessary, but the Drafting Committee had its own mind and carried its point through and inserted these words which even now I feel are unnecessary. But this phrase "through officers subordinate to him" has been accepted by the House and if that addition stands then I for one feel that the law must be specifically mentioned. The House will see that in clause (2) also of the same article there is a reference to the supreme command of the Defence Forces by the President and the exercise of the command shall be regulated by law. In the Constitution itself we have left so many things to the law-making power of Parliament. Our Constitution has not decided everything; so many things are left to Parliament to be regulated by law, and therefore it is absolutely necessary to say, when you refer to exercise of power through officers subordinate, that it will be regulated by the Constitution and the law.

The first amendment is merely a verbal one, because I feel that whenever the Constitution is referred to we need not specifically say "this Constitution" every time; "the Constitution" means the Constitution of India. I do not know why the Drafting Committee has tripped in this fashion about this clause. I commend amendments 151 and 152 to the House for its earnest consideration.

(Amendment No. 153 was not moved)

**Mr. President :** Does anyone wish to say anything about the amendments which have been moved by Mr. Kamath?

Then we pass on to the next article No. 57.

**Mr. President :** Amendment No. 156*, Mr. Kamath.

**Shri H. V. Kamath :** That is merely formal, Sir, I leave it to the good sense of the Drafting Committee.

**Mr. President :** Very well. Then we go to article 69. Amendments Nos. 188 and 189, Mr. Kamath.

**Shri H. V. Kamath :** Sir, I move amendments Nos. 188 and 189. 188 is to the effect--

"That in the form of oath or affirmation in article 69, the words "as by law established" be deleted."

And No. 189--

"That in the form of oath or affirmation in article 69, for the words 'the duty upon which I am about to enter' the words the duties of 'the office upon which I am about to enter' be substituted."

Taking the article as suggested by the Drafting Committee, I think the changes suggested by me are very necessary. Taking the first amendment first, the oath as suggested by the Drafting Committee refers to the "Constitution of India as by law established". It is wholly redundant to say that the Constitution is established by law. As a matter of fact the law flows from the Constitution and not *vice versa.* We adopt the Constitution and whatever laws we may make flow from the Constitution subsequently. This is a supreme, sovereign Assembly and certainly this not necessary

for us to say that the Constitution that we have enacted here has been established by law.

**The Honourable Shri K. Santhanam :** May I point out to the honourable Member that the Third Schedule uses this phrase?

**Shri H. V. Kamath :** May I point out to Mr. Santhanam that the article about the oath of the President does not mention "the Constitution by law established" ?

**The Honourable Shri K. Santhanam :** It is different altogether.

**Shri H. V. Kamath :** It is quite the same, in my judgment. Mr. Santhanam may differ but if he refers to the oath for the President in article 60, he will find this reference to "the Constitution by law established" is not there. The Constitution is not established by law. The Constitution is there for what it is worth. If Mr. Santhanam does not see this fine point, I am sorry for him. In article 60, the oath for the President reads:--

"I..... will faithfully execute the office of President..... and will to the best of my ability preserve, protect and defend the Constitution *and the law*."

"And the law" is a different matter, but the Constitution is not established by law. That is my point.

The Drafting Committee may look into the amendment and I hope they will see their way to accepting amendment No. 188, because there is a distinction between "the Constitution established by law" and "the Constitution as framed by a sovereign Assembly." It is redundant to say that it is established by law.

As regards my second amendment I am sorry for the bad English used by the Drafting Committee. The Committee is composed of several experts, legal, constitutional and linguistic. I fail to understand why that Committee made such a mistake, so far as the English language is concerned. The House will see that a person enters upon "the duties of his office." He does not enter upon his duty. It is the "duties of the office" that should be referred to. If the House will turn to article 71 clause (2) the English used there is correct "duties of the office of President or Vice- President". I will just refer to another previous article, article 68, last part of clause (2) where the words used are "from the date on which he enters upon his office". The correct English is the "duties of the office upon which he enters" and I think all sensible persons will agree that that is correct English. If my amendment is accepted by the House the form of oath or affirmation will read as follows:

"I, A.B., do swear in the name of God that I will bear true faith and allegiance to the

---

solemnly affirm

Constitution and that I will faithfully discharge the duties of the office upon which I am about to enter."

I move the amendments, and commend them to the acceptance of the House.

**Mr. President :** As Mr. Santhanam has pointed out, the same expression occurs in Schedule III.

**Shri H. V. Kamath :** That will have to be changed consequentially.

**Mr. Naziruddin Ahmad :** Sir, I beg to move:

"That in clause (2) of article 71, for the words 'the date of the decision', the words the time of the decision' be substituted."

Sir, this amendment deals with the termination of the tenure of' office of the President by reason of the setting aside of his election by the Supreme Court. The question is whether the tenure of office ends with the date of the decision or the time of the decision. If the decision is given at twelve o'clock, it should be in accord reason and logic that the President should function up to 12 o'clock and cease to be the President after that hour. If we allow the language to remain as it is, it would mean that if the decision is passed at twelve o'clock then the President ceases to function with effect from the previous midnight. The effect of that would be to invalidate all acts done by the President from the midnight of the previous night up to twelve o'clock.

**The Honourable Shri K. Santhanam :** There is already an amendment to that effect (No. 448).

**Mr. Naziruddin Ahmad :** The difficulty with these amendments is that most of these amendments have been practically taken from the amendments of Members. I am of course interested in the correction, but there has been wholesale 'lifting' of amendments of Members and their being passed on as those of the Drafting Committee. I do not grudge them this distinction. This is not the first time that this has happened. I have been hinting it all through the second reading stage. They will not openly accept our amendments, but move them as their own.

**Mr. President :** I do not think the Drafting Committee will grudge any credit to other Members for their amendments.

**Prof. Sibban Lal Saksena :** Sir, I beg to move:

"That clause (3) of article 77, be deleted."

This again is a new provision, which is an infringement on the responsibility of the Ministers and should not be allowed to be there. This is either redundant or mischievous and should not be there.

**Shri R. K. Sidhva :** Mr. President, Sir, I beg to move:

"That in clause (3) of article 77, for the word 'President' the words 'Prime Minister' be substituted."

Sir, this article relates to the conduct of Government business and Government business means the functions of Ministries. The Head of the Ministries is the Prime

Minister, and while I know that all orders are made in the name of the President, this particular article has nothing to do with the President. It is the internal affairs of the Ministry for which the Prime Minister, in consultation with the Ministry, itself, is responsible. Therefore, the word "President" should be substituted by the words "Prime Minister".

I do not dispute the fact that under law all the orders are made in the name of the President. But I do make a difference in this for the reason that this has nothing to do absolutely with the rules relating to the internal working of the Ministry and therefore Parliament has no voice in this. Of course Parliament can criticise it. But this is an internal matter for which the Minister is responsible and therefore, the Prime Minister should make rules, in consultation with the Ministry and not the President. The Prime Minister should be the signatory to that.

**Shri H. V. Kamath :** Mr. President, Sir, I move amendments No. 203 and 204.

"That in clause (3) of article 77, for the word 'shall' the word 'may', be substituted."

"That in clause (3) of article 77, for the words 'more convenient' the words 'efficient and convenient' be substituted".

*or, alternatively,*

"That in clause (3) of article 77, the word 'more' be deleted."

I do not agree with my Friend Professor Saksena that there is no need for a provision of this kind. It is necessary so far as the transaction of the business of the Cabinet is concerned that there should be certain rules. And who is to make these rules? The question is whether Parliament should make it or the President. The Rules of Business should be left to the President, acting upon the advice, as the Constitution has laid it down, of the Ministers. Therefore, there is no force in Professor Saksena's amendment, because when the word "President" is mentioned, it always means President acting on the advice of his Council of Ministers.

**Prof. Shibban Lal Saksena :** But there is nothing to that effect in the Constitution.

**Shri H. V. Kamath :** That point was raised by me in the last session, and Dr. Ambedkar and Shri Alladi Krishnaswami Ayyar assured us that there was no necessity for a specific provision of that kind.

As regards the amendment moved by me for substituting 'may' for 'shall' the reason is that 'shall' is somewhat inapt there. As we have 'may' in several other articles, we may have it here also. It has often the force of 'shall'. 'May' is more appropriate here and conveys the sense of the article much better.

My second amendment. No. 204, seeks to change "more convenient" into efficient and convenient". I believe this clause has been bodily lifted from the Government of India Act which fortunately or unfortunately has served as a guide and beacon to the wise members of the Drafting Committee on almost all occasions. They have told us that such and such is the language used in the Government of India Act and asked us whether we dare sit in judgment upon the English used by Sir Samuel Hoare and his

cohorts: and who are we, mere Indians, to find fault with their English? It is now, however, admitted all over the world that Indians are better linguists than Englishmen. There is a story that a certain eminent person in England once said that there were only two persons in the world who spoke perfect English, and they were Indians. This was said some years ago. (Shri R. K. Sidhava: Who are they?) As Mr. Sidhva seems to be inquisitive about their names, I may say that the reference was to the late Srinivasa Shashtri and Sarojini Naidu. When this is the case, if Indians speak perfect English, why should we swear by the English of the Government of India Act and take it as one hundred per cent. correct? It would be wiser to correct the English found there and it would be more sensible if we say instead of "more convenient", "efficient and convenient". It is admitted on all hands that there has lately been some deterioration in efficiency. Let us therefore resolve that we will not merely arrange for convenient transaction of business, but also for efficient transaction of business. With these words I move these two amendments and commend them to the House.

**Mr. President :** We will now pass on to article 90, Amendment No. 215.

**Mr. Naziruddin Ahmad :** I wish to move amendment No. 214.

**Mr. President :** That does not really arise.

**Mr. Naziruddin Ahmad :** Sir, I am not moving amendment No. 214. I want merely to explain an anomaly. I only wish to point out that the word 'the' has been misused in a large number of cases. In many cases where we speak of the Deputy Chairman, the Chairman or the Speaker and so on, we have not uniformly used the word 'the'. I have tabled amendments to make them uniform. That may be taken into account.

I am not moving amendment No. 215.

**Mr. President :** We will now take up article 96.

**Shri H. V. Kamath :** Sir, I move:

"That in clause (2) of article 96, for the words 'and shall, notwithstanding anything in article 100, be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of equality of votes', the words 'but, notwithstanding anything in article 100, shall not be entitled to vote at all on such resolution or on any other matter during such proceedings' be substituted."

My next amendment which I move reads thus :

"That in clause (2) of article 96, for the words and figure anything in article 100' the words and figure 'anything contained in article 100' be substituted."

My second amendment is merely verbal and I leave it to the good sense of the Drafting Committee to deal with it as they deem fit or necessary. But the first amendment (227) is a consequential and substantial amendment. Clause (2) suggested by the Drafting Committee is new. There has been some distinction made between the procedure for the removal of the Speaker of the House of the People and the procedure for the removal of the Chairman of the Council of States. The Chairman of the Drafting Committee has made no speech before the House today why this

distinction has been sought to be made.

If the House will turn to article 292 (2), honourable Members will find that so far as the procedure for the removal of the Chairman of the Council of States is concerned, he is not entitled to vote at all on a resolution for the purpose.

**The Honourable Shri K. Santhanam :** May I point out that the Chairman is not a member of the Upper House? He is the Vice-President.

**Shri H. V. Kamath :** The Vice-President of the Union is Chairman. On merits also I do not see why when there is a vote of censure or no-confidence, or other resolution seeking to remove him from office, he should be given the right to vote at all.

**Shri T. T. Krishnamachari** (Madras : General): His vote is not being taken away.

**Shri H. V. Kamath :** Mr. Krishnamachari may reply to the debate later on. He need not interrupt me unnecessarily.

When there is a resolution in the House for the removal of the Speaker, the Speaker can be present in the House, he can take part in the proceedings, he can defend himself but when it comes to the matter of voting it is absolutely against all canons of propriety and justice that he should vote. Certainly he can defend himself, but to allow him to vote is very unfair. The Drafting Committee may know better, but so far as I know, a Speaker who is sought to be removed from his office must not be given the right to vote. Supposing there is a close tie in the first instance, 55 and 56, the Speaker may by his vote re-instal himself in office, which is certainly not intended by the article. If the House is divided in that fashion, the Speaker by his single vote, by his own vote in the first instance, can re-instal himself in office, which certainly the House does not want to happen. Therefore I ask, Sir, that the Speaker should be divested of his vote during the proceedings for his removal from office. I move my amendment and commend it to the House for its serious consideration.

(Amendment No. 229 was not moved.)

**Shri R. K. Sidhva :** Mr. President, Sir, this article refers to the discussion of the conduct of the Speaker in Parliament. Therefore, the new clause (2) is perfectly correct. Ordinarily the Speaker has no right to speak or take part in the proceedings of the House, but when his own conduct is being discussed, it is only fair that he should be given an opportunity to clear his own conduct, and therefore clause (2) is correct. I only want, Sir, a small change in the third line. I want to see that the convention that the Speaker in other cases shall not speak and shall not take part in the proceedings of the House be maintained. The clause says "shall have the right to speak in, and otherwise to take part in the proceedings of, the House of the People while any resolution for his removal, etc." I want that the words "only when" should be substituted for the word "while". I want to make it more emphatic. It is a very healthy convention that the Speaker shall not speak and shall not take part in the proceedings of the House except when his own conduct is under discussion.

**Mr. President :** It means that as it is.

**Shri R. K. Sidhva :** If that is so then it is all right. As regards voting, Mr. Kamath

said that the Speaker should not have the right of voting. I think he must have the right of voting. After all, he is a member of the House and he should be allowed to vote in the first instance, but on the second voting he should not exercise his vote. He must have one vote.

**Mr. President :** We pass on to article 100. Amendment No. 231.

**Shri T. T. Krishnamachari :** In view of the Drafting Committee's amendment No. 452 in the Second List, honourable Members may please consider whether it is necessary to move their amendments.

**Mr. President :** As regards the amendments of which Mr. Kamath has given notice with reference to article 100, Mr. Krishnamachari has pointed out that there are certain amendments with regard to it which are sought to be moved by the Drafting Committee. They are in the Second List No. 452, and in view of those amendments perhaps it may be unnecessary for you to move yours.

**Shri T. T. Krishnamachari :** Many of them can be fitted into that except the one negative amendment.

**Mr. President :** Mr. Kamath, if you wish to move yours, you are at perfect liberty to move them. It is only pointed out that it might not be necessary for you to move them. All right, move them. I think it will save time if you move them.

**Shri H. V. Kamath :** Sir, I move amendments Nos. 231, 234, 235 and 238 of this List.

" That in clause (1) of article 100, for the words 'other than the Speaker' the words 'other than the Chairman or Speaker' be substituted."

"That in the second para of clause (1) of article 100, for the words 'acting as such,' the words 'acting as Chairman or Speaker' be substituted."

"That in the second para of clause (1) of article 100, for the words 'in the case of' the words 'in case of' be substituted."

"That in clause (3) of article 100, for the words 'until Parliament by law otherwise provides. The quorum shall, be one-tenth of the total number of members of the House.' The following be substituted as second para of that clause:--

> 'Until Parliament by law otherwise provides, the quorum shall be one-tenth of the total number of members of the House.' "

Amendment No. 235 is merely verbal with regard to the article "the". I leave it to the consideration of the Drafting Committee to be dealt with at the proper stage. Amendments Nos. 231 and 234 go together. They are similar and if the House will compare the draft agreed to in the second reading with the draft now presented, they will see the difference. I do not know whether it is a printer's devil or something else or whether it is deliberate. Clause (1) of this article 100 as now presented to the House, in the last part thereof, refers to "other than the Speaker or person acting as the Chairman or Speaker."

**The Honourable Shri K. Santhanam :** He is not a member and so he is not given

the vote.

**Shri H. V. Kamath :** Is it the position that when the Vice- President acts as the Chairman of the Council of States, he has no vote at all ?

**Shri L. Krishnaswami Bharathi** (Madras: General): Except the casting vote as Chairman.

**Shri H. V. Kamath :** Then it is all right.

I come to amendment No. 238. Mr. T. T. Krishnamachari has just now told us that the Drafting Committee has also thought over the matter and after bestowing due consideration on this clause they have suggested an amendment on the same lines. I have no desire to withhold from them the credit that is their due for the hard labour they have put in, and if they want the credit let them take it, but as the amendment stands in my name, I move it formally and commend it for the acceptance of the House.

**Mr. President :** The wording is somewhat different, but the substance is the same. However, I take it as moved. No. 232 standing in the name of Mr. Naziruddin Ahmad is a formal amendment.

(Amendment No. 232 was not moved.)

**Mr. Naziruddin Ahmad :** Sir, with regard to amendment No. 233, I wish to make this observation that article 100 has four different paragraphs. The first paragraph is marked as clause (1), the second paragraph does not bear any number at all, the third paragraph is No. 2 and the fourth paragraph is No. 3. I submit that paragraph 2 which is unnumbered is a very unusual thing in a legislative enactment. All paragraphs are either marked as articles or clauses or in the case of ordinary Acts as sections and sub-sections. It has never happened in my experience that a complete paragraph remains without any number. The object of numbering them is to identify them. Unless we number the second paragraph as No. 2, it will be difficult to refer to that paragraph in any judgment or any book or argument. One will have to say 'paragraph following clause (1)'; in order to obviate that I have suggested that paragraph 2 should be marked as clause (2) and the other paragraphs are re-numbered accordingly. This has also occurred in article 189. Sir, I formally move the amendment.

"That in article 100, the second para of clause (1) be numbered as clause (2) and clauses (2) and (3) be renumbered as clauses (3) and (4) respectively."

**Shri Raj Bahadur :** My amendment No. 236 is covered by amendment No. 452 of the Drafting Committee. Let the credit for it be entirely theirs, but the pleasure is mine.

(Amendments No. 237 and 239 were not moved).

**Shri R. K. Sidhva :** Sir, my amendment reads thus:--

"That in clause (3) of article 100, for the word 'one-tenth' the word one-sixth' be substituted."

Sir, I am referring to clause (3) in respect of quorum. We had discussed this matter threadbare in the last session and after mature consideration the House came to the decision that there should be one-sixth as the quorum in either House of Parliament. Now, Sir the Drafting Committee suggests one-tenth. My point is that in the provisional Parliament with a House of 300 one-tenth would mean 30 members only and 50 members in a House of 500 thereafter. I ask in all humility, do the members of the Drafting Committee want, in the name of 35 crores of people, laws to be made by 30 people ? This is most unfair. It may be that in the House of Commons there is a very small number compared with the 600 members of the House of Commons. That may be so, Sir. Some good laws of the House of Commons we have imitated and copied, but if there is a bad law, I do not want to copy it. On the contrary, you are telling the Members that they may remain idle, they may come here or they may not come and the House will manage with 50 or 30 Members. I do not want to cast any reflection upon any Member but I think it is most unfair that we should lay down such a small number for the conduct of business. On the ,contrary, there must be such a provision that Members should be asked to realize their duty and attend all the sessions, particularly when laws are made, and I, therefore, contend that we should not be a party for putting in the Constitution a clause that there should be only 50 members in a House of 500 to make laws. That is not correct.

**Dr. B. Pattabhi Sitaramayya** (Madras: General): The rule does not say that there should be only 50 members.

**Shri R. K. Sidhva :** It comes to that. We have our own experience also. I do not say that it says so. Many times we have seen this happening ourselves. May I ask how many members are present today ? My honourable Friend, Dr. Pattabhi Sitaramayya, knows it very well. When the Members are not there, we know the difficulty of having to hunt for them.

**Dr. B. Pattabhi Sitaramayya :** We do not want to put a premium on idleness and inertia.

**Shri R. K. Sidhva :** The Members should also realize their duty and attend all the sessions. I do not think there should be a clause necessary to make them idle or not to attend the session. They have to discharge their responsibilities for they are elected by the people. They must also feel a sense of responsibility. I, therefore, contend that we should have a reasonable number for conducting the business of the House. I do not want 600 members to be present ; I do not want 500 members to be present; I do not want 250 members to be present. I only want a reasonable number, i.e., 80 members to be present. Is that not fair ? I will ask my honourable Friend, Dr. Pattabhi Sitaramayya, whether he will be satisfied with 50 members. I know he is not the only member. I ask him-out of 500 members is 30 a sufficient number ? It is no use quoting the House of Commons. This means 50 members in the permanent Parliament, but 30 members in the provisional Parliament and we have 300 and odd in the Provisional Parliament at least. The next year will be a year of great events and we shall provide in the Constitution that 30 members in the provisional Parliament will make laws. I express my feeling very strongly on this matter and if there is going to be a disqualification on the members for not attending session let it be there. Let there be a clause that those who do not attend regularly will be disqualified. If the Drafting Committee feels that there should be such a thing, we could appeal to them to attend.

Let the members also show a sense of duty. After having been elected they should not be so careless or negligent of their duty that is imposed upon them by the people in the constituency from which they are returned. I, therefore, feel, Sir, that the amendment that I have moved is an amendment, which was discussed and passed in the last session. It may be that because we feel there is the difficulty in getting a sufficient number in the House, a small number is suggested. I say on the contrary it is the greater reason, and one or two adjournments will bring their lack of responsibility to the notice of the public. They cannot remain absent for all time. They have to explain to the people and if once or twice the House is adjourned, wisdom will dawn upon them and they will attend the House more regularly for conducting the business for which purpose they are returned. I commend my amendment for acceptance of the House.

**Shri Brajeshwar Prasad :** Sir, I was just thinking what will happen if there is a walk-out from the House. We have not visualized all the political possibilities in the country. In case of a walk-out, the Constitution will come to an end. In order to have a smooth sailing, it is necessary that a low quorum should be fixed. It does not prevent the Members of the House from coming and attending. We are not passing any law to the effect that only 30 members should attend the meeting of the Legislature. We are merely fixing the quorum. If we want that there should be no deadlock, we should have a low quorum.

**Dr. P. S. Deshmukh** (C. P. & Berar : General): Mr. President, Sir, I support the suggestion made by my honourable Friend, Mr. Naziruddin Ahmad, that all the paragraphs should be numbered.

There is one more suggestion I want to make and that is that the last portion of this article that "the quorum shall be one-tenth of the total number of members of the House" should precede clause (3), because in clause (3) we are determining what would be the consequences of want of quorum. As the article stands what is to be the quorum follows this. I think that is putting it in a wrong way. We should determine the quorum first and then the consequences should be stated. I think this is a small suggestion which should be acceptable.

**Mr. President:** That has been adopted in amender No. 452.

**Dr. P. S. Deshmukh :** Secondly, I would support my honourable Friend, Mr. Sidhva, in his contention that the quorum should be one-sixth and not one-tenth.

**Mr. President :** The House will adjourn now; we sit again at 3 o'clock.

The Assembly then adjourned for Lunch till 3 p.m.

The Assembly re-assembled after Lunch at 3 P.M., Mr. President (The Honourable Dr. Rajendra Prasad) in the Chair.

---

**Mr. President :** We shall now take up the amendments to the remaining articles. Article 128.

**Shri Jaspat Roy Kapoor** (United Provinces: General): My I speak a word on article 100?

**Mr. President :** Yes.

**Shri Jaspat Roy Kapoor :** Mr. President, I am tempted to speak on the amendment relating to the fixation of the quorum by the timely warning which the ringing of the bell has just given us proclaiming that there was no quorum in the House and inviting people to rush to the House to make up the quorum. I have also been provoked to speak on this subject by the vehemence with which my honourable Friend, Mr. Sidhva, has spoken on the subject desiring that the quorum should not be reduced from one-sixth to one-tenth. The heat and vehemence with which he made his speech would make one feel as if an attempt was being made to reduce the powers and privileges and rights of the Members of this House, which is not a fact. The suggestion contained in the amendment that the quorum should be reduced is a very wise, necessary and a useful suggestion which must be accepted. It is based on our past experience not only in this House but also in the other House when we sit as the Dominion Parliament. It appears to me that all this experience has been wasted on my honourable Friend, Mr. Sidhva.

**Shri R. K. Sidhva :** Is that a creditable experience ?

**Shri Jaspat Roy Kapoor :** That is an experience which should make us wiser and I do not think there is anything detestable in it either for the members or to the House. I think members should not be expected to come and be in attendance here all the time when the Parliament is sitting, whether they are interested or not in the particular subject that is being discussed on a particular day or time. It would be sheer waste of time of those Members and would be also unnecessarily taxing the tax-payer. I think that Members should be expected to attend this House only when they feel interested in the particular subject which is being discussed and otherwise they might profitably employ their time elsewhere in more profitable and useful engagements--not necessarily personal engagements--but engagements for the benefit of the country. Why after all is it expected that all the 500 Members should keep on sitting here from morning to noon and noon to eve all the year round or for a major part of the year ? For I think, during the next two years at least and may be even thereafter, if we have many Members of the views of Mr. Sidhva--for Mr. Sidhva has been frequently pressing that Parliament should be sitting for much longer days or period--then for eight to ten months in the year Parliament would be sitting; and to expect 500 Members to be spending all the time here whether they are interested or not in the various subjects that come up for discussion, is to ask them to neglect the more important duties.

Members who come here as representatives of the people will be all responsible persons who will have duties to perform, not only here in Parliament, but outside also, in the political sphere, in the country, and I should have thought that we would expect them to devote as much time as possible to constructive work in the country, to look after as many public institutions in the country as possible, rather than come here and wait here and merely be silent spectators of things in which they may not be interested. This amendment which suggests that the quorum should be reduced to one-tenth does not encroach on the rights and privileges of the Members. Mr. Sidhva and any other member who wishes to occupy, as much time of the House as he likes, can very safely do so. Any member who wants to inflict as many speeches as possible,

or put as many questions as possible or bring in as many amendments as possible, or make speeches of any length or of any quality--good, bad and indifferent--will always be at perfect liberty to do so. But why should any one expect that when he is addressing or occupying the time of the House, he should always have a very full House ? While he may enjoy that privilege, he cannot always have the satisfaction of having a crowded House, and I say that it is very necessary, both from the point of view of the Government, from the point of view of the tax-payer and from the point of view of the Members too, and from the point of view of solid substantial work for the country, that the quorum should be fixed at as low a figure as possible. It is so from the point of view of the Government, because it will be very embarrassing if any legislation is delayed for want of quorum. It is so from the point of view of the tax-payer, because if all the Members keep on attending all these sessions, it will mean a heavy expenditure in the shape of daily allowance, and also from the point of view of the Members, as I have already said, they should do as much constructive work outside the Assembly as possible, coming to the Assembly only when they are interested in particular subjects which may be before the House.

**Dr. P. S. Deshmukh :** Or go to Chandni Chowk. *(Laughter.)*

**Shri R. K. Sidhva :** Hear, hear.

**Shri Jaspat Roy Kapoor :** Dr. Deshmukh can go to Chandni Chowk or to any other more interesting place where his attractions lie; but then, why should all members be in Delhi all the time ? They may keep themselves busy in their respective places, and do more substantial, constructive, political economic and social work, rather than waste their time here. Therefore, I submit that the suggestion made to reduce the quorum from one-sixth to one-tenth is a very wise and very useful suggestion and must be accepted.

(Some Members rose.)

**Mr. President :** I do not think this simple amendment deserves so many speeches. Members know all about it, and they can either vote it down or vote for it. So we now go to article 128, and Pandit Thakur Das Bhargava's amendment No. 288.

(Amendment No. 288 was not moved).

**Mr. President :** Then amendment No. 289 of Mr. Kamath.

**Shri H. V. Kamath :** Mr. President, I move:

"That article 128 for the words 'the President may by order' the words 'Parliament may by law' be substituted."

If my amendment is accepted, the article would read as follows :

"Notwithstanding anything in this Chapter, the Chief Justice of India may at any time, with the previous consent of the President, request any person who has held the office of a Judge of the Supreme Court or of the Federal Court, to sit and act as the Judge of the Supreme Court, and every such person so requested shall, while so sitting and acting, be entitled to such allowances as Parliament may by law determine..... etc., etc."

The article corresponding to this in the Draft Constitution as agreed to by the Assembly at the consideration stage is article 107, and the interpolation now made

consists of the words--"be entitled to such allowances as the President may by order determine." If the House will turn to article 125, clause (2). my honourable Colleagues will see that that clause lays down that Parliament may by law determine the privileges, allowances and rights in respect of leave of absence, pension etc. which a Judge of the Supreme Court shall be entitled to. But here--of course this is a temporary measure, I realise that--but here the matter is left to the President of the Union to regulate. I do not see why this matter also could not be left in the hands of Parliament, to be determined by law. Parliament may provide that when Judges of the Supreme Court or the Federal Court, or retired judges--the articles deals with retired judges--when such persons are asked to or requested to sit and act as Judges. of the Supreme Court, though they may not be deemed Judges of the Supreme Court, still Parliament may determine what allowance they will be entitled to. There will be no difficulty for Parliament to legislate in this matter. It can legislate generally as to what allowances the Judges shall be entitled to receive. Instead of the President doing it, Parliament may do so. With these words, Sir, I commend my amendment to the House.

**Pandit Balkrishna Sharma** (United Provinces: General): Sir, if Mr. Krishnamachari would be good enough to enlighten us on the point, it would help us. My point is that we are told that in the future Constitution, we have abolished the office of additional Judges or temporary judges. Then how does this, article 128 correspond with that decision of ours, or that intention, if that intention be in the Constitution that additional judges should be abolished? In that case, how will this article stand.

**Mr. President :** It is not a case of additional Judges at all. A retired Judge may, for a temporary period, be requested to act for a particular period or for a particular case. It is a retired Judge and not an additional Judge at all. A person who has acted and held the post of Judge of the Supreme Court or Federal Court, a person like that, may be requested to attend.

(Amendment No. 290 was not moved.)

(Prof. Shibban Lal Saksena rose.)

**Mr. President :** We have to finish all the amendments in List I, and those that are not moved, may have to be left over altogether.

**An Honourable Member :** Will they lapse ?

**Mr. President :** Yes. All these amendments which are in List I should be moved in the course of the day, and therefore I have been suggesting from the very beginning to Members to be as short as possible and not to insist on speaking or even moving amendments which are not of substance.

**Prof. Shibban Lal Saksena :** I wanted this thing to be deleted because it the President is permitted to fix the allowances of the Judges, it means they are subservient to the President and to the Executive. This is most undesirable. If Parliament does it, it is a different matter.

Sir, I then move:

"That sub-clause (c) of clause (1) of article 145 be deleted and before clause (1) of article 145, the following be inserted:--

'The Supreme Court shall make rules for regulating the practice and procedure of the appropriate proceeding relating to the enforcement of rights conferred under Part III.' and the subsequent clauses be renumbered accordingly."

Part III deals with fundamental rights. According to you, the rules and the procedure of the Court will be made by the President. I want that the Fundamental Rights should be within the purview of the Supreme Court. I have therefore put that this clause (c) should be deleted and that it should be quite independent and should come before it. This is most important. Fundamental Rights should not be within the power of the President to approve or disapprove.

**Mr. President :** But your amendment goes against the previous decision.

**Prof. Shibban lal Saksena :** No. It is absolutely new. This is clause (c) of article 145.

**Mr. President :** No. It is clause (b) of the article.

**Prof. Shibban Lal Saksena :** This is clause (c) on page 58.

**Mr. President :** I see: you are referring to (c).

**Pandit Thakur Das Bhargava:** Amendments 308 and 309 are practically the same. I wish to speak on them. Originally I sent in an amendment to the Constitution, which appeared to the last of amendments as 109A, the first part of which ran as follows:--

"The Supreme Court shall have, in respect of the enforcement of Fundamental Rights guaranteed by the Constitution jurisdiction and powers to determine and regulate the manner and method of the appropriate proceedings mentioned in section 25 of the Constitution."

At the time this was moved, I requested you to hold it back and it was unfortunate that this amendment was ruled out by you on the last day of the second reading. I am glad that the Drafting Committee has been pleased to accept the principle which I wanted to embody in the second reading of the Bill. Though I am thankful to them for this rule (c), I must say that it is in its present form soulless. It is a mere shelf. If you kindly see the whole scheme of this Constitution, it will appear that these fundamental rights are of such a nature that they curtail the rights of the Executive as well as the Legislature. The Legislature as well as the Executive cannot temper with these rights, and in these rights, in my own humble opinion, resides the sovereignty of the common man. As long as these rights are enforced, every man is safe from every kind of tyranny. Therefore, I attach the greatest value to these Fundamental Rights. But now that these new provisions are there, we do not know how these rights will be worked. It is true that the Supreme Court has been invested with the jurisdiction to enforce these rights. Yet we have not yet determined how and in what manner the Supreme Court shall give effect to these rights. These rights are of a very peculiar and a very imperative character, and I do not know in regard to the jurisdiction of the other

courts whether in regard to stamps or writs, etc., what course will be adopted by the Supreme Court. But the Supreme Court has been given power under article 25 to enforce these rights. As a matter of fact, what is given as an absolute right here is being taken away in the shape of power being given to frame rules. The Supreme Court alone should have the power to frame these rules. If this power is vested in the Legislature or the approval of the President is made indispensable, I am afraid that it is fundamental to tampering with these Fundamental Rights.

Now, Sir, we know that an attempt has been made by the Drafting Committee in the later stages to tamper with these Fundamental Rights. Right 16 has been taken away. Right 15 has been truncated and in regard to adaptation, power is taken which takes away from the efficacy of these Rights. What is important is, when the provisions relating to these rights have been passed, in the third reading we do not want to have such a drastic provision. These rights should be maintained in their original purity and in the Supreme Court there should be no other power which can take away these rights. There the House will see that what I wanted in my original amendment, 109A, is now given to us. I want that the Supreme Court alone should have the power to make these rules for regulating the method and manner of the enforcement of these rights and therefore I seek to take away sub-clause (c) from clause (1) and add another separate clause (2), so that the Supreme Court alone in regard to the matters referred to in Part I. may have the power to regulate the practice and procedure of the appropriate proceedings mentioned in article 25 which guarantees these fundamental rights.

**Mr. President :** Does any one wish to say anything on this article? Then we shall pass on to article 148. Amendment No. 312, Mr. B. Das.

**Shri B. Das :** I am not moving it.

**Shri Raj Bahadur :** I am also not moving it.

**Mr. President :** Shrimati Durgabai. She is not present. Then amendment No. 313, Mr. B. Das.

**Shri B. Das :** Sir, I move this joint amendment which stands in my name and in the name of my Friend, Mr. Raj Bahadur. I beg to move :

"That in clause (5) of article 148, for the words 'persons serving in the office' the words 'members of the staff' be substituted."

This is not my own amendment, this is what the House did pass after great deal of discussion and which the Drafting Committee, by some inadvertence perhaps, wanted to reduce to the present position. My grounds are the same as my Friend, Pandit Thakur Das Bhargava, has just now advanced about the status and dignity of the Supreme Court Judges. If we have to maintain the sovereign Government of India, we have to see that the Supreme Court, the Auditor-General and the Federal Public Service Commission are not interfered with in any shape or manner by the permanent executive. The House took considerable time in discussing these articles--old articles 124 and 125, which have now become Nos. 148 and 149. The House determined that the Auditor General should maintain the highest dignity of financial integrity by audit control and that there should be no interference by the permanent executive in any shape or manner in exercising the authority of the Auditor-General regarding the audit

control of public finances of the Government of India.

We businessmen who are accustomed to business finance sometimes find that Boards of Directors of companies try to exercise influence over the auditors and sometimes wrong reports are published. That practice should not come into vogue in the Government of India. Unfortunately, under foreign rule, that practice was in vogue from 1921 up to 1947--only two years ago. The Auditor-General became almost a nonentity. There was no audit of public finances. The former British rulers even decided that unless the Auditor-General or members of his staff like the Accountant-General or the Director of Audit, agree with the spending authority such as the Secretary of the Department or the executive head of the department, the financial irregularity would not be reported to the Public Accounts Committee or Parliament. This thing happened some time in 1927 and that practice was very much in evidence during the second war. In order that a similar practice may not continue we wanted that the high status and dignity of the Auditor-General should be maintained. Therefore we do desire the House to pass this amendment substituting the words "members of the staff" in article 148(5) whereby every Accountant-General, every first class Accounts Officer is not subjected, for his promotion, to the sweet will of any departmental head or executive head of a spending department. I have been assured by the Drafting Committee that they will accept the amendment which I have just moved. Sir, I do not wish to speak any further on this issue.

**Mr. President :** Shrimati G. Durgabai, amendment No. 314 She is not here. No. 315, Mr. Das.

**Shri B. Das :** I am not moving it.

**Mr. President :** No. 316.

**Shri Raj Bahadur :** Sir, I am not moving it. But I want to speak on amendment No. 313.

It is obvious that by the very nature of the duties and office of the Auditor-General, this officer must be quite independent of the executive. As a matter of fact, his position is somewhat analogous to the position of the Chief Justice of the Supreme Court. He is the custodian, if I may say so, the *chowkidar* of our finances. He stands between the executive and the taxpayer. It is he who can successfully prevent our finances from getting into any sort of corruption or debacle.

Sir, I would simply add this much to the observations made by the previous speaker that it has been a painful experience to those of us who have happened to be on the Public Accounts Committee that during the course of 1945 and 1946 or, should I say, prior to partition and independence there have been such serious defects and irregularities in the accounts of the country that we have come to the conclusion that in the best interest of the nation this officer must be completely independent of the executive. I would, in all humility suggest that he should be absolutely free from the control of the executive. I had tabled an amendment, No. 312, that even his "allowances" apart from his salary should be decided not by the President or by the Government but by Parliament. We find that in the case of the judges of the Supreme Court, their salaries and allowances are not in the gift or the Government but are constitutional matters. I would like to go a step further and say that it should not have been left to the discretion of even the Parliament, and the Constitution itself should

have provided for it, because it would be in the interests or the nation if this officer is made completely independent. At any rate, there should be no wall or screen between the Legislature and this officer.

In case he has to function effectively and properly, his staff also should be under him. If the members of his staff are placed under the control of the Cabinet or the executive and have got to look for their promotions and for their careers towards the Ministers. it is obvious that the Auditor-General would not be able to exercise an effective control over the members of his staff. It was therefore a sort of an unpleasant surprise when we found in the revised draft that the words "members of the staff" had been changed to "persons serving in his office", thereby restricting and limiting the control of the Auditor-General upon those persons who happen to serve at a given time in his Department as a whole. It was thought proper that the original words which were approved of by this Assembly during the previous stages should be retained. Hence this amendment.

Another point on which I want to lay some stress is that because the Auditor-General happens to be one of the highest officials who hold a sacred trust of the people, it has been made incumbent on him that after having served his term of office he cannot be absorbed or employed on any other job in the Government. When that office has been placed so high, it is only meet and proper that the staff also is entirely controlled by the same office. With these words I commend this amendment for the acceptance of the House.

**Mr. President :** Article No. 154, Mr. Kamath.

**Shri H. V. Kamath :** Sir, these amendments are identical with the amendments moved earlier in the morning and I leave them along with the morning ones for the consideration of the Drafting Committee.

**Mr. President :** So, I, take both 320 and 321 as not moved.

Then article 162, amendment No. 324 is a similar amendment.

**Mr. Naziruddin Ahmad :** Yes, Sir.

**Mr. President :** Then amendments Nos. 328 and 329, Mr. Kamath--article 164. Amendment No. 328 does not arise. Mr. Kamath You may move amendment No. 329.

**Shri H. V. Kamath :** Sir, I move.

"That in the proviso to clause (1) of article 164 for the words 'Koshal Vidarbh' the words 'Madhya Pradesh' be substituted."

**Shri T. T. Krishnamachari :** May I suggest to the honourable Member that he may move this when we come to the Schedule ? And when we accept that amendment, the consequential change may be made here as well.

**Shri H. V. Kamath :** Very well.

**Mr. President :** There are three amendments of which notice has been given by

Shri A. V. Thakkar, namely amendments 329A, 330 and 331. The honourable Member is not here; so we may go to Article 166. (Amendment No. 332).

**Prof. Shibban Lal Saksena :** My amendment *(No. 332) may be taken as formally moved.

**Mr. President :** In regard to *333, *334 and *335, similar amendments have been moved in regard to the Central Government. I shall, therefore, take them as formally moved. It is hardly worthwhile moving 336 to 339. Let us, therefore, take up 340 and 341 of Mr. Kamath.

**Shri H. V. Kamath :** Sir, I move:

"That in clause (1) of article 172, after the words 'no longer' a comma be inserted."

"That in clause (2) of article 172, for the word 'possible' the word 'practicable' be substituted."

As regards the first, as far as my meagre knowledge of English tells me, according to the rules or syntax, a comma is indicated after the word "longer."

As regards the second amendment (No. 341), I feel that the word "practicable" is more appropriate in this context than the word "possible." I think, in the former draft as agreed to by the Assembly at the consideration stage, the word used was "may be." But as between "possible", and "practicable" there is a fine distinction which will not escape the notice of the honourable Members of this House. Suppose, for instance, there are 32 members in the Legislative Council of a State. "As nearly as practicable one-third" will definitely mean eleven. On the other hand "possible" will admit of some ambiguity, because there is nothing that is not possible. For that matter everything can be made possible in this world, while "practicable" will have some relation to reality. We are here dealing with realities, and the word "practicable" will 'be preferable to the word "possible" for conveying the precise sense of this clause of the article.

**Mr. President :** Amendments *343, *344, *345 and *346, I shall take as moved. Let us now take up Article 189 (amendment 347).

**Shri H. V. Kamath :** In regard to *347, I would like to make one observation. Sir, it is understandable that for a big assembly like Parliament a quorum of one-tenth of its strength may be fixed. But if this is extended to the States, it may at times lead to ridiculous results. There are at present States where the lower House consists of perhaps one hundred or one-hundred and twenty members, and these are to continue till the New Constitution commences and they are reconstituted after the General Elections. For instance, the C. P. and Berar Assembly now consists of about 120 members. If the quorum is fixed at one tenth of its strength, it would mean that twelve members would be sufficient to pass any legislation. The argument has been trotted out that the quorum of the House of Commons is only one-fifteenth. It is understandable because the House has a strength of six-hundred members. But in the case of the Mysore Assembly, for instance, which will have a strength of, say, 70 members, the quorum would be seven: we are of course providing that if shall not be less than ten. Rather than take it to such a farcical extent, let us say, 'finis' to

democracy and go home.

Sir, I personally feel that for legislatures which have a small strength of, say 60 to 120 members, we should fix the quorum at one-fifth or one-sixth, and not make ourselves the laughing stock of the world.

**Shri R. K. Sidhva :** Sir, my amendment to article 189 reads thus:

"That in clause 3 of article 189 for the word 'ten' and 'one-tenth' the words 'twenty' and 'one-eighth' be substituted respectively."

My arguments in support of this are the same as those I put forward in connection with the question of quorum for the Union Parliament. I am not at all in favour of the arguments put forward by my Friend, Mr. Kapoor. On the contrary, it has to be remembered that the future Parliament will have to sit for at least nine months in the year. If members have other work to do, let them attend to it and not monopolise the seats in the Assembly and imperfectly do the work entrusted to them by the people. I, therefore, feel that after the next elections to Parliament, the Members who come here must confine themselves to their parliamentary work only. If they really want to do other work, they may do so, but let them not monopolise the parliamentary membership and also other political activities. It is high time that we decide this. At this juncture when we have an opportunity to frame the Constitution, especially this Part. As my friend said, I do not want 500 members to be present all the time. I am saying that at least one-eighth should be present, which would mean only 20.

**Shri Mahavir Tyagi :** Then the House will be composed of unemployed men only.

**Shri R. K. Sidhva :** I am saying twenty. Do they not want twenty for the quorum? When the question of voting comes, the House should see that the Drafting committee's proposition is voted down and what the House decided on the last occasion is accepted.

I then move my next amendment, viz.

"That at the end of clause (1) of article 222, the following words be added:

'only when urgency arises'."

A judge should be transferred only when urgency arises.

**Shri H. V. Kamath :** Sir, I move.

"That clause (2) of article 222 be deleted."

This clause empowers the President to fix compensatory allowance for a judge of a High Court on his transfer from one State to another. I think it will be a wise rule for us to lay down that we shall not deviate from the provisions we have already made in the Constitution with regard to salaries and allowances of High Court Judges. There should be absolute uniformity in regard to this matter throughout the whole of India. That will conduce, though in a very small way, to the development of a united national sense throughout the country. If we make invidious distinctions between the salaries

and allowances of a High court Judge in one State and those of a High Court Judge in another State it will lead to somewhat vicious results which I for one would not countenance or encourage. A High Court Judge whether in Madras or Bombay or the United Provinces should draw the same salary and allowances fixed for him in the Constitution or by Parliament. There is no need, in my view, to give him any compensatory allowance when a four figure salary is fixed for him in the Schedule. I do not see any reason why when he is transferred he should get compensatory allowance in addition to his Rs. 3,000 or 4,000. The judges and all our public servants are going to be good patriots and will no claim any sort of allowances when they are, in the public interest, transferred from one State to another. The salaries and allowances already drawn by them ought to suffice. I commend my amendment to the House.

**Dr. P. S. Deshmukh :** I support with as much strength as I can command, the arguments advanced by my Friend, Mr. Kamath, but on a different and an additional ground in favour of the deletion of this sub-clause. In our desire to protect the interests of the Judges I am afraid we are overdoing things. We have already made detailed provisions with regard to their right to leave, allowances, pensions and other things. We should not overburden our Constitution with so many and such details. If there is any necessity of granting any more allowances I do not think there is any constitutional difficulty in the way of the President granting the same or Parliament sanctioning it in the case of the Judges. I think this provision is absolutely unnecessary and should be deleted.

**Pandit Thakur Das Bhargava :** Sir, I am not moving my amendment No. 355 to article 224.

**Shri H. V. Kamath :** I have already moved an amendment similar to amendment No. 356 I am not, therefore, moving amendment No. 356.

**Pandit Thakur Das Bhargava :** I am not moving amendment No. 377. I wish to move amendment No. 383 to article 302.

I beg to move:

"That in article 302, for the words 'as may be required in the public interest' the words 'as may be required in the general public interest' be substituted."

*or, alternatively*

"That in article 302, after the words 'may by law' the words 'enacted by virtue of power conferred by the Constitution' be inserted."

If you will kindly look at article 302, you will be pleased to find that after the words "Parliament may by law" there are some dots and these dots represent in the second reading the following words :

'enacted by virtue of the power conferred by the Constitution.'

Now, this article 302 and the other articles 301, 303, etc. relate to trade, commerce and intercourse within the territory of India. As a matter of fact originally there was a section in the Fundamental Rights which said that trade, commerce and

intercourse shall be free in the whole of India. That article has been taken away and some other provisions had been enacted. These articles 303, etc. also existed in the original provisions but we understood that they were subject to article 16. Now, it so appears that article 302 seeks to give power to Parliament to impose restrictions on the freedom of trade, etc. Now, if you will kindly see article 19 (g) which we have already dealt with, it says--

"All citizens shall have the right to practise any profession or to carry on any occupation trade or business."

And the restrictions which could be imposed are given in clause (6). It says--

"Nothing in sub-clause (g) of the said clause shall effect the operation of any existing law in so far as it imposes or prevents the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by this section....."

My submission is that those fundamental rights as a matter of' fact constitute the minimum and fundamentally characteristic rights of any person living in India. Every inhabitant of India has got the right to trade in any part of India as an incident of his citizenship. This is only restricted by clause (6), whereas according to article 302 if the public interests require--and not the general public interests--then also restrictions could be put by Parliament. This is the difference between the two. What is quite clear in article 19 and what has been given there as Fundamental Rights is being taken away by article 302 when these words "in the public interests" are substituted. I do not want to take the time of the House in explaining the difference. The words used are "public interest" and not "General public interest". Public interests may be sectional interests inherent in State subjects but general public interest denotes the interests of the whole general interests of Indians as such.

**The Honourable Shri K. Santhanam :** This particular amendment does not arise from any amendment moved by the Drafting Committee, and cannot be admitted under our rules.

**Mr. President :** I think you are right.

**Pandit Thakur Das Bhargava :** You may kindly hear me before deciding the matter. There are two amendments contained in No. 383, either add the words "enacted by virtue of the powers conferred by the Constitution" as this power is conferred by article 19(6) or you put in the words "in the general public interest". These amendments are as a matter of fact the same. There is no difference between the two. If these words are there, it means that this is subject to article 19. Therefore, I submit that either these words "enacted by virtue of the powers conferred by the Constitution" may be restored in their original form or the words " general public interest" may be put in. I should think that when we have passed article 19, there can be no other article which is in abrogation of the article which we have already passed. There is an inconsistency between the two and I beg the Drafting Committee and the House to consider this inconsistency and remove it.

**Mr. President :** Your argument is that the word "general" represents the same thing as the words which have been omitted. Either add the word "general" or restore the words which have been omitted.

Amendment No. 384.

**Shri H. V. Kamath :** Sir, I move :

"That in the proviso to article 309 the words "or such person as he may direct", wherever they occur, be deleted."

The House will see that the proviso to article 309 empowers the President in the case of the Union services and the Governor or the Rajpramukh in the case of the States services to make rules regarding their recruitment, their conditions of service and similar matters pending provision by Parliament or the State legislature, whichever may be the case, in this regard. I see no point in the amendment recommended by the Drafting Committee. The amendment is to the effect that not the President or the Governor or the Rajpramukh alone is competent but also such person as he may direct. This amendment to my mind is simply puerile. This morning when we considered an article with regard to the executive authority, we found that the executive power of the Union shall be exercised by the President either directly or through officers subordinate to him. It follows that even if it is not exercised by him directly, it can be exercised by officers subordinate to him. In this regard also, the rule-making powers can be exercised by him or by persons authorised by him. I do not know why the Drafting Committee thinks that it is necessary to specify that it can be exercised by him or by such person as he may direct. Throughout the Constitution we have made it clear that whenever the President acts, he does not act on his own but acts on the advice of his Cabinet, and may also delegate his authority to somebody else. These words are absolutely redundant, unnecessary and pointless, without any purpose, and therefore I suggest that these words ought to be inserted "or such person as he may direct" in the case of the President as well as in the case of the Governor and the Rajpramukh should be deleted, because it is clear beyond any shadow of doubt that wherever the Governor or the Rajpramukh or the President is mentioned, he is not mentioned in his personal capacity but as a symbol of the executive authority of the Union or the State. Therefore I commend my amendment No. 384 to the House for its serious consideration.

**Dr. P. S. Deshmukh :** Mr. President, Sir, I once again find myself in complete agreement with the argument advanced by my honourable Friend, Mr. Kamath, we either give this power to the President or we do not. If we think that he will not be in a position to cope with the responsibilities in this respect because they are too detailed or too insignificant and it would be necessary for him to delegate these powers to somebody else, let us put, that somebody else here rather than put the President and then allow him to delegate this authority to somebody else. In fact, Sir, I totally disagree that the importance that has all along been attached to the protection of the interests of the services in the Constitution. I for one consider it a reflection of the days of the Secretary of State when he was the father of all the covenanted services serving in any part of the world. I think this is also a reflection of the idea that the services are such an important part of the country that it is necessary that nobody else except the President shall interfere with their terms of appointment, etc. Sir, I think that either the power may be kept with the President--although I would much rather that it should be delegated to somebody else; or the government of that particular State, whether of the Union or the State should be competent to do so or the President should be taken out altogether; but if we want to make of a President a sort of a Secretary of State in our Constitution, then, let the President remain without stating that we would have the power of delegation of this authority to any one. In

fact the President does not mean that in every case he acts himself and personally. In most cases he will be acting through someone else. There will be notifications that the President is pleased to order so and so but actually it will probably be one of his under-graduate stenographers who will draft the notification in the name of the President. *(Laughter).*

(Amendment No. 387 was not moved.)

**Shri H. V. Kamath :** Sir, I move:

"That in clause (3) of article 311 for the words "reasonably practicable to give to any person an opportunity' the words 'practicable to give any person a reasonable opportunity' be substituted."

If my honourable Colleagues will turn for a moment to clause (2) of this article they will see that the language employed in that clause is about "reasonable opportunity" being given to the person as aforesaid, etc., that is to say, that unless a person is give a reasonable opportunity to show cause, no action can be taken against him but clause (3) introduces a slight change and we find here the opportunity is no longer "reasonable" but the practicability is made reasonable. That will, in my humble judgment, make a very appreciable difference to the means of the clause If the House accepts my amendment then the opportunity to be given will have to be a reasonable opportunity. My honourable Friend, Pandit Thakur Das Bhargava, who emphasized the meaning of the word "reasonable" so very forcibly and vigorously with regard to the old article 13 will agree with me about the word 'reasonable' in this connection because it may be held that where the opportunity is not sought to be given by the person taking action against an officer concerned, if was not reasonably practicable. 'Practicable' means absolutely practicable. That is what I believe Dr. Ambedkar had in view when he moved this article at the consideration stage, and it means that when the officer is not to be found or his whereabouts are not known it is not possible, to give him any opportunity to show cause and only in that eventuality, in that contingency can an opportunity be denied to the officer concerned. Now what we seek to do in this amendment sought to be moved by the Drafting Committee is that if the officer holds that it is not reasonably practicable to give an opportunity that means to say it may be practicable, but it may not be reasonably practicable. Therein, lies the difference which my honourable Colleagues, I am sure, will understand and appreciate. We must definitely lay down that only when it is not practicable to give to the officer concerned a reasonable opportunity, the superior officer's decision shall be final in this regard. I feel that the Drafting Committee has taken uncalled-for liberties with the draft as approved by the Assembly in the last session and I feel that we must modify it so as to convey the sense of this clause exactly and completely. I commend my amendment No. 388 to the House for its consideration.

**Mr. President :** Amendment No. 389.

**Shri H. V. Kamath :** Sir, I move:

"That in the proviso to clause (1) of article 316, for the words 'under an Indian State' the word 'in an Indian State' be substituted."

I do not presume to be a master, an expert or authority on the English language and I move it for what it is worth. I hope the Member of the Drafting Committee who are far wiser than myself in this matter will have due regard to the meaning that they

seek to convey in this proviso and in the phrase, 'held office under an Indian state'. Of course 'held office under the crown' is a constitutional term, but I have not heard this phrase 'held office under an Indian State'. It should be either "under the Government of an Indian State" or "in an Indian State".

**Shri T. T. Krishnamachari :** May I tell my honourable Friend that it is contemplated to change, with the permission of the House, the words to 'under the Government of an Indian State'.

**Shri H. V. Kamath :** I am glad that my honourable Friend Mr. T. T. Krishnamachari, has seen his way to accepting this suggestion of mine and so I do not propose to press this amendment, Sir.

**Mr. President :** I do not think amendment No. 392 arises at all.

**Shri T. T. Krishnamachari :** May I suggest to the honourable Member to see if it finds a place in the corrigenda? The two commas are there.

**An Honourable Member :** The Drafting Committee have stolen the amendment.

**Shri H. V. Kamath :** The word 'stolen' may be unparliamentary; they have plagiarised the amendment. Amendment No. 392 is also mere punctuation and I leave it to the punctuating sense of the Drafting Committee.

Sir, I move:

"That in clause (c) of article 319, for the words 'other than a Joint Commission' the words 'or as the Chairman of a Joint Commission' be substituted."

This article 319 refers to prohibition as to the holding of office by members of the Public Service Commission on their ceasing to be such members, that is members of the Commission. Certain restrictions have been laid down in this article with regard to members of the Public Service Commission when they cease to hold office either as Chairman or as member of a particular Public Service Commission. Clause (c) of this article refers to the restrictions laid upon a member other than the Chairman of the Union Public Service Commission. This goes on to say: "such a member on ceasing to hold office shall be eligible for appointment as the Chairman of a State Public Service Commission other than a Joint Commission." I see no reason why this taboo should be there, with regard to a Joint Commission. A person has ceased to be a member of the Union Commission. Just as there is no prohibition with regard to a State Commission, so it follows logically, at any rate to my mind, that there should be no prohibition with regard to his appointment as a member of a Joint Commission. The only prohibitions should be with regard to his membership of the Union Public Service Commission or Chairmanship of the Union Commission; but neither with regard to the State Commission nor with regard to a Joint Commission should there be any prohibition. I therefore move amendment No. 393.

**Mr. President :** We proceed to article 320.

**Shri H. V. Kamath :** This amendment, Mr. T. T. Krishnamachari tells us, has been

accepted by the Drafting Committee.

**Shri T. T. Krishnamachari :** If my honourable Friend will move amendments 394 and 395, first alternative, that more or less finds a repetition here--we will accept his amendments.

**Shri H. V. Kamath :** I am happy; I move amendments 394 and 395, first alternative.

"That in sub-clause (d) of clause (3) of article 320, for the words 'Under an Indian the State' the words 'under the Government of an Indian State' be substituted."

"That in sub-clause (e) of Clause (3) of article 320, for the words 'under an Indian State', words 'under the Government of an Indian State' be substituted."

**Pandit Thakur Das Bhargava :** Sir, I move:

"That in clause (4) of article 320, the words "the members of the Scheduled Castes or Scheduled Tribes or' be deleted."

If you will kindly refer to article 320, clause (4) it would appeal that it says :

"Nothing in clause (3) shall require a Public Service Commission to be consulted as respects the manner in which appointments and posts are to be reserved in favour of the members of the Scheduled Castes or Scheduled Tribes or any backward class of citizens in the Union or States". These words "members of the Scheduled Castes or Scheduled Tribes or" have been added newly. Previously, these words did not exist. Now, so far as reservation is concerned, we find mention of this reservation in article 16, where it is said in clause (1) "There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State," and in clause (4) "Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the Services under the States." A perusal of these two sections would establish that as a matter of fact, there is only provision for this reservation in respect of the backward class of citizens which in the opinion of the State is not adequately represented in the services of the State. There is absolutely no provision for reservation so far as members of the Scheduled Castes and Scheduled Tribes are concerned. The safeguard given by law to this class is contained in articles 335 which says: "The claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State." Therefore, one thing is absolutely clear, that no reservation was meant to be made for the members of the Scheduled Castes or Scheduled Tribes as such. I remember that in the Sub-Committee of the Minorities Committee, this matter came up and then we decided that there should be no reservation at all. Now, as if by the back-door, by smuggling, this reservation for the Scheduled Castes and Scheduled Tribes is being inserted in clause (4) of article 320. My submission is when there is a positive command of the Constitution to the members of the Public Service Commission which they must obey that he claims of the members of the Scheduled Castes and Scheduled Tribes must be considered consistently with the maintenance of efficiency of administration, this provision would be useless, and also, in a manner, I

should say, this takes away the effect of article 335 to an extent. I am therefore, anxious that so far as the Scheduled Castes and Scheduled Tribes are concerned, their claims must he considered with regard to all appointments and not only with regard to reserved appointments. Because, if they are reserved, it means that the claims of other people for these appointments will not be considered, and their claims only will be considered. The likelihood is that their claims will be confined only to the reserved posts and in regard to other posts, their claims will not be considered.

Now, as the House knows, the provision contained in article 16 clause (4) is a sort of a negative provision to counterpoise the equality of opportunity for all citizens, some of whom are very much developed and others not so developed, and provision is made that the State is not prevented from making any provision for the reservation of appointments or posts. I do not know whether the State is going to reserve any posts. Supposing no posts are reserved, this provision will neither benefit the backward classes nor any other class. When reservation of posts has not been decided by this House, I do not think we are justified in having in this clause (4) a contingency for which reservation could be made. When the House has decided once for all that no reservation is to be made, then these words would give rise to the impression that reservation is possible.

I am anxious that whatever rights have been given by the Constitution they should be enjoyed by the members of the Scheduled Castes and Scheduled Tribes and no more or no less. In regard to article 335, I beg to submit that this is a very positive and extensive provision. If I were a member of the Public Service Commission, I would like to give every post to the members of the Scheduled Castes and Scheduled Tribes consistently with the maintenance of efficiency of administration for at least five or ten years so that they may have been.

**Shri T. T. Krishnamachari :** Will the honourable Member please say how article 335 could be implemented?

**Pandit Thakur Das Bhargava :** Can it only be implemented by reservation? If that is so, why did we not so decide? We decided against that; we were against that. The 'Drafting Committee is smuggling in some provision which is against the verdict of the Assembly. Why was this point not raised before? I think reservation is entirely a wrong thing. Under article 335, their claims can certainly be considered. After all, a Commission is to be appointed and welfare officers are going to be appointed. The President has to see whether the rights of these communities are safeguarded. We are all here to see that the rights of these communities will be safeguarded. I have no reason to believe that article 335 will not be implemented. It must be implemented; but this is not the way to implement it.

**Shri V. I. Muniswamy Pillay :** (Madras: General): Mr. President Sir, I think it is an irony of fate that hurdles of this sort are sought to be placed even in regard to the meagre facilities that have been adopted in this House. I do not agree with my honourable Friend Pandit Thakur Das Bhargava's amendment since the implementation of article 335, which was formely article 296, is sought in this clause (4) of article 320. Sir, if I were to tell him, the backward communities which lie referred to is not a comprehensive term or adopted by all the provincial Governments in India. In Madras, backward communities refer to certain sections of the people and the Scheduled Castes and Scheduled Tribes form a separate class from the backward communities. If it is the idea of my enlightened friend that the backward classes alone

must remain in this Constitution for any reservation, the Scheduled Castes and Scheduled Tribes will not find reservation for appointments either in Madras or in some other provinces. So, I feel what the Drafting Committee has done for implementing and also making it clear what obtains in article 335 in clause (4) of article 320 is correct. My friend was saying that no reservation was made: but if he studies article 335, there is reservation services for Scheduled Tribes and Scheduled Castes. This clause (4) gives power of consultation with the Public Service Commission which is ultimately the authority that will be advising the Governors and the President of the Union on what basis the members of Scheduled Castes or Tribes are to be taken in service. So I feel very strongly that if my honourable Friend's amendment is accepted, it will mean that the Scheduled Castes or Tribes will not count for reservation in the services. So I oppose this amendment.

**Shri Mahavir Tyagi :** Sir, I propose that this may be held over. It is very controversial.

**Mr. President :** I would allow discussion of this. Those who wish to speak may speak now. Voting will be taken at the end, of course.

**Dr. P. S. Deshmukh :** I am glad the importance of this article is being appreciated by many honourable Members. It is certainly very very important. I for one do not oppose the changes made by the Drafting Committee in this article, but I would appeal to the Members and to the representatives of Scheduled Castes and Tribes that they should not also object to the insertion of the words "backward classes" in article 335. It was very unjustly and unfairly omitted from that article and it was no gain to anybody, especially to Members representing the Scheduled Castes or Tribes. Just as in this article 320 we propose to add the words 'the Members of the Scheduled Castes and Scheduled Tribes and retain the words, 'Backward classes of citizens', similarly the words 'backward classes' should be added to article 335. That will be entirely fair and consistent and if that is accepted, I would strongly oppose the amendment that has been just moved. If, for the purpose of even carrying greater assurance to Members of Scheduled Classes, it is necessary to mention certain safeguards specifically, I do not think we should fight shy of it. We are trying too much to ask people to have faith in our liberal, intentions and generous motives but in many respects it is better to come down to practical politics and embody what we mean in a concrete shape, understandable by the ordinary citizen. If for that purpose the Drafting Committee has suggested the addition of the two classes of Communities in article 320, I for one would not quarrel with it. But I would appeal to the House and to everybody that the words "backward classes" should be added to article 335. There is a little history so far as this article is concerned and the omission is, I believe, as accidental as some other things that have happened in regard to the provisions in the Constitution. Backward classes were omitted from article 335 in this way. The omission was never contemplated. Mr. Munshi had attempted amendments of the proposed article several times, but in none of them "backward classes" was omitted. But suddenly at a very late stage, when unfortunately I happened to be out of Delhi, I discovered that these words happen to be omitted. The best solution which is acceptable to everybody is that the proposed addition to article 320 should stay and honourable Members of this House should insist that the words 'backward classes' should be added to article 335 and the *status quo* maintained which was deliberate, intentional and which was really the demand of everybody, especially of Members representing the backward classes and also, if I may say so, of the representatives of the Scheduled Castes and Tribes. There has never been any conflict of interests between the various groups of

communities and I hope the Scheduled Classes and the Scheduled Tribes will not bring about this conflict which will be of evil consequences to the whole nation. I would, therefore, appeal that whatever has been embodied in article 320 should now stay and in article 335 the word 'backward ...

**Mr. President :** There is no amendment for 335.

**Dr. P. S. Deshmukh :** I have given an amendment to that effect somewhat late. I was away from home and I was not able to table it in time but as soon as I got it, I sent the amendment in. I would beg of you that this amendment of mine may be permitted. It is No. 530. I have said "that in article 335 after the word 'members, the words backward classes' be inserted."

**Shri H. J. Khandekar** (C. P. & Berar: General): Mr. president, Sir, I stand here to oppose the amendment moved by my Friend, Mr. Thakur Das Bhargava. The draft that has been put forward by the Drafting Committee is with certain reasons. Because this House has adopted article 335 last time as article 296 and in order to give effect to that article, this article 324 has been submitted to the House. According to article 335 the seats have been reserved for members of the Scheduled Castes in services and posts, but that article does not give power to the Public Service Commission or the Federal Public Service Commission. We had to bring that article into effect and for this purpose this amendment has been moved by the Drafting Committee and then only the F.P.S.C or P.S.C. of the States will Consider the claims of the Scheduled Caste. I am very sorry to say that such amendments as have been moved by Shri Bhargava regarding the Scheduled Castes are being moved at this stage to bury down the Harijans. There are certain people in the country from the caste Hindus--I am not of course criticising them--but I would like to tell certain facts that they do not want to give facilities to us certain members of the Hindu society will only be satisfied when the Scheduled Castes and Scheduled Tribes are buried. I think, Sir, these amendments are brought with these motives. I, therefore, feel very sorry and pity for such caste Hindu friends. With these words, I oppose the amendment moved by my Friend, Mr. Bhargava.

**Shri R. K. Sidhva :** Mr. President, all along during the discussions and start of this Constitution I have held the view that if anybody deserves protection of special rights or privileges, it is the Scheduled Castes only and I hold today the same view that none but the Scheduled Castes should have a special right for the reasons that I frequently stated that we have done certain injustice to that class and for the purpose of undoing that injustice, we specially gave them this protection. I have all along extended my support to this on this ground. I am not in favour of giving any protection to the so-called backward classes. Backward classes were introduced by the British Government, and I do not want that blot to be continued in this Constitution. Backward classes exist in all communities, and in the directive policy and the fundamental policy we have decided that within ten years everybody shall be made literate, and with literacy nobody will remain backward. I would like to know what is the meaning of "backward class".

**An Honourable Member :** Those not in service.

**Shri R. K. Sidhva :** With education such service also will automatically come in. When proper education has been provided for, automatically their rights to entry into the services will also come in. Therefore, I do not approve of my Friend Dr.

Deshmukh's proposal to introduce the words "backward class" in article 313 which we have after full consideration decided should not be there. Therefore, I say that the amendment of the Drafting Committee is a perfectly correct one and that is the only amendment which we should support, without any other amendment. I do not think any one in this House would take away the powers or the rights which we have given to the Scheduled Castes. My Friend, Pandit Thakur Das Bhargava, said--I do not think he means it--that the word should be deleted. I strongly oppose it. Why should it be deleted when we have fundamentally accepted it in our Constitution. Therefore, I support the amendment of the Drafting Committee and I oppose any kind of amendment. Although the words " Backward class" are there, I am obliged to reluctantly accept it, and if I had my way, I would have said that there shall be no such thing as "backward classes". Within the next five years, I would make them all literate, so that they may be able to occupy any place in our society. We have to undo what has been done during the past 150 years, and we have to undo it as early as possible. Sir, with these words I strongly support the Drafting Committee's amendment.

**Shri Mahavir Tyagi :** Sir, I do not know whether I am really right in interpreting the procedure of the third reading of such Bills. As far as I know, in the Legislative Assembly of the Province, the third reading is only.....

**Shri R. K. Sidney :** This is not a third reading.

**Shri Mahavir Tyagi :** What reading is it then? The second reading has been finished and only such amendments as are of a consequential nature or as accrue from our past decisions are to come at this stage. If, however, matters which were closed after protracted deliberations and heated discussions, were to be raked up again at this stage, I am afraid, your time limit for the discussion and decision will be rather very unfair. Sir, my submission is that all such matters, which were once discussed and closed here, and which were also discussed among Members mutually, either in the shape of different parties or groups, and particularly such matters which were as a result of compromise resolved as unanimous decisions, were to be reopened for discussion, I assure you, Sir, that it will take a very long time and it will not be possible for you with due fairness, to finish the discussions according to the schedule which you have kindly prescribed. I submit that the amendment under discussion was neither consequential nor was there any necessity for introducing the question. of reservation of offices or posts for Scheduled Castes, here. Sir, the House has expressed itself a number of times in the past that our people do not want any reservations for anybody. And particularly in the case of the Scheduled Castes, the House had agreed, after heated discussions and passed article 335, as it is at present numbered, to the effect that "the claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration in the making of appointments to services and posts in connection with the affairs of the Union or a State. That was quite enough and that was the last word unanimously agreed upon by the House. And the Members of the Scheduled Castes were also satisfied with this article. Why introduce the same communal virus into another article? Is not one enough? To bring it here again means raking up the old controversy again. That representation of Scheduled Castes shall be so and so, the manner of giving it shall be such and such, that the rules of giving this representation in the services or posts to the Scheduled Castes shall not be made in consultation with the Public Services and so on. All this I say is absolutely unnecessary and surely it does not benefit the Scheduled Castes people at all. Even, article 335

was a matter of controversy, and it was opposed. Some of us felt that the special reservation was forced against their wishes. But then we were told that it was only a directive article, and that it directs the policy of future Governments. The House agreed to have it only as a directive. And now you want to bring it in another article. The Constitution is in your hands and you can introduce controversial matters in any article and it will be discussed here as a basic proposal and then amendments will come in. Sir, I submit that you might kindly rule such matters as out of order. Matters once, twice and thrice discussed cannot be brought in again. How long can the House go on discussing these matters?

**Shri Jaipal Singh** (Bihar General): Mr. President, Sir, I feel I must come forward to congratulate the Drafting Committee for having made a point more clear than it might have been had they not introduced the amendment in clause (4) of article 320, I must confess that I have been very much surprised by the amendment that my honourable Friend, Pandit Thakur Das Bhargava, has been pleased to place before the House. My memory is not very weak. Not many months ago, he was the one who congratulated himself and the House for atoning for what had not been done for centuries; but, now, some-how or other, he swallows his words and tries to accuse the Drafting Committee and the Scheduled Castes and the Scheduled Tribes and any other backward classes of aligning ourselves as a communal group. The hint has already been made by my predecessor just now. Sir, we are not asking for this from any communal angle. We do not want anything. If you do not want to give it, do not give it. We are not asking for it. Do not give with your right hand and take away with your left. I have said every time that it has been my privilege to come and plead for the most backward group in our country, and made it quite emphatic and quite clear that I am not here with a beggar's bowl. If you give it, give it without any mental reservations.

As far as I can see, all that the Drafting Committee has done is to elucidate what were the intentions in the Fundamental Rights and the directive principles of the Constitution. Beyond that they have not gone. My friends will be the first to admit that the Scheduled Castes and the Scheduled Tribes are among the backward classes. Well, they have already accepted in their previous speeches and the previous consideration stage that the Backward Classes have to be brought up to the general level. How else can you do it unless there is some way of implementing that intention? We have had enough or words. We have had them for centuries and centuries. In this Constitution we are providing the wherewithals for materialising those intentions. You have appealed to us not to talk at length. I have no desire to do so: all that I say is--be generous and mean it.

**The Honourable Shri K. Santhanam :** I am afraid the scope of this particular clause has been widely exaggerated by almost every speaker. It does not prescribe by itself any kind of reservation or any privilege which has not been given by the other articles of the Constitution, What all it attempts to do is to decide whether the Public Service Commissions shall have anything to do with either the reservation of the Backward Class or of the Scheduled Tribes. If by the application of article 335 such reservation becomes necessary. No one will contend that in attempting to apply 335, in considering the claims of scheduled castes, no reservations will be made. If any one comes to that conclusion that no reservation shall be made, I believe that 335 cannot be implemented to any extent. But whether in any particular service the Scheduled Castes should be represented and to what extent--all that may be a matter of argument, consideration and discretion. But to say that at no point whatsoever any

reservations shall be made, is, I think, wholly inconsistent with either the letter or spirit of article 335.

Assuming that in some matters some kind of reservation will have to be made, the question here is whether it shall be done by the rules of the Public Service Commissions or by the Government directly. That is the short issue of this particular clause. It is our policy that the Public Service Commissions should be kept out of all these communal and other considerations.

**Pandit Thakur Das Bhargava :** May I know if the provisions of 335 are not binding upon the Public Service Commissions? They must take it into consideration.

**The Honourable Shri K. Santhanam :** Here the point is whether the rules to be made should be by the Public Service Commissions or by the Government. We do not want the Public Service Commissions to be brought into these matters, It only says that "nothing in clause 3 shall require the Public Services to be consulted."

**Shri Mahavir Tyagi :** Why not make it clear. Was it incumbent on the Government to consult the Public Services Commission, that you want to have an exemption?

**The Honourable Shri K. Santhanam :** My honourable Friend, Mr. Tyagi, is altogether wrong in thinking that this is a new insertion. This is purely consequential to article 335.

**Shri Mahavir Tyagi :** I want to put one question. Is there any compulsion on us that we must approach the Public Service Commissions for rules?

**The Honourable Shri K. Santhanam :** If he reads clause (3), he will find that for all these matters, the Public Service Commissions should be consulted. Therefore, if clause (4) were not there, then the Public Service Commissions would be involved in the controversy regarding the manner in which reservations should be carried out. We do not want our Public Service Commissions to be brought in. If any reservations are to be made, that should be done purely at the discretion and judgment of either the Central or Local Government. It is only to prevent the Public Service Commissions from being brought into the controversy that clause (4) is brought in. Without it, if at any time reservations become necessary, consultation with the Commission is also necessary and the public will begin to blame the Public Service Commissions either for the manner or the extent Of the reservations. It is only to preserve the purity of the Public Service Commissions that this is inserted, and so whatever objections one may have to reservation is quite a different matter. One may contend that no Government should interpret 335 as getting them reservations. That is a matter for the Supreme Court and for anyone to argue out. It is not possible for the Drafting Committee or for this Assembly to assume that no reservations can be made under article 335 and, therefore, this preservation of the purity of the Public Service Commissions need not be undertaken. As a matter of fact, if the Drafting Committee had not put this forward they would have failed in their duty.

**Pandit Hirday Nath Kunzru** (United Provinces: General): Mr. President, the question before us has been discussed by those who have favoured the amendment made in clause (4) of article 320 by the Drafting Committee with reference to Article 335. I think, Sir, that we should refer to clause (4) of article 16 before we refer to any

other article. It says: "Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which in the opinion of the State is not adequately represented in the services under the State." Under this clause, it is not necessary for the Central Government or the Government of a State to consult the Public Service Commissions with regard to the reservation of posts for any or all of the Backward Classes. The question then before us reduces itself to the proposition whether the Scheduled Castes and the Scheduled Tribes should be included among the Backward Classes or not. Now it may be said that these classes have been specially mentioned in various parts of the Constitution and that, therefore, they should not be included among the Backward Classes. It is hard for me to accept any such interpretation. The Scheduled Caste and the Scheduled Tribes have been specifically mentioned in several places because they are believed to the more backward than the classes called backward according to the official terminology of the Provincial Governments. That is the only reason, I believe, why they have been selected for special mention in several articles. It seems to me, therefore, that even if clause (4) of article 320 were not amended in the manner that it has been by the Drafting Committee, a State would not be under any compulsion to consult the Public Service Commissions with regard to the reservation of posts for the Scheduled Castes or the Scheduled Tribes. Article 335 has been referred to but that is of limited application. All that it says is that.....

**Pandit Balkrishna Sharma :** May I draw the attention of the Honourable Member to one point? He says the Government is not in duty bound to consult the Public Service Commission. but if he would only refer to article 320(3)(a) there he will find that the Public Service Commission should be consulted on all matters relating to the methods of recruitment to civil service and for civil posts, and this might be interpreted as involving the Public Service Commission in a sort of a controversy regarding the reservation of seats for Scheduled Castes, Scheduled Tribes and other Backward Classes. In order to avoid that contingency, "that amendment has been brought in"

**Pandit Hirday Nath Kunzru :** I am aware of the provisions of clause (3) but what I meant to say was that the provisions of clause (3) must be regarded as subject to the provisions of clause (4) of article 16 which embodies a fundamental 16.

**The Honourable Shri K. Santhanam :** It is really supplementary.

**Pandit Hirday Nath Kunzru :** In any case what I have tried to say is that the amendment made in clause (4) of article 320 does not confer any power on the State with regard to the reservation of posts for any Backward Class that it did not have before.

Sir, I was referring to article 335. It merely says that the claims of the members of the Scheduled Classes and the Scheduled Tribes shall be taken into consideration consistently with the maintenance of efficiency of administration, etc. It may be found on examination that it is not possible to take the claims of the members of these classes into consideration without reserving a certain proportion of posts for them. Therefore, in my opinion, the more important article that we should consider in this connection is article 16. Article 335 seems to me to be of more limited application than article 16. We may draw an inference from article 335 that the State has the power to reserve posts for the Scheduled Castes and the Backward Tribes but I think that clause (4) of article 16 lays down very clearly and in express terms that the State has

the power to make reservations of appointments or posts in favour of any backward class of citizens. Even if it be held that the amendment of clause (4) of article 320 is unnecessary, it is clear that it is in accord with or that it is consequential to the power given to the State by article 16.

**Mr. President :** We shall continue the discussion tomorrow.

I said at one stage of the proceeding this afternoon that I would like to finish all the amendments. but since this particular article has taken more time than we anticipated I would like to extend the time for moving the other amendments.

**Pandit Balkrishna Sharma :** Sir, in List I there are certain amendments which ire also connected with the amendments that have been received in List II therefore, I believe if the amendments are not reached during the time available you will kindly allow these amendments from List I.....

**Mr. President :** We shall consider that.

The Assembly then adjourned till 10 A.M. on Tuesday, the 15th November, 1949.

---

*That in the motion, for the words "the amendments recommended by the Drafting Committee in the Draft Constitution of India," the words "the amendments to the Draft Constitution of India, as recommended by the Drafting Committee under sub-rule (1) of Rule 38-R of the Constitutional Assembly Rules," be substituted.

*That in clause (1) of article 1, after the words 'that is' a comma be inserted and the comma after the word "Bharat" be deleted.

*That in article 57, the words 'subject to the other provisions of this Constitution', be deleted.

*332. "That clause (3) of article 166, be deleted."

*333. "That in clause (3) of article 166, for the word 'Governor' where it occurs for the first time, the word 'Premier' be substituted."

*334. "That in clause (3) or article 166, for the words 'more convenient' the word 'efficient' be substituted."

*335. "That in clause (3) of article 166, the words 'in so far as it is not business with respect to which the Governor is by or under this Constitution required to action his discretion' be deleted."

*343. "That in clause (2) of article 181 for the words 'and shall, notwithstanding anything in article 189, be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of equality of votes' the words 'but, notwithstanding anything in article 189, shall not be entitled to vote on such resolution or on any matter during such proceedings be substituted."

*344. "That in clause (2) of article 181, for the words and figure 'anything in article 189' the words and figure 'anything contained in article 189' be substituted."

*345. "That in clause (2) of article 185, for the words 'and shall, notwithstanding anything in article 189, be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of equality of votes' the words 'but, notwithstanding anything in article 189, shall not be entitled to vote

on such resolution or on any matter during such proceedings' be substituted".

*346. "That in clause (2) of article 185, for the words and figure 'anything in article 189' the words and figure 'anything contained in article 189' be substituted."

*347. "That in the second paragraph of clause (3) of article 189, for the words. 'The quorum shall, until the Legislature of the State by law otherwise provides' the words 'Until the Legislature of the State by law otherwise provides, the quorum shall' be substituted."

---

*[Translation of Hindustani speech.]*

# CONSTITUENT ASSEMBLY OF INDIA DEBATES (PROCEEDINGS) - VOLUME XI

***Tuesday, the* 15*th November* 1949**

**----------**

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

---

**TAKING THE PLEDGE AND SIGNING THE REGISTER**

The following Member took the Pledge and Signed the Register:

Thakur Lal Singh (Bhopal State).

---

**DRAFT CONSTITUTION--*(Contd.)***

**Mr. President :** We shall now continue the discussion we were having yesterday.

**Shri H. V. Kamath** (C.P. & Berar: General): Sir, before we proceed to the business of the day, may I request you to be so good as to tell the House what progress has been made with regard to the election of representatives from Vindhya Pradesh and Hyderabad to the Constituent Assembly?

**Mr. President :** As regards Hyderabad, I am not in a position to give any information. But as regards Vindhya Pradesh, an attempt was made to form an electoral college which could elect the representatives to this House. But unfortunately, that has not found favour with the political parties there and therefore ultimately I have been compelled to agree to Members being nominated from there. They will be nominated and will be coming.

**Shri H. V. Kamath :** Will they take their seats here during this final session ?

**Mr. President :** I hope so. I have asked them to send them before the 20th.

**Shri H. V. Kamath :** What about Hyderabad?

**Mr. President :** As I said before, I am not in a position to say anything about Hyderabad.

We shall continue the discussion.

**Amendments to articles-**-(*Contd.*)

**Shri T. T. Krishnamachari** (Madras: General): May I mention, Sir, that the Drafting Committee met some of the Members who had tabled the amendments to article 320 yesterday and also others who were

interested in it and a new amendment has been tabled to article 320 which finds a place in today's list? Its number is 559. If the House will defer discussion on this particular article and take it up when that amendment is moved, perhaps it might be more beneficial and will save time.

**Mr. President :** Do I understand that this form was acceptable to other Members?

**Shri T. T. Krishnamachari :** It was acceptable to the Members who moved the amendments and spoke yesterday. In any case, this article can be discussed when we take up that particular amendment.

**Mr. President :** Then we shall take it up later. We pass on to the other amendments, to article 325. Mr. Kamath may move amendment No. 397.

**Shri H. V. Kamath :** Mr. President, I move:

"That in article 325, for the words 'shall be ineligible for inclusion in any such roll or claim to be included in' the words 'shall be excluded from or claim to be included in be substituted."

This is moved partly with a view to simplification of language of the article and partly to amend the substance of the clause as well. The amendment suggested by the Drafting Committee refers to a special electoral roll for the territorial constituency. The article as it stood in the Draft is accepted by the Assembly at the consideration stage had no reference to any special roll in any particular territorial constituency. But in this amendment this reference has been inserted. It says that no person shall be ineligible for inclusion in any general roll or claim to be included in any special electoral roll on the ground of caste, etc. The first part of it refers to inclusion in any general electoral roll for the territorial constituency and the second part refers to any special electoral roll on grounds only or religion. etc. My amendment No. 397 tries to comprise both, the ineligibility for inclusion and the claim for inclusion in simplified phraseology. The other aspect of the matter in this: We have brought in here reference to a special electoral roll which was not there in the draft of the article. In the light of this I have given notice of amendment No. 399 which with your permission, Sir, I shall move now, It runs:

"That in article 325, after the words 'caste', the word 'class' be inserted."

This is necessary because there is reference in the article to a special electoral roll. Now, the special roll can include people belonging to different religions or races or castes or sex and may also include people belonging to different classes. Today, our society consists of some classes, though we are trying to create a classless society. So long as these classes are there, we have to recognise realities and make reference to classes as well. We have for instance the Zamindar class which fortunately is fast disappearing, and we have other classes also which are wellknown to the House. Therefore when we refer to special rolls, we should make the provision comprehensive and make reference to classes as well, so as to obviate any loopholes of whatever kind. I commend my amendments for the earnest consideration of the House.

(Pandit Thakur Das Bhargava did not move amendment No. 398).

**Mr. President :** Mr. Kamath may move this amendment No. 400 to article 333.

**Shri H. V. Kamath :** My amendment No. 400 is a verbal amendment. I leave it to the consideration of the Drafting Committee.

**Mr. President :** The next amendment is No. 401 of Mr. Kamath to article 344.

**Shri H. V. Kamath :** Sir, I move:

"That in clause (3) of article 344, for the words 'persons belonging to the non-Hindi speaking areas' the words 'that non-Hindi speaking sections of the population' be substituted."

The House will see that this article 344 deals with the Commission and Committee of Parliament on official language which the President shall at the expiration of five years from the commencement of this Constitution and thereafter at the expiration of ten years from the commencement of this Constitution constitute. The Commission will be asked to report on various matters connected with the progress of the development of the official language in the Union and in the States as well. Clause (3) as it was accepted by the House at the consideration stage says: "In making their recommendation under clause (2) of' this article the Commission shall have due regard to the industrial, cultural and scientific advancement of India and the just claims and interests of the non-Hindi speaking areas in regard to public services." The amendment that has been moved by the Drafting Committee substitutes the words "non-Hindi speaking areas" by the words "persons belonging to the non-Hindi speaking areas". But, Sir, a new article 347 has been inserted by the Drafting Committee, and that refers to a special provision relating to the language spoken by sections of the population of a State. Now, this clause (3) of article 344 relates to the interests of persons belonging to the non-Hindi speaking areas in regard to public services. Now, Sir, it is easy to say which is a Hindi speaking area and which is a non-Hindi speaking area. For instance, Bihar, the United Provinces, Delhi are definitely Hindi speaking areas, also the northern part of C. P., i.e., Mahakoshal. If we leave this article as it is, that is to say, make reference only to persons belonging to those areas, I think the interests of the non-Hindi speaking sections of the population will not be adequately safeguarded, because within the Hindi speaking areas there may be people who do not speak the Hindi language, whose mother-tongue is not Hindi,--may be a linguistic minority. Everywhere, all over India, we have linguistic minorities in every province and this, as the House is very well aware, is given as an argument against the creation of linguistic provinces, because even after the creation of linguistic provinces, there will be linguistic minorities in every province. Therefore my point is that it is not adequate to say that this article should safeguard the interests of the persons belonging to non-Hindi speaking areas. What is intended is to safeguard the interests of the non-Hindi speaking sections of the population as a whole, wherever they may be found. There are a number of Madrasis in Delhi today and some of them did voice their apprehensions that if Hindi was adopted as the official language within five years or even earlier, their interests with regard to the services might be affected. Though they live in Delhi, thought they live in a Hindi speaking area, they are non-Hindi speaking sections of the population. That is the distinction I want to make. Therefore if we want to say what we mean, we must make it clear, that what is sought to be safeguard in this clause is not the interests of persons belonging to non-Hindi speaking areas but the interests of the non-Hindi speaking sections of the people. Therefore, I move amendment No. 401 and command it to the House for its consideration.

**Shri Mahavir Tyagi** (United Provinces: General): Sir, I do not want to take much time of the House on the issue but I want only to remind the House that this language question was one of the most controversial ones and that every time it came before the House, it entailed prolonged discussions and controversies and it was at the long end that we arrived at a compromise and unanimously passed these articles about language. Now, Sir, it is highly objectionable in my opinion to add a word to or take a word from what was agreed upon by the whole House unanimously. I can understand if there were any consequential amendments introduced by the Drafting Committee but to put a new idea altogether and change the meaning of what was agreed upon is something which I would request you kindly to look into the rule out of order. This amendment of the Drafting Committee is not in consonance with the unanimous decision of the House. Previously this was 301-E. Now, according to 301-E the President was authorised only to direct that the language spoken in certain parts of a State by.....

**Mr. President :** Mr. Tyagi, there is an amendment to restore the original so far as 301-E is concerned.

**Shri Mahavir Tyagi :** An official amendment?

**Mr. President :** Yes.

**Shri Mahavir Tyagi :** I need not say anything then. I thank the Drafting Committee for this. It is very good, Sir.

(Amendments Nos. 402, 403, 404, 405 were not moved.)

**Mr. President :** Article 365. Amendment No. 408 by Pandit Thakur Das Bhargva.

**Pandit Hirday Nath Kunzru** (United Provinces: General): On a point of order, Sir, Article 365 has been justified by the Drafting committee in the report appended to the Draft Constitution as revised by it on certain grounds. It is stated there that certain articles taken together justify the language of article 365. The articles that have been referred to are 256, 257, 353, 360 and 371. I should like to refer first to articles 256 and 257.

**Shri L. Krishnaswami Bharathi** (Madras: General): What is the point of order?

**Pandit Hirday Nath Kunzru :** The point of order is that there is nothing in these articles that is as wide as article 365. Article 365, as honourable Members will see, enables the President to declare that a situation has arisen in which the Government of the State cannot be carried on, in accordance with the provisions of this Constitution, if the Government of a State does not give effect to any directions given by the Central Executive in the exercise of any of the powers conferred on it by this constitution. This is, Sir, a question of policy. The Drafting Committee treats it as if it were a question of fact. But a reference to articles 256 and 257 will show that while the Central Executive has been empowered to issue instructions to the Provincial Executive in certain cases, yet if there is any failure on the part of the Provincial Executive to carry out the directions of the Central Executive, that will not amount to a failure to carry on the Government of a State in accordance with the provisions of this constitution. These questions were thoroughly considered when the various provisions of the Draft Constitution were discussed. Articles 353, 360 and 371 relate to the powers that might be exercised by the Central Executive or by Parliament in certain emergencies. They do not, therefore, bear on the question that I have raised. We are principally concerned here with articles 256 and 257 and what we have to see is whether the scope of articles 256 and 257 is the same as the scope of article 365. Is there anything in articles 256 and 257 that can enable the President to declare that the Government of a State cannot be carried on in accordance with the provisions of this Constitution, if a State Executive fails to carry out the instructions of the Central Executive? Difference of opinion may arise from time to time between the Central Government and the Provincial Governments and the Central Government may lawfully issue instructions to the Provincial Governments to act in a certain manner. It will be the duty then of the Provincial Governments to carry out those instructions, but it is going too far to say that if the Provincial Executive fails to carry out in every respect the instructions of the Central Executive or if the Central Executive feels that its instructions have not been fully cannot be carried on in accordance with the provisions of this Constitution and may then assume to himself all the powers of Government or take such other measures as he can under this Constitution. Some honourable Members may be of opinion that this should be done but the time for making such a change has gone. The Drafting Committee has been authorised by Rule 38-R of the Rules of the Assembly.....

**Shri Brajeshwar Prasad** (Bihar: General): Is the honourable Member raising a point of order or delivering a speech?

**Mr. President :** It is a point of order. I have followed the point of order.

**Pandit Hirday Nath Kunzru :** To make such changes as are complementary or consequential or

necessary and what we have to discuss is what the word 'necessary' means. Does it mean that if the Drafting Committee feels that the House gave a wrong decision on a question of policy then it should substitute its own judgment for that of the House or does it mean that the Drafting Committee should make such changes as are implied in certain decisions arrived at by the House but not actually provided for? I think that in this particular case, Sir, the draft of article 365 can be approved only on the supposition that the Drafting Committee can override the judgment of this House and substitute its own judgment for it. We are not concerned with seeing whether it is desirable as a question of policy or not that the Central Executive should enjoy certain powers that have not been given to it by this Constitution. All that we are concerned with at the present time is that the decision arrived at by the House on this point is carried out in a proper way.

**Mr. President :** As I understand the point of order which you are raising Pandit Kunzru, it is this, that this article as it is now proposed goes beyond the decisions of this House and it is not a necessary consequence of any decision which has been taken.

**The Honourable Dr. B. R. Ambedkar** (Bombay: General): The only question on this point of order that could arise is whether the change proposed by the Drafting Committee in article 365 is a consequential change. It is quite clear in the judgment of the Drafting Committee that this is not only necessary but consequential, for the simple reason that, once there is power given to the given to the Union Government to issue directions to the States that in certain matters they must act in a certain way, it seems to me that not to give the Centre the power to take action when there is future to carry out those directions is practically negativing the directions which the Constitution proposes to give to the Centre. Every right must be followed by a remedy. If there is no remedy then obviously the right is purely a paper right, a nugatory right which has no meaning, no sense and no substance. That is the reason why the Drafting Committee regarded that such an article was necessary on the ground that it was a consequential article.

But, Sir, I propose to say something more which will show that the Drafting Committee has really not travelled beyond the provisions as they were passed at the last session of the Constituent Assembly. I would ask my honourable Friend Pandit Kunzru to refer to article 280-A, clause (5), and article 306-B. Article 280-A, clause(5), and the provisions contained in the concluding portion of the main part of 306-B are now embodied in article 365. To that extent, article 365 cannot be regarded as a new article interpolated by the Drafting Committee, If my honourable Friend.....

**Pandit Hirday Nath Kunzru :** May I interrupt my honourable Friend? Article 306-B relates only to the power of the Central Executive over the Governments of the States included in Part B of the first Schedule. My honourable Friend has extended that power of the Central Executive over all State Governments.

**The Honourable Dr. B. R. Ambedkar :** If my honourable Friend would allow me to complete, I would like to read article 280-A, not of the present draft, but of the old, as was passed at the second reading. These are financial provisions. Clause (5) of article 280-A says: "Any failure to comply with any directions given under clause (3) of this article shall be deemed to be a failure to carry on the Government of the State in accordance with the provisions of this Constitution." Therefore, article 365 merely seeks to incorporate this clause (5) of article 280-A. My honourable Friend, if he refers again to article 306-B.....

**Pandit Hirday Nath Kunzru :** Will my honourable Friend allow me to interrupt him again?

**The Honourable Dr. B. R. Ambedkar :** I think it would be better if he speaks after I have completed my argument. If he refers to article 306-B which deals again with the power to issue instructions and directions to States in Part III which are now States in Part B of the First Schedule, he will see that the last portion says: "any failure to comply with such directions shall be deemed to be a failure to carry on the Government of the State in accordance with the provisions of this Constitution." Therefore my contention is that article 365 does not introduce any new principle at all. it merely gathers together or assembles the different sections in which

the power to issue directions is given and states in general terms that wherever power is given to issue directions and there is a failure, it would be open to the President to deem that a situation has arisen in which there has been a failure to carry out the provisions of this Constitution. The only article in which such a power to deem that there has been a failure to carry on the Government in accordance with the provisions of the Constitution was not specifically mentioned were articles 256 and 257. It merely said that the Centre had the power to give directions. Therefore, if there is at all any extension of the principle embodied in articles 280-A(5) and 306-B in the new article 365 it is with regard to some of the articles in which this fact was not positively stated. My submission is that when the Constitution does say that with respect to certain articles where the power to issue directions is given, the President shall be entitled or it shall be lawful for the President to deem that there has been a failure to carry on the Government in accordance with the provisions of the Constitution, it seems difficult to justify that certain other articles in which also the power to issue directions has been given should have been omitted from the purview of article 365. The object of article 365 is to make the thing complete and to extend the express provision contained in article 280-A and article 306-B which have been passed by the House already. Therefore, I submit that there is no innovation of any kind at all. It merely makes good the omission which had taken place with regard to some of the articles which are, I submit, on the same footing as articles 280-A clause (5) and 306-B.

**Pandit Hirday Nath Kunzru :** May I point out that the reference by Dr. Ambedkar to articles 280-A and 306-B in the Draft Constitution as amended by the Constituent Assembly is not to the point? Article 280-A refers only to financial emergencies. The power conferred on the President under that article can be exercised only when he has declared that the financial stability or credit of India or any part thereof is threatened. The scope of that article therefore is very limited. There is another article in the Constitution which enables the president to issue a proclamation of emergency. Such a proclamation can be issued only when India is threatened by war or internal disturbances. But, these articles do not justify the extension of the power that the Central Executive may exercise in certain emergencies to all cases. Article 306-B is definitely limited to the case of states mentioned in Part B of the First Schedule. Such a provision was not made in the Constitution in reference to States mentioned in Part A of the First Schedule. Dr. Ambedkar has himself admitted that he has extended the provisions of article 306-B and article 280-A. He has generalised them and brought even the States mentioned in Part A of the First Schedule under the wider exercise of the powers of the Central Executive referred to in articles 306-B and 280-A. I submit, Sir, that the analogy is unjustified and in any case, incomplete. Whatever the Assembly may have done in the case of States mentioned in Part B of the First Schedule, it does not follow from this that the same provisions must be extended to the States mentioned in Part A of the First Schedule. I submit, therefore, that the language of article 365 goes beyond the express decisions of the Constituent Assembly. A certain difference has to be maintained between the States mentioned in Part A of the First Schedule and Part B of the First Schedule. The difference cannot be obliterated simply because the Drafting Committee desires that they should be removed.

**Pandit Balkrishna Sharma** (United Provinces: General): May I offer some remarks?

**Mr. President :** On the point of order?

**Pandit Balkrishna Sharma :** Yes, Sir.

**Mr. President :** Dr. Ambedkar has already replied.

**The Honourable Dr. B. R. Ambedkar :** I would like to draw your attention that even in the present Government of India Act there is a provision to the same effect contained in section 126, which empowers the Governor-General to give directions to the provinces and if it appears to the Governor-General that effect has not been given to any such directions he can in his discretion issue orders to the Governor who was to act in his discretion in the matter of carryin go out the directions given by the Governor-General. This provision, if I may say so, is very necessary because we all know--those of us who were Ministers during the time of the war-how these mere powers of giving directions turned out to be infructuous when the Punjab Government

would not carry out the food policy of the Government of India. The whole Government can be brought to a standstill by a province not carrying out the directions and the Government of India not having any power to enforce those directions. This is a very important matter and I submit that the change made is not only consequential but very necessary for the very stability of the Government.

**Pandit Hirday Nath Kunzru :** The provisions of the Government of India Act, 1935, were before us when the Constitution was drafted and was considered by this Assembly. We have copied certain provisions from that Act, but we have deliberately omitted certain other provisions. We have for instance included in the Draft Constitution a provision relating to the breakdown of the Government of a State. We have copied that provision from the Government of India Act, 1935. We have done so deliberately and after a great deal of discussion. Yet we have omitted to enact certain other provisions of the Government of India Act, 1935, in the Draft Constitution and article 126 is one of those articles in that Act that has not been copied in the Draft Constitution. The reference therefore to section 126 of the Government of India Act, 1935 does not in any way justify the language of article 365 which is now before us.

**Mr. President :** The limited question which I have to decide at the present moment is whether this new article 365 goes beyond the decisions which were taken and whether it is not necessary in view of all the other articles which we have adopted. Now it seems to me that if we turn to article 280-A and also to article 257, the wording is exactly the same so far as it refers to the power of the Union. In article 257 we find--

"The executive power of the Union shall also extend to the giving of directions to a State as to such and such matters."

and in article 280-A, clause (2)--

"The executive authority of the Union shall extend to giving of directions to any State such and such matters."

So in both the cases the power of the Union is exactly the same and expressed in exactly the same words. Therefore the necessary consequence which is given in clause (5) of article 280-A is attracted to article 257 also, and from that point of view I think it is not a question of order. Of course it is a matter on which the House may hold a different view and it may throw it out on merits but I think this proposal is in order and you may discuss it. Pandit Bhargava has really given notice for deleting this clause. Now it is for the House whether to accept it or not.

**Prof. N. G. Ranga** (Madras: General): Has it been moved?

**Pandit Thakur Das Bhargava** (East Punjab : General): Sir, I beg to move:

"That article 365 be deleted."

In making this motion I do really think that as a matter of fact the Drafting Committee has rather "tended the scope of its jurisdiction by enacting this provision which is one of the most important sections in this Constitution and bringing it at this last stage. Since you have been pleased to give your ruling on the point of order, I will not advert to this aspect of the case and will confine myself to the question whether in the circumstances this article 365 should be allowed to stand in the Constitution. Now as you have been pleased to observe, articles 256, 257 as also 280-A and 306-B have great relevancy when we are considering this question. In regard to article 280-A, there is no doubt that we have passed that if a situation should arise in which certain directions of the Government of India are not obeyed in regard to financial matters, the Government can hold that there is a failure to carry on the Government in accordance with the provisions of this Constitution. If you will kindly refer to article 356, you will observe that the basic provision says--

"If the president on receipt of a report from the Governor or Rajpramukh of a State or otherwise, is satisfied that a situation has arisen in which the Government of the State cannot be carried on in accordance with the provisions of this Constitution, the President may by proclamation....."

So the ultimate situation in which these powers should be exercised by the President is described in these words:--

"If a situation has arisen in which the Government of the State cannot be carried on in accordance with the provisions of this Constitution."

If on account of the failure to comply with any directions given in 256 or 257 or 280-A or 306-B such a situation arises, then the President has got absolute power, even if there is no report from Governor, to make an order or declare an emergency or issue a proclamation. This is a question of fact. Without such a situation arising in fact a fictitious situation can be conjured up under articles 280-A and 306-B from which this provision has now been omitted. We are now out for allowing such fiction to be raised under article 365 by virtue of which the President will be able to hold without its being actually a fact that the Government cannot be carried on in accordance with the provisions of the Constitution. On any disobedience to a particular direction, however insignificant, a situation can be held to have arisen in the words of article 365. The question now is whether we are justified in arming the Government of India with these powers, that however insignificant the direction may be, however innocent the situation may be, yet it may be authorised to hold that such a situation has arisen which can attract the provision of 365. This is the real question. To me it appears that the question resolves itself into this, whether on account of the failure to comply with any direction, such a penalty can be imposed upon a Provincial Government, because it may be that so far as the provisions of the Constitution are concerned, so far as the orderly government of the State is concerned, it may be carried on with as much smoothness as before; but there may be a failure in respect of an insignificant direction.

We have also to consider the effect of articles 256 and 257. In my humble opinion, Sir, article 256 is clothed in such general words that we cannot say that a particular dereliction of duty alone can attract this drastic provision. Article 256 runs as follows:

"The executive power of every State shall be so exercised as to ensure compliance with the laws made by parliament and any existing laws which apply in that State and the executive power of the Union shall extend to the giving of such directions a to State as may appear to the Government of India to be necessary for that purpose."

We will come to the same situation in the case of article 257 also, because these words occur there in article 257 also, and they are very extensive, very vague, and very general, Sir, I do not visualise that our Central Government as at present constituted will ever exercise such absolute or arbitrary powers. But I should think that no Government of the day should exercise powers in an arbitrary manner. I know that the present Ministers of the Government of India are persons in whom people have confidence, and they will not abuse their powers. But we have to think of all future governments. We have to see if any Government of India manned by persons in some of whom the people may not have confidence, will not be able to abuse such provisions. That is the question at issue . My humble submission is that any Government of India consisting of twenty ministers exercising jurisdiction over various matters can give directions to a Provincial Government under the Factories Act, or under the Child Marriage Act, or under the Rehabilitation Act, or any other executive matter, and even a lawful or reasonable non-compliance can be taken advantage of capriciously to declare that a situation has arisen which has not really arisen.

**Mr. President :** But Mr. Bhargava, is not that an argument which cuts both ways? Suppose a Provincial Government were to ride rough-shod on a very important provision of the Gonstitution, or of law, and the Government of India were to issue instructions to carry on the Government in accordance with that provision, the the Provincial Government refuses, then how would the Government of India be able to enforce its

orders?

**Pandit Thakur Das Bhargava :** I will just explain, Sir.

I am one of those who want that the Centre should be strong, quite strong and absolutely strong to control every provincial government. And I also can see that a situation can arise when very important directions of the Government of India may not be complied with. And therefore, I submit whenever such a situation arises, article 356 is there and the words used there are, I say, such as will certainly meet the needs of any case. The point is not that the Government cannot be carried on. The only question is if the President is satisfied that a situation has arisen when such a step is necessary, then the President can declare in any given set of circumstances, such a situation has actually arisen. My humble submission is that even if there is only the fear of such a situation arising, even then it may be said that such a situation has arisen. Sir, there are two aspects of the case, as you have been pleased to point out. Such a situation need not have actually arisen, but even then, the President may say that a situation has arisen when action under article 256 or 356 should be taken, that the Government of the State cannot be carried on in accordance with the provisions of the Constitution.

**Mr. President :** The point is that a situation has arisen in which the government cannot be carried on, as distinct from the fact that the government is not being carried on. Supposing the Government of the State is not carrying on the administration in accordance with the Constitution, is that covered by that?

**Pandit Thakur Das Bhargava :** It is more than covered. It envisages a situation in which the government is not carried on. If it is not carried on then the question does not arise. There are the powers conferred under article 352 dealing with the security of India, when there is external or internal disturbance.

**Mr. President :** There is no question of external or internal disturbance but it is simply a case of government not being carried on. Government can be carried on, but it is not being carried on. Is that covered by article 356?

**Pandit Thakur Das Bhargava :** I think the Government of India must be alive to the situation every moment, and if the government cannot be carried on, the Government of India has got the power to act. The provision envisages even the prospect of danger, not to speak of existing danger. In article 280-A more than necessary power has been vouchsafed to the Central Government as financial matters are emergent and call for peremptory action. To article 306-B we agreed, because we know that certain States are not fully developed and therefore their general control is to be tightened for ten years at least. It may be that the financial position in a State may not be so bad, yet because it is an emergent matter, more than necessary power has been given. The provinces of A class are not under the general control. Under 306-B which deals with B class provinces, the Honourable Sadar Patel has been good enough to point out why this drastic power has been given in the hands of the Government. Now this 365 has broken down the difference between A and B States. The provisions of article 256 deal with executive power and laws made by Parliament which are very fluid in nature. Thus, practically speaking, A class provinces have been brought to the level of B class States. Article 365 viewed as a penal provision creates a psychological difficulty also. Now, if we were to hold that with regard to every offence of the Indian Penal Code, from every crime omitted, the accused could be hanged, or sentenced to prison for twenty years, or to one year or only fined or even admonished, then the result will be that people will be encouraged to commit graver offences. This is the second law of Bentham's theory about punishments. I am sure that these powers under 365 are not going to be used in the smaller or lesser cases. I also know that with regard to food and rehabilitation, the provincial governments are not fully complying with the orders of the Central Government, and very grave difficulties have arisen in the country because of this. These powers under section 365 are not going to be used in the ordinary cases, and therefore there will be the tendency of the Provincial Government to defy the Government on more important matters or commit much worse offences as the consequences of big or small failures can be the same. Therefore it is necessary to apportion consequences in a proportionate measure to failures, assigning ordinary consequences

to ordinary failures and serious consequences to serious failures. My submission is that the existence of this power is likely to conduce to greater difficulties.

**Pandit Balkrishna Sharma :** May I interrupt the honourable speaker for a minute? Provision 365 says that the President may hold that a situation has arisen in which the Government of the State can not be carried on in accordance with the provisions of the Constitution. It is not incumbent on him that on every trifling transgression by the Provisional Government he should.....

**Pandit Thakur Das Bhargava :** I know that, if he were to do so in every case then the carrying on of the Government of India would be impossible. But what does it mean? It means that every provincial government shall be constantly trembling before the Prime Minister. The Prime Minister of India will become not only the Grand Moghul, but he will be like a lion and the Provincial Governments will be like lambs. The Provincial Government will be in constant fear and will constantly tremble before him. Such a provision invests the Central Government with absolutely arbitrary power and I maintain in arbitrary powers should not be given to any person. Ministries and Provincial Governments will have no security or stability and will change at the whim or caprice of the Prime Minister.

In practice such a power will not be used and its non-user will encourage bigger defaults and the tendency for disintegration will increase. This drastic power is not necessary and whatever is necessary is already there in 356.

**Mr. President :** You have not taken note of the distinction between an actual disobedience of the order of the Government of India--which order is justified under some provision or other of the Constitution--and a state of things arising which makes it impossible for the provincial government to be carried on. There is that distinction--a case of physical impossibility of the government being carried on and a case of actual disobedience on the part of a provincial government to carry out the orders of the Government of India. This article is based upon that distinction.

**Pandit Thakur Das Bhargava :** Supposing there is a failure of the provincial government to comply with any of the directions given by the Government of India, will it not be declared that the future Government of the State can not be carried on in accordance with the provisions of the Constitution, if the failure is such as really brings about the situation envisaged ? In case you postulate that the Government of a State cannot be carried on according to the provisions of the clause, the Government of India can take action under article 356. If the article is to be construed that only in case of prospective failure, when the situation is likely to arise, this 356 can be applied, then certainly your objection is perfectly valid. But, Sir, if you hold that in a given set of circumstances, when the government is not being carried on in accordance with the provisions of article 356, then article 356 applies to both the contingencies then there is no occasion for enacting a measure like this, which is very arbitrary and despotic in character.

**The Honourable Shri K. Santhanam** (Madras: General): Sir I want to point out that this amendment is not quite appropriate. We cannot delete article 365 without leaving articles 360 and 371, as originally passed, truncated. The clauses there empowering the President to hold that there has been a failure of the Constitution have been taken out and incorporated in article 365. A wholesale deletion will go against the decisions which the House has already taken. It is only because they have brought article 365 that they have deleted the clauses in 360 and 371. A deletion therefore will not be in order but an attempt to restrict the application of article 365 to those articles will be in order. Otherwise we will be practically nullifying the original articles 360 and 371.

**Shri H. V. Kamath :** Sir , I move:

"That in article 365, after the word where the words 'the President is satisfied that' be inserted."

During the second reading of the Constitution I made certain observations with regard to this article in the chapter on Emergency Provisions and I tried to mellow the harshness of some of the provisions and to tone down the drastic nature of some of them. I do not at this stage, therefore, propose to say anything, on the merits of the proposition, as the House has accepted the articles dealing with the emergency provisions in the Constitution. Once they have been accepted I suppose there will be room for this article as well. The only point in my amendment is that we must make it clear in the first part of the article as to what the *modus operandi* should be before the President holds that a situation has arisen in which the government of the State cannot be carried on in accordance with the provisions of the Constitution. If the House will turn for a moment to article 356, there it is laid down that the President cannot act unless and until he receives a report from the Governor or Rajpramukh and he is satisfied. Of course the words "or otherwise" are also there. If the House will turn to article 360 dealing with a financial crisis or emergency there also it is made clear that the President should be satisfied that a situation has arisen whereby the financial stability or credit of India is threatened. In both these articles dealing with emergencies it is specifically and clearly provided that the President must be satisfied, in the first instance, on the report of the Governor or Rajpramukh or otherwise, in whatever way he thinks fit or necessary. In both cases, my honourable Colleges will see that unless the President is satisfied the rest of the article cannot become operative. Therefore I seek through my amendment to make a similar change in this article in conformity with the two articles to which I have just now referred and I would plead with the House that they accept my amendment, so that the article will be quite clear on this point, that once the President is satisfied that a State has failed to comply with or give effect to any directions of the Government of India, then he may hold that a situation has arisen where his special powers will have to be invoked. I, therefore, commend my amendment for the acceptance of the House.

**Shri R. K. Sidhva** (C. P. & Bearer: General): Sir, I move:

"That in article 365, after the words 'under any of the provisions of this Constitution' the words which is in direct contravention of the declared policy of the Union' be inserted."

Sir, I do not want to discuss this article at length, as you have very lucidly and rightly answered the arguments advanced by Pandit Kunzru and Pandit Thakur Das Bhargava. I only want to remind my honourable Friends who are opposed to this article that when we were discussing the Objectives Resolution in the very first session of the Assembly, very great stress was laid by every Member who spoke on the occasion that the Centre should be made strong and very strong. I wanted to know whether there was any Member at that time who stated that the Centre should not be made strong and everybody pleaded that the Centre should be made strong. From that point of view brought to bear on the Objectives Resolution, the Drafting Committee have borne that point in mind and amended the Constitution accordingly. While I do not want that the Provincial Government should be made a skeleton Government, still I do feel that under the conditions that are prevailing it is very necessary that the Centre should have some power in the event of the provinces going wrong. Do we for a moment think that any one believes that the Centre will exercise its power if the Provinces are functioning correctly? My amendment says that it is only "against the declared policy." I want to make that clear. Let it not be understood by Provincial Governments that in any ordinary matter the Centre is going to issue a fiat that "since you are not behaving well, your, powers are suspended". I say when the Government is able to convince the people and also the province that they have gone against the declared policy and against the Constitution and that they are going wrong, then certainly the centre should have the right to intervene. If the Centre has no right to intervene this Constitution will be a scrap of paper, and if one province goes one way and another some other way against the decision of the Centre, there will be chaos. Do we not know that so many situations are arising over price-control and finance and in so many things where we have given power under the Concurrent List and the Provincial List to the provinces? So if they squander away the money and go on controlling food and other articles as they like against the declared decision of the Government of India which voices the feelings of the people as a whole--it is they who look to

the interests of the people--it will result in the provinces looking to their own provincial interests. I have seen in so many provincial matters that some of the Members look to the interests of their province alone at the cost of the people as a whole. I have seen that and therefore the Government of India is justified if they interfere, as they represent the people of the country, they are the masters of the Provincial Governments. I would use that word. If the master's orders are not obeyed, then they would be called upon the behave properly; if they do not improve, that administration should be taken over by the Central Government. The necessity of this article has been very rightly and lucidly explained to the House. It is not in contravention of what we have decided. I have tried to read into the arguments advanced by Pandit Hirday Nath Kunzru and Pandit thakur Das Bhargava. Undoubtedly, there is a change in the wording but the intention is till there: the object is there. Therefore, I contend that this article should remain and the amendment that I have moved is commended for the acceptance of the House.

**Shri Brajeshwar Prasad :** I rise to support article 365 as moved by the Drafting Committee. Unfortunately, Sir, I have not been able to see eye to eye with Dr. Ambedkar on most of the fundamentals of this Constitution. But here is one article, which to my mind, seems to be a very important article and with which I am in perfect concurrence.

Sir, my Friend, Pandit Thakur Das Bhargava, made an observation during the course of his speech that he is not in favour of arbitrary powers being vested in any authority in the Government of India or in the provinces. I feel that our notions about power must be revised. We have not got the proper appreciation of the difficulties of the problem of power. Power must have some relation with the facts and with the political situation prevailing in a country. The facts of Indian life cannot be ignored. In India the danger is not of arbitrary power being vested in the Centre : the danger is, as Indian history will bear ample testimony to it, that fissiparous tendencies may gather momentum and as in the past they have led to the downfall of empires and kingdoms, may lead us to same fate. I feel that if Indian unity is to be attained, if the danger of innumerable Pakistans being set up in this country is to be averted, this power must be in the hands of the President. I do not care if this article is in consonance with the other articles: I am indifferent to the argument that the drafting Committee has overstepped the limits of its authority. I know this article bears the stamp of a realistic approach. If this power is not vested in the hands of the Centre, the provincial Governments will go on acting without caring for the authority of the Central Government.

Dr. Ambedkar has referred to the case of the food situation in Punjab. He referred to the case where the Punjab Government refused to fall in line with the food policy of the Government of India. Why go so far. Even today it has been brought to our notice--birds whisper in our ears that there are recalcitrant Prime ministers today who refuse to conform to the directions issued by the Government of India. This tendency must be checked, or else Indian nationalism has no future. Today, Sir, the situation prevailing in East Punjab, the situation prevailing in West Bengal, the situation prevailing to a more or less similar extent in other provinces as well are of a dangerious character and if this power is not vested in the hands of the Government of India, there is no future for this country.

**Shri B. Das** (Orissa: General): I speak with sorrow and misgivings. I listened to my Friend Mr. Santhanam. But I do not think there was any necessity of article 365. Pakistan Government retained section 93 in their Government of Pakistan Act and we abolished section 93 from the Government of India Act. We know the meaning of democratic Provincial Governments-democracy in the sense of a qualified democracy--from the position of Provincial Governments under the British rule. Today we have not only introduced article 371, but the Drafting Committee suddenly in their wisdom, during the recess of a fortnight saw to it that article 365, which is nothing but section 93 of the Government of India Act, 1935, in all its nakedness and horror, had been introduced. I do not see eye to eye with my Friend Mr. Santhanam that this is necessary. I thought article 371 was enough. It gives the Government of India general powers to tighten the control over the States which are no more autonomous today, and which were never autonomous and never will be autonomous under this Constitution. Why is it that we want to look into the horrors of revolt of the States? That means failure of the President and the Cabinet. If the States get out of control and try to revolt, then it

would mean that there is not that cordial relation between the Government of the Union and the States, and any body who is not a lawyer--even a layman like myself--when he reads this Constitution which we are shaping, will see that it does not leave the Provinces any power. The provinces are today glorified municipalities and corporations. If that be so, why go to the horrors of article 365? We are not going to evolve a Fascists democracy. We are going to evolve democracy. Why this fear? Why this suspicion? The President has got enough emergency powers and article 371 is ample. Do you mean to say that this Constitution denies the right to the President and the Cabinet to take over control without the introduction of this article 365? I do not think so. I think the President and the Central Cabinet have got ample reserve power to meet an emergency of the type that Pakistan Government met in taking over the Government of the West Punjab. I do not like at the fag end, when we are nearing the end and giving the fishing touches to this Constitution, to harbour the feeling in my mind that we are legislating as autocrats. I do not wish to raise the cry that we must vote down article 365. But how is it and why is it that the Drafting Committee gets all the odium of Fascism in the Fortnight's recess that we had? When we separated we felt, in spite of many shortcomings in this Constitution, that at least we have evolved a democratic Constitution. Article 365 introduces the horror of the Section 93 by which most of us suffered for many many years. I am glad that Dr. Ambedkar is present. I want him to justify his wisdom in having recourse to this new article 365.

**Shri K. Hanumanthaiya** (Mysore State): Mr. President, Sir, every time the question of the Centre comes up, people say that they should make the Centre strong, because the provinces misbehave and that we must always keep a vigilant eye on them. Not that I am in favour of the view of making the Centre weak, but people who have fought for democracy, people who are framing a democratic constitution, forget that if the provincial governments misbehave there are provincial legislatures to set them right. It is a sad commentary upon the psychology of most of us that we completely ignore the provincial legislatures and the people in the provinces, and attribute all virtues to the Centre and to the Government that exists in Delhi. If we scrutinise for a moment the way in which the Governments are run in the provinces and the Centre, I for one do not find that the Government at the Centre is being run on very much more efficient or honest lines than the Governments are being run in the provinces. It is far better that we take note of the facts as they are. Can we say that the Secretariat here in Delhi is being run more honestly or more efficiently than the Secretariats are being run in the provinces? It is a sad commentary, as I said before, on us that forgetting these facts we decry the regimes in the provinces and the provincial legislatures every time and praise the Government here to the skies. That is a psychology which will ultimately work to uproot democracy in this country. As a friend of mine suggested a little while ago, we are investing the Central Government with powers which it will not be able effectively to exercise or honestly make use of.

Having said this, I would like to point out that when we were fighting for freedom one of the principles on which we concentrated our mind upon in constitution-making was decentralisation of power. In this vast country, centralisation will ultimately work to the detriment of what we call "unity" itself. It is impossible for any human being or any Government to control effectively all the administration from Cape Comorin to the Himalayas. Decentralisation is a necessity. It was also the principle on which Mahatma Gandhi wanted to construct this Constitution. Of course, we have given up his ideas in many respects, and I am not quoting him for the purpose of winning sympathy for that cause. Anyway, I make this observation with all the sense of responsibility that I have certain classes and interests and communities have taken hold of the Government in the Centre and they think they will be able to carry on the Government and enjoy all the privileges that could be enjoyed by taking as much power as possible for the Centre. This is the psychology.

**Shri M. Thirumala Rao** (Madras: General): What do you mean by "communities"?

**Shri K. Hanumanthaiya :** You know it and I know it. Therefore, why question ? They think they will be able to get all power and all privileges. This is the underlying psychology and that will be the rock on which this Indian unity will break ultimately, if people do not mend their ways.

Now Sir, it is not as if I am not in favour of this article. It is the logical culmination of the kind of

Constitution-making we have been doing. We have given to the Centre-financial, executive and legislative powers--in varying degrees, to the detriment of the provinces and the units. Article 365 is merely the "operative portion" of the powers we have given. Once having conceded so many powers to the Centre, it would be illogical if we do not entrust it with the power to operate them as well. It is this, what article 365 seeks to do. But in supporting this article, I wish to sound a note of warning. Let those people who think that they are making hay while the sun shines take note of the future also. If this article is worked, as we apprehend, in the interests of the classes or the communities that have taken hold of the Government of India, people will not keep quiet. That will be the starting of trouble to break the much sought-after Indian unity and Indian nationalism.

**Shri Mahavir Tyagi :** Sir, I am in favour of the newly proposed article 365. I feel there is no violation of the scheme of decentralisation according to this article to this article. This article establishes links with the rest of the units. To talk of decentralisation does not mean, if I may use the word, "circumsferising" the whole State. If we want to link all the States together in a circumference, we must have a Centre. A circle cannot exist without a Centre. This article merely provides the tender links and the lines of the circumference. This rights are being given not to Ministers or States or Governments alone. Here in this Constitution, the rights of the people are being defined. When the Constitution is violated and the rights of the people denied to them in a province or State, the people will have no other course except to appeal to Parliament to their representatives though these representatives after taking the oath as representative have in actual practice nothing to do with the people except to tax them and govern them. Therefore, the people who are thus governed must have a forum or making their appeals for the redress of their grievances. This article is the security for the people that the provincial Governments will govern them properly. If they do not govern them according to the articles of this Constitution, the people must have the right to go to the Centre and appeal. The Centre alone can take a dispassionate view of things. here in the Centre there will be so many representatives from the States sitting together. They will always take a dispassionate view of things and surely, whatever action the President takes will always be considered by Parliament. Parliament is the Supreme Court of the land and therefore it must have the right to enforce the rights of the people in the various States. It is not a question of centralisation at all. This is neither centralisation nor what I could call circumferisation. The real position is that there should not be disintegration. These are the tender guarantees for the consolidation of the State. I must congratulate the Drafting Committee for introducing this provision. Although some might object to it, I support it. It is a great security of the rights of the people that the President should have the authority to intervene whenever he finds that the State Governments are not working according to the article of this Constitution.

**Mr. President :** I desire to point out to the Members that we are really running a race against time. As this is an important article, I have allowed so much discussion on it. But if any other Member wishes to speak on this article he will have to bear this in mind. There are other articles also to be discussed. However, tomorrow by one o' clock we have to finish all the amendments.

**Shri Kuladhar Chaliha** (Assam: General): This is a very important article.

**Mr. President :** Therefore we, have discussed it for more than an hour and a half.

**Pandit Hirday Nath Kunzru :** Mr. President, many honourable Members have justified the language of article 365 on the ground that everybody recognises the need for a strong Centre in the present circumstances. Sir, I am at one with all those Members who wish that the Centre should have adequate power to discharge its responsibilities. But we cannot use the need for a strong Centre as an excuse for giving any bias we like to our Constitution.

My honourable Friend Dr. Ambedkar, in defending the draft of article 365, said that it was obviously necessary, when articles 256 and 257 authorised the Central executive to issue instructions in certain cases to the State executives, that a general remedy should be provided against a failure of the State executives to

carry out the instructions of the Central executive. But Dr. Ambedkar has not been quite consistent in this matter. When he was asked some time ago whether any limitation had been placed on the power of the President, that is, whether there was any provision in the Constitution requiring the President to act in accordance with the advice received by him from the Ministry, he said that the Constitution proceeded on the assumption that every authority would be prepared to play the part assigned to it in the Constitution. It could not assume that every authority would try to violate the Constitution under which it was brought into existence. But, today he has taken almost an opposite view and he wants that the power of the Centre over the provinces should be made absolute. He wants that its instructions should not be allowed to be disregarded by the provinces in any circumstances.

However, that may be, Sir, I am quite prepared to consider this question on its merits. Let us see whether there are any provisions in the Constitution, apart from article 365, that enable the Central Government to take action when a provincial Government fails to discharge its responsibilities. If, Sir, the action of a provincial Government is of such a character as to lead to misgovernment and to create the possibility of disturbances occurring in the State, it will be open to the President under article 352 to issue a Proclamation of Emergency and, when such a Proclamation has been made, he will have adequate powers to compel the provincial Government concerned to carry out the instructions of the Central Government. There may be other cases in which there may be maladministration and misgovernment in various directions, but the peace of the province may not be endangered thereby. If such misgovernment goes so far as to make either the Governor or the Rajpramukh or the President himself feel that the Government of a State cannot be carried on in accordance with the provisions of this Constitution, the President will again be able to provide the necessary corrective under article 356. But articles 352 and 356 assume a little patience on the part of the Central Executive. They can be brought into play only when the Provincial Governments show persistent disregard of their responsibilities. If the Central Government is wise, it will not dream of compelling the provincial Government to carry out its wishes in every case. Its legal power may be there; yet experience of the world and the necessity for carrying the public and the provincial governments with it will tell it that it must occasionally wink at their negligence and allow the provincial electorates and the provincial assemblies to bring about a healthy change in the situation. If, however, the provincial electorates and the provincial assemblies fail to fulfil their responsibilities and the provincial governments continue to disregard the views of the Central Government, then the Central Government will have adequate powers under this Constitution, even if article 365 is deleted, to see that the government of the country is carried on in accordance with this Constitution.

I should like, Sir, to refer to one more point before I sit down. The Drafting Committee has referred to a number of articles in this Constitution in justification of the language of article 365. Now, one of the articles so referred to is article 371 which corresponds to the old article 306B. Had that article been omitted, then there might have been some justification for article 365, but article 306B has not been omitted from this Constitution. It figures as article 371 but I have not been able to compare the languages of article 371 in the Constitution as revised by the Drafting Committee and article 306B in the Constitution as amended by the Constituent Assembly last month. If their language is the same--somebody says it is the same,--then I do not see how the Drafting Committee could refer to this article as a justification for bringing in article 365. The reference to article 371 is wholly irrelevant. There are two other articles referred to by the Drafting Committee to which I would like to refer, and they are article 353 and article 360. Article 353 deals with.....

**The Honourable Dr. B. R. Ambedkar :** Before my honourable Friend proceeds further. I would like to point out that the words "and any failure to comply with such directions shall be deemed to be a failure to carry on the Government of the State in accordance with the provisions of this Constitution" have been omitted from article 371 which corresponds to the original article 306B.

**Pandit Hirday Nath Kunzru :** Then I stand corrected in that respect. If article 365 is deleted as proposed by my honourable Friend, Pandit Thakur Das Bhargava, then the Drafting Committee can revert to the old

draft of article 306 B. Apart from this, Sir, since this question has been referred to by Dr. Ambedkar, I should like to point out that article 306 B in the Constitution as amended by the Constituent Assembly, which corresponds to article 371 in the present Draft of the Constitution that we are discussing now, is of limited duration. It will remain in operation for ten years only, and this provision cannot be referred to as a justification for introducing a new provision in the Constitution that will be permanent.

Sir, I was referring to article 353 and 360 when my honourable Friend, Dr. Ambedkar, pointed out to me the change that had been made in the draft of article 306B.

**Shri H. V. Kamath :** May I point out that article 371 provides for a period longer than ten years also?

**The Honourable Dr. B. R. Ambedkar :** "Notwithstanding anything in this Constitution during a period of ten years from the commencement thereof, or during such longer or shorter period as Parliament may by law provide....."etc.

**Pandit Hirday Nath Kunzru :** Sir, article 353 refers only to the powers that can be exercised by the central executive and the parliament after a Proclamation of Emergency has been issued. Obviously, emergencies will last for a short time. This power therefore is not general; it has to be used only in certain circumstances of a special character. Again, article 360 refers to a situation in which the President is satisfied that the financial stability or credit of India or any part of it is threatened. In such cases, instructions can be issued to the provincial government regarding the canons of financial propriety that they should follow. This provision too can be used only in special circumstances. It is clear that it can be used only in an exceptional situation. As I pointed out, Sir, when this article was under consideration, this article was brought in towards the end of our discussions simply in order to enable the Central Government to order the Provincial Governments to give up the policy of prohibition. For all practical purposes that was the sole object of this article. (Shri T. T. Krishnamachari: 'Question'). The language is certainly wide: but I feel morally convinced that had the Provincial Governments not persisted in giving up their Excise revenue in disregard of the advice given by the Central Government article 360 would have found no place in this Constitution.

I have shown, Sir, that the Drafting Committee has justified the new article 365 by referring to many articles the operation of which will be of a limited character. None of those articles justifies the extension of the power of the Central Government to such an extent as to make it permanent and applicable in all circumstances. I think, Sir, that if my honourable Friend, Pandit Thakur Das Bhargava's amendment is accepted, no difficulty will arise. We can be go back to the position that existed before the Drafting Committee, eager to introduce as many changes as it could, suggested the insertion of the new article 365 in the Constitution. I, therefore, heartily support Pandit Thakur Das Bhargava's amendment.

**Mr. President :** I think we had better close this discussion on this article now.

**Honourable Members :** Yes, Sir.

**Mr. President :** We have had enough discussion and all the view points have been placed very clearly before the House. It is now for the Members to decide. We shall now go to article 372.

**Shri H. V. Kamath :** We have article 366 and there is my amendment No. 411. Mine is a new definition.

**Shri T. T. Krishnamachari :** There is no new item, Sir, referring to the Constitution.

**Shri H. V. Kamath :** The article as a whole has been amended by the Drafting Committee. I have got an amendment to the article, and it is consequential upon the amendments made by the Drafting Committee.

**Mr. President :** It is quite clear that the 'Constitution' only means 'the Constitution of India'; it cannot mean any other Constitution. I think you had better leave it to them.

(Amendment No. 412 was not moved).

**Shri R. K. Sidhva :** Mr. President, Sir, my amendment says:

"That article 373 be deleted."

This article relates to article 22. It says that after the commencement with in one year the President shall have power until the Parliament makes the law for article 22. I feel, Sir, that article 22 is very important. Parliament will make law within three months after the commencement of this Constitution and therefore in my opinion.....

**Shri T. T. Krishnamachari :** It would not do because something has to b done under clause (4) of article 22 which nobody will be able to do on the 26th of January. If we do not have this provision, the whole thing will become inoperative.

**Shri R. K. Sidhva :** I see the importance of it. I thought that the Ministry would be able to bring in a Bill in the Parliament within three months. If it is humanly not possible, I do not want to press.

**Prof. Shibban Lal Saksena** (United Provinces : General): Mr. president, Sir, I beg to move:

"That in article 373, for the words 'one year' the words 'three months' be substituted."

Sir, this article 373 is intended to give the President power as a sort of substitute for Parliament under article 22 especially clauses (4) and (7). If the new clause of Dr. Ambedkar, i.e., amendments 545 and 546 be taken as the final form in which article 22 will be in the Constitution then after the amendment is made, it will read like this :

"(4) No law providing for preventive detention shall authorise the detention of a person for a longer period than three months unless--

(a) an Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as, judges of a High Court has reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention :

Provided that nothing in this sub-clause shall authorise the detention of any person beyond the maximum period prescribed by order made by President under sub-clause (b) of clause (7); or

(b) such person is detained in accordance with the provisions of order made by President under sub-clauses (a) and (b) of clause (7)."

And clause (7) will read as follows:

"(7) The President may by order prescribe--

(a) the circumstances under which, and the class or classes of cases in which, a person may be detained for a period longer than three months under any law providing for preventive detention without obtaining the opinion of an Advisory Board in accordance with the provisions of sub-clause (a) of clause (4);

(b) the maximum period for which any person may in any class or classes of cases be detained under any law providing for such detention; and

(c) the procedure to be followed by an Advisory Board in an inquiry under sub-clause (a) of clause (4)".

Thus, Sir, the powers given to Parliament in the final form of article 22 are taken by the President for one year. I think, Sir, that this is something drastic. I can understand that immediately on the 26th of January we may not be ready with the new legislation. But I should certainly think that before the budget session is over, that is by April, we should have the new law passed. I am , therefore, suggesting, not the deletion of the article as my honourable friend Mr. Sidhva has suggested, but the substitution of three months for one year. It is, of course, obvious that the present session of the Assembly will be over by the 22nd of December and it may not be possible to meet again and pass the law before the 26th of January. But, I think before the budget session ends, the new law should be passed and we should not have to wait for one year to make this law, that is till the next December or January. I personally feel that the use of the words "one year" shows to some extent the respect that the Drafting Committee pays to the liberties of the subject. This question deals with the taking away of the liberty of the subject and keeping him in detention. We do not want to leave this matter pending for one year. I think the period of three months given in my amendment is quite enough, and I think before the end of three months we should be able to provide in what circumstances the Government can detain a person for a longer period than three months. Clause (7) of article 22 gives the power to Parliament to make law prescribing and circumstances under which and the class or classes in which a person may be detained for a period longer than three months as also the maximum period for which any person may be detained. This must be decided by the Parliament and should not be left to the Executive itself. The fact of the matter is that this power is given to the Executive and we want to place some restrictions on the Executive. If we leave it to the Executive to frame the rules for a period of one year, there will be no restriction on the power of the Executive and there will be a denial of democracy and freedom. This article shows a great disrespect for the liberty of the subject. I therefore think that three months should be substituted for one year.

**Shri B. Das :** I am not moving amendment No. 415, Sir.

**Mr. President :** Amendment 418 : Mr. Kamath.

**Pandit Balkrishna Sharma :** I have an amendment No. 416, Sir.

**Mr. President :** That does not arise out of any amendment of the Drafting Committee.

**Pandit Balkrishna Sharma :** There is one in the subsequent List.

**Mr. President :** There is amendment No. 503. When we take up amendment No. 503, this will come in as an amendment to that.

**Shri H. V. Kamath :** Mr. President, I move. Sir, amendments 418 and 419:

"That in clause (5) of article 379, for the words 'after such commencement' the words 'on such commencement' be substituted."

I find from List IV, Sir, circulated last night, the Drafting Committee has thought better and they have accepted this amendment.

"That in clause (5) of article 379, for the words 'as the case may be, the Deputy Speaker' the words ' the Deputy Speaker, as the case may be' be substituted."

This is more or less formal amendment and if you will please, Sir, a verbal one, and I leave it to the sober judgment of the Drafting Committee.

**Mr. President :** Article 387, amendment No. 420.

**Shri H. V. Kamath :** Sir I move:

"That in article 387, the words 'and different provisions may be made for different States and for different purposes by such order' be deleted."

Sir, this article 387 deals with special provisions as to the determination of population for the purposes of certain elections. My recollection is that in the last session of the Assembly, under the corresponding original article, more power was sought to be given to the President than visualised in the present article *minus* the italicised portion. There was a full dress debate in this House and the article was later on amended so as to refer only to the determination of the population of India or any part thereof. The other matters were stated to be important enough to be left to regulation by Parliament and I believe you too intervened in the debate and assured the House, that what was contemplated was merely the determination of the population figures for the country or any part of it. The italicised portion of the new article deals with matters which are in my humble judgment, so important that they should not be left to the discretion or judgment of the President and the Executive. This portion refers to different purposes also. I do know which are the purposes that are intended here. I think this should not be left to the initiative of the President and the Executive. I move amendment number 420 and commend it to the House for its earnest consideration.

Amendment 421, I leave to the Drafting Committee. Amendment 422 : this is also a verbal amendment and I leave to the sober judgment of the Drafting Committee.

**Mr. President :** Article 391: amendment No. 424.

**Shri H. V. Kamath :** There is an amendment by Shri Thakkar bapa, No. 423, Sir.

**Mr. President :** There is no amendment of the Drafting Committee; you proceed with article 391, amendment No. 424.

**Shri H. V. Kamath :** Sir, I move :

"That in clause (1) of article 391, for the words 'amendment in' wherever they occur, the words 'amendment to' be substituted."

This amendment is also on a par with amendment 424 and I leave it to whatever fate may overtake it at the hands of the Drafting Committee.

**Shri R. K. Sidhva :** Mr. President, Sir, I move :

"That at the end of article 391, the following new clause be added:--

'(3) Such an amendment or amendments shall be placed within two months of the passing of such on order before Parliament for its approval.' "

Sir, this article is a very important one.

**Shri T. T. Krishnamachari :** May I interrupt my honourable Friend and point out to him that the President will merely be putting into the provisions of the Constitution what would be a matter of fact and that would not admit of any approval by Parliament or of even placing before Parliament because on the 26th of January, these changes must become part of the Constitution. Otherwise, these States to which these

changes refer will be hanging in the balance.

**Shri R. K. Sidhva :** My point is this. I will just read the article as it is :

"If at any time between the passing of this Constitution and its commencement any action is taken under the provisions of the Government of India Act, 1935, which in the opinion of the President requires any amendment in the First Schedule and the Fourth Schedule, the President may, notwithstanding anything in this Constitution, by order, make such amendments in the said Schedules as may be necessary to give effect to the action so taken and any such order may contain such supplemental, incidental and consequential provisions, as the President may deem necessary."

I refer to the First Schedule. I do not want to give any power to the President for First Schedule, which is a most contentious subject; during the last session we discussed it and postponed it for the consideration of this House. The first Schedule relates to addition or subtraction relating to the States and also the names of the States. If any additional name is to be made, could it be left to the President? Supposing Madras is to be divided, may I know if merely the President will have a power to add Andhra into this list or Maharashtra to be added to it and also to change the names of the States?

**Shri T. T. Krishnamachari :** Action would have been taken under the Government of India Act already before the promulgation of the Constitution.

**Shri R. K. Sidhva :** I feel that the change in the name of States should be in the absolute power of this Assembly. With due respect to you, I feel that this is an important matter on which the House must have a voice. Already we have received a suggestion from U.P. to change the name of the State and there is a great deal of opposition from the Members except the U.P. Members. Then again about the new provinces that are to be created, may I know whether our voices are to be stifled down, and that it should be confined to Members of the province concerned ? We should have a voice in deciding whether there should be additional provinces or separation of provinces and in the renaming of the provinces. Therefore I have formally moved this amendment. My intention is that the President should not be empowered. On the contrary it embarrasses the position of President by giving him the power on this vital matter where there is a great deal of opposition in the House and various Members.

I therefore contend that this article should be re-drafted or if the addition is to be made by tomorrow, we might make it. Or we might, by common consent, hold it over and before we disperse, just before the passing of the third reading, we might consider this subject and decide it here but it would be unfair, in my opinion, to take away my right--I express my view-on the question of naming of States and also the creation of new States. I therefore submit and request you--this is a personal appeal to you, Sir, that.....

**Mr. President :** This article contemplates action taken under the provisions of the Government of India Act. If a new province is created under the Government of India Act, the President may take note of that fact and act under this article. It has nothing to do with the naming of existing provinces.

**Shri R. K. Sidhva :** May I know whether the President will not change the name under this Constitution ?

**Mr. President :** Not of existing provinces but of course, if a new province is created, it will have a name. If the action has to be taken under the provisions of the Government of India Act, 1935 i.e., a province will have been created by the 26th January, under the Government of India Act, 1935, and when that province is created, the President has simply to take note of that fact and to incorporate in the Schedule.

**Shri R. K. Sidhva :** Parliament will have a voice in it ?

**Mr. President :** It is the Governor-General who acts under section 290 for creating a new province and

the President has to take note of that fact and to mention that particular new province in the Schedule.

**Shri R. K. Sidhva :** Parliament will have a voice in it ?

**Mr. President :** It is the Governor-General who acts under section 290 for creating a new province and the President has to take note of that fact and to mention that particular new province in the schedule.

**Shri R. K. Sidhva :** That would mean under that clause the Governor-General, at the instance of Ministers, would act?

**Mr. President :** Of course it is entirely the Governor-General who will act on the Ministers' advice. The Governor-General is not likely to act without ascertaining the views of the Legislature or of the provinces.

**Shri R. K. Sidhva :** May I know whether the Governor-General will have a right to rename the provinces under that Act?

**Mr. President :** Not to change the names of the existing provinces but to create new provinces. If a new province is created, then the President is expected to take note of that fact and to incorporate that in the Schedule.

**Shri R. K. Sidhva :** That means we are precluded from expressing our views.

**Mr. President :** Otherwise the creation of provinces has to be held over till after the new Constitution comes into force. It comes to that. This new article has been brought in to enable new provinces to be created if conditions are created in which such action becomes possible but that would take away the right of the Governor-General to act under section 290 before even 26th January. You cannot take away the powers given to him under the Government of India Act before 26th January. That power is there under the Act.

**Shri R. K. Sidhva :** Before we disperse on the 26th November, could not we know ?

**Mr. President :** It is more than I can say.

**Shri M. Thirumala Rao :** That is a matter for the Legislative Assembly. We are drafting the Constitution for the future. Mr. Sidhva's amendments is entirely irrelevant because it is a matter for Parliament.

**Shri R. K. Sidhva :** I am particular about expressing my view.

**Mr. President :** What ever the Governor-General can do under the Act of 1935., he can do upto 26th January and you may take any remedy under the Act.

**Shri R. K. Sidhva :** There is no remedy.

**Mr. President :** It can come up as an amendment of the Act.

**Shri R. K. Sidhva :** There is no time.

**Mr. President :** That is why it has been introduced here to meet that particular emergency.

**Shri R. K. Sidhva :** I hope you will bear this in mind. This subject was before the House and the right of

this House is being taken away by this clause.

**Mr. President :** There is no right of the House being taken away. It only enables the President to take note of the fact which has taken place in accordance with the Government of India Act of 1935.

**Shri R. K. Sidhva :** The right is this : In the last session we discussed this First Schedule and the question of creating new provinces. Then the matter was held over.

**Mr. President :** What was held over--whether the province was to be created or not? Now that is held over.

**Shri Mahavir Tyagi :** Sir, I hope President means the President of the Constituent Assembly, and not the 'Governmental President'.

**Mr. President :** There is no other President except the President of the Union.

**The Honourable Dr. B. R. Ambedkar :** I purpose to explain this matter in my reply. Mr. Sidhva may conclude his remarks.

(Amendment No. 427 to article 392 was not moved.)

**Mr. President :** Amendment No. 428--Mr. Kamath. But I think it has been accepted?

**Shri H. V. Kamath :** No. Sir, it is not accepted.

Mr. President, Sir, I move my amendment No. 428. But I find that this proposed clause (3) of article 392 has been re-drafted, and List IV received last night gives us the amended or revised clause. So may I relate my amendment to that, Sir ?

**Mr. President :** Yes.

**Shri H. V. Kamath :** Sir, I move:

"That in amendment No. 505 of List II to the proposed clause (3)--(now it will be No. 572 of List IV)--for the word 'before' the word 'until' be substituted."

*or alternatively,*

"In amendment No. 572 of List IV, in clause(3) of article 392, for the word 'before' the words 'until immediately before' be substituted."

I find, Sir, the word "before" here is not quite accurate and does not convey the exact sense of this clause. What is meant is that until the new Constitution commences--may be at sun-rise on the 26th January, that this clause means that until that very second, before 6 o'clock or sun-rise on the 26th January, the Governor-General will have these powers and exercise these powers conferred by this article. The word "before" is somewhat vague, especially when used in a Constitution, and I feel it is not quite happy. I therefore suggest that it may be substituted by the word "until". It conveys the sense better than the word "before". "Before" can mean any time before the commencement; there is no precision about it. I do not like the word "before". But I am open to correction and I am prepared to give place to men of better knowledge of the language, to more competent men, in this matter. But left to myself, I would choose the word "until" Or if the word "before should be there, I would have "until immediately before" the commencement of the Constitution. But as I said. I would leave it to the wisdom of the House and of the Drafting Committee to deal with this amendment

as they like.

Then I come to the next amendment-431.

"That in item 5 of Part A of the First Schedule for the name 'Koshal Vidarbh' the name 'Madhya Pradesh' be substituted."

Sir the House will remember that when this schedule was adopted during the last session, you, Sir, told us that whatever changes might be made or sought to be made in the names of the States in Part A of the First Schedule, they will be considered during this session and the amendments that had been tabled during the last session were referred under your instructions, to the Provincial Governments.

**Mr. President :** It might cut short discussion if I say that I understand that the C.P. Government have recommended the name Madhya Pradesh. So perhaps no further discussion is necessary on this amendment.

**Shri H. V. Kamath :** Sir, there was some controversy in the papers; but if that name has been accepted, I agree there will be no necessity for further discussion. I heard that the Drafting Committee had referred it back to the Provincial Government.

**Shri R. K. Sidhva :** Sir, on a point of information, may I know whether the recommendation of the Provincial Government will be automatically accepted?

**Mr. President :** Nothing is automatically accepted. I am only saying that this is now practically an amendment of the Drafting Committee, and it will be subject to the vote. Mr. Kamath need not now press his amendment.

**Pandit Balkrishna Sharma :** Sir, in view of what you have said, may I know whether the recommendation sent up by the United Provinces will also automatically become the amendment of the Drafting Committee?

**Shri R. K. Sidhva :** Sir, that was exactly the point to which I drew your attention, whether the decision of the Drafting Committee ? I do not think it is so Sir.

**Mr. President :** Very well, if that is your view, we shall take it in that way.

**Shri Mahavir Tyagi :** We decided the other day that the names should be accepted when they come from the Provincial Government.

**Mr. President :** names have been recieved, but if some Members object, it is open to the House to take any name that it choses, irrespective of what the Provincial Government has sent.

**Shri R. K. Sidhva :** Sir, you also said that the Drafting Committee will consider the names received.

**Mr. President :** Very well. We now go to amendment No. 432.

**Shri H. V. Kamath :** Regarding my amendment No. 431, I am happy the Provincial Government has also sent up the name "Madhya Pradesh". I think it is a far happier name than "Koshal Vidarbh", and I have no doubt that the House will accept it.

As regards No. 432. I move:

"That in item 9 of Part A of the First Schedule for the name 'The United Provinces' the name 'Gangavarta' be substituted."

**Shri Mahavir Tyagi :** "Gangaputra." ?

**Shri H. V. Kamath :** No, "Gangavarta."

**Shri R. K. Sidhva :** May I submit that this may be held over till we know the opinion of the Drafting Committee ? You, Sir, said last time that the Drafting committee will place its proposals.

**Mr. President :** The proposals are there, and we shall know the opinion of the Drafting Committee before the vote is taken.

**Shri H. V. Kamath :** Sir, while I do feel that the name Aryavarta will be a dignified Sanskrit name,--perhaps it occurs in the Vedas too,-but at the present day, I am sure nobody will differ from me when I say that the name "Aryavarta" is applied more to the whole of India than to a particular part of it, *(hear hear)*, and I do not think at this time of day we should name any particular province on a racial basis, and the name Aryavarta has a racial odour about it.

**Pandit Balkrishna Sharma :** It has nothing, except a cultural odour about it.

**Shri H. V. Kamath :** Even if it is only cultural odour, I would not subscribe to that name, because the culture of the whole of India is one, whether you call it Aryan, or Indian or Bhartiya, it is all one. To call a particular province by the name "Aryavarta"--this is, the *home* of the Aryans, or whatever else it may mean--it will cast a reflection upon the inhabitants of the rest of India and it will, I feel, be resented by them. We should not name a particular province "Aryavarta" when the whole of India is known as Aryavarta. In one of the Vedas, I believe when the Aryans first came to India and settled down in a particular part of Northern India, they called that part Aryavarta. When they went down South the name was intended to comprise the whole of India, as we know it today. Therefore, I feel that the name Aryavarta is not very appropriate as the name of one province or State of India.

As regards the name "Gangavarta" I have it on very reliable authority--I have not read the Vedas myself but I am told--that one of the Vedas, either the Rig Veda or Sama Veda--refers to the part where the early Aryans had settled down as Gangavarta. Perhaps more often the name 'Aryavarta' is used but this name 'Gangavarta' also appears occasionally; and it has no racial or cultural bias or odour attached to it. The Ganga is the biggest and most sacred river in India, and in the estimation of all Indians it is one of the biggest and holiest rivers in the world. There is an ancient tradition about the Ganga. I would request my honourable Colleagues from the U.P. to think deeply over this name and decide whether it would not be wiser and more appropriate to call their province Gangavarta instead of Aryavarta. In our Indian tradition and history, the Ganga has played a very prominent part, and even in our philosophy, our Vedas and Puranas and our scriptures. I for one would feel proud if the U.P. is named Gangavarta and not Aryavarta, as latter applies to the whole of India.

**Prof. Shibban Lal Saksena :** Sir, I move:

"That in item 9 of Part A of the First Schedule, for the name 'The United Provinces' the name 'Aryavarta' be substituted."

My honourable Friend Mr. Kamath has proposed the name of Gangavarta and opposed Aryavarta, which our province wants to keep for itself. His main reason is that Aryavarta is the name of the whole of India. If he would only turn to article 1 of the Constitution he will find that the whole country is named Bharat and the name Aryavarta has been discarded. So his saying that the name Aryavarta applies to the whole of India is not correct. If our province had appropriated the name of Bharat then his argument would have been of some

value but when we call ourselves Aryavarta his argument has no validity.

The whole of India was never called Aryavarta. Only Northern India, particularly the Punjab, the U.P. and Bihar were called Aryavarta. Mr. Kamath has suggested the name Gangavarta but the Ganga also goes through Bihar and Bengal besides U.P. The same argument will have to apply there. It is not an argument to say that we are trying to a appropriate name which applies to the whole country.....

**Shri B. Das :** You force your language on me and you steal our common country's name and also for your province.

**Prof. Shibban Lal Saksena :** The word 'Aryavarta' has been suggested not by myself alone but by our Provincial Congress Committee consisting of 650, members who met and discussed the matter. This was their unanimous verdict that Aryavarta should be the name adopted for the province. Our provincial government have also recommended the name. I do not think this House should deny us the privilege of calling ourselves by a name which is our ancient name. If any province like the Punjab or Bihar is jealous and wants to call itself Aryavarta, that is another matter: but no other province has claimed that name and there is no reason why we should not call ourselves by that name. I hope there will be no objection raised against our province taking the name, which has been decided both by the Congress Committee and the provincial cabinet.

There was one argument advanced that if we call ourselves Aryavarta, it implies that we alone are Aryans and others are not. That is not the meaning of it. Merely because in the whole country one province wants to call itself Aryavarta, my friend says that there is something racial about it. There is no racialism about the word Aryavarta. It is an ancient name of Northern India and our province is the heart of it. I do not think this House should impose on us any name other than what we want. I hope the House will support us.

**Shri T. T. Krishnamachari :** Sir, this matter might be discussed tomorrow, because there is a possibility of the Drafting Committee being in a position to put in an amendment, which will probably meet with the wishes of a large body of Members of this House.

**Mr. President :** Yes, we shall discuss the question of names tomorrow.

**Shri H. V. Kamath :** Sir, I move amendments Nos. 434 to 437.

"That in sub-paragraph (3) of paragraph 9, the words beginning with 'during the period' and ending 'before such commencement' be deleted."

"That sub-para (2) of paragraph 10 be deleted,"

"That in sub-paragraph (4) of paragraph 10, for the words 'for any State' the words 'of any State' be substituted."

"That in sub-paragraph (3) of paragraph 12, for the word 'and' occurring in line 1, a comma be substituted."

Taking the last one it is purely a matter of punctuation and I leave it to the punctuating sense of the Drafting Committee.

Since I understand that a corrigendum has been issued with regard to this, I shall not press it. Coming to amendments No. 434 and 435 : these deal with salaries of Judges who might after the commencement of the Constitution be appointed judges of High Courts or of the Supreme Court. There is some distinction made between the appointment of new judges and the appointment of the old incumbents as judges of the Courts concerned. These clauses which I seek to amend by deletion of particular portions thereof, refer to the payment of the difference between the pay which they used to obtain before they were appointed judges under this Constitution and the salary of judges is laid down in the Schedule to this Constitution. I think that

this distinction should not be made between judges who are newly appointed, and those who were formerly judges of the High Courts or the Federal Court but now are appointed to the High Court or the Supreme Court. This refers to a few individuals and we have already fixed the salary of our judges at four figures. On top of that if we seek to give them the difference that obtains between the old and new salaries. I think the Indian people will feel, and rightly so, that we are unduly pampering our judges. If the old incumbents do not wish to serve on the new salaries, I think that the best course would be I am loth to believe that they would refuse to serve; they are patriots as much as we are, and I think they would very willingly agree to serve on the salaries as fixed in this new schedule--but if some, owing to sheer perversity or cussedness refuse to serve in the High Courts or in the Supreme Court--the Government of the new Indian Republic should ask them to quit and make way for judges, whom I think we can find in a, fairly large number among the able members of the Bar in India--men who are willing to serve our country and people on the salaries fixed in this new schedule. Once again I say that it would be wrong on our part to pamper a few individuals who were judges before the commencement of the Constitution and whom we seek to appoint as judges of the High Courts and Supreme Court. The Constitution is meant for the whole people, and not for a few individuals that might be affected by the provisions of the Constitution. I therefore commend my two amendments to the acceptance of the House.

**Mr. President :** Amendment 438 has already been moved. Amendment 439--Seventh Schedule.

**Shri H. V. Kamath :** Sir, I move:

"That in entry 1 of List I of the Seventh Schedule, after the word 'preparation' the words 'and operation' be inserted."

The words in italics comprise the amendment of the Drafting Committee and they have sought to insert the portion relating to preparation for defence. I think, Sir, so far as military science and the art of warfare is concerned, it comprises not merely preparation but operation too, and the point of my amendment is to make this quite comprehensive and not leave any loophole for doubt, of whatever nature it may be. I therefore move that my amendment seeking to insert the word "operation" after "preparation" be accepted. The new entry would read thus: 'Defence of India and every part thereof including preparation and operation for defence...." I hope the Drafting Committee and the House will accept this amendment.

Sir, I also move:

"That in entry 65 of List I of the Seventh Schedule, before the word 'police' the words 'administrative or' be inserted."

The new entry which has been inserted here refers to Union agencies and institutions for professional, vocational or technical training, including the training of police officers. After the recruitment to the old I.C.S. was stopped, our Government inaugurated a new service called the Indian Administrative Service and the members of that service used to be trained in a school, in Delhi--and I believe they are still trained here in this school, or may be, anywhere else in India. But the fact is that there is a training school not merely for police officers but for administrative officers as well. I do not know why you want to single out police officers alone. Either mention all civil officers : or if you mention the police then the other key service, that is, the administrative service, must find a place, like the old I.C.S., and I.P. the present I.A.S. and the I.P. must be included in this entry. I therefore commend my amendment to the acceptance of the House.

**Mr. President :** Mr. Sidhva, which is the entry you want transferred.

**Shri R. K. Sidhva :** Sir, I move :

"The entry 34 of List III be transferred to List I."

Entry 34 relates to price control and it is most appropriate that this item should go to List I. Control of most of the items is from the Centre and price should be regulated from the Centre. At times there have been different kinds of prices prevailing and Provincial Governments have fixed prices without consideration, and you very well know the state of prices today. If price control is to be effective, it should be regulated through the Centre in the interests of all, and the provinces should have no voice in it. Take sugar, some provinces have fixed prices which are most incommensurate with the prices that are prevailing in other provinces, bearing in mind the railway freight and other charges. I therefore feel, if it is left to the Centre they will regulate it properly. They will see to the interests of the people and there will be no kind of bickering or bitterness among the people. You need price control, because prices is the factor which has brought about great discontent among the people and the Government of India is being blamed sometimes for no fault of their own. Well the Provincial Governments are responsible. This control item should be exclusively put in List I. I am sure the Provincial Governments will welcome it because it avoids all bickering and discontent, and if left to the Centre there everything well be regulated properly. I commend it to the acceptance of the House.

The Assembly then adjourned for Lunch till Three P.M.

---

The Assembly re-assembled after Lunch at Three P.M., Mr. President (The Honourable Dr. Rajendra Prasad) in the Chair.

---

**TAKING THE PLEDGE AND SIGNING THE REGISTER**

The following Member took the pledge and signed the Register.

**Mr. Hyder Husain** (United Provinces : Muslim).

**Shri H. V. Kamath :** Mr. President, before we proceed to the second list may I point out that there is an amendment of mine, No. 156* in the first list, to article 57 of the Constitution, which has escaped your notice?

---

*56. That in article 57, the words "subject to the other provisions of this constitution", be deleted.

---

**Mr. President :** We shall take it as moved.

**Shri H. V. Kamath :** I have an amendment No. 138 to article 41. I think the particular word used is patently inaccurate,--"Public assistance". It ought to be "State assistance."

**Mr. President :** You may leave it to the Drafting Committee to consider. We shall now take up the second list.

**Shri T. T. Krishnamachari :** Sir, I beg to move:

"That in article 9, after the word and figure 'article 5' the words 'or be deemed to be a citizen of India by virtue of' be inserted."

Actually, this amendment merely amplifies the wording of the article and does not need any comment.

**Mr. President :** Then we come to article 22.

**Shri T. T. Krishnamachari : I** will move the latter amendment in list IV. The number is 545. Sir, I beg to move :

"That for clause (4) of article 22, the following clause be substituted:--

(4) No law providing for preventive detention shall authorise the detention of a person for a longer period than three months unless--

(a) an Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as, Judges of a High Court has reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention :

Provided that nothing in this sub-clause shall authorise the detention of any person beyond the maximum period prescribed by any law made by Parliament under sub-clause (7); or

(b) such person is detained in accordance with the provisions of any law made by Parliament under sub-clauses (a) and (b) of clause (7)'."

**Mr. President :** I move :

"That for clause (7) of article 22, the following clause be substituted:--

'(7) Parliament may be law prescribe--

(a) the circumstances under which, and the class or classes of cases in which, a person may be detained for a period longer than three months under any law providing for preventive detention without obtaining the opinion of an Advisory Board in accordance with the provisions of sub-clause (a) of clause (4) ;

(b) the maximum period for which any person may in any class or classes of cases be detained under any law providing for such detention; and

(c) the procedure to be followed by an Advisory Board in an inquiry under sub-clause (a) of clause (4)'."

The House will understand that this is merely a restatement or clauses (4) and (7) of article 22 incorporating therein the amendment originally tabled by the Drafting Committee, No. 443, which sought to provide that Parliament may by law indicate the maximum period or prescribe the maximum period during which any person can be detained. This was a lacuna in clause (4) as it stood when the House passed it on the last occasion. The House will agree that it is a wholesome amendment in that, as clause 4(a) stood is the House passed it, there is no maximum period prescribed or could possibly be prescribed by Parliament or any authority for the period of detention of any person whom the Advisory Board considers to be a person who should be detained. The original amendment No. 443 was tabled for that purpose, but subsequently it was found that this has to be closely inter-related to clause (7) which is the operative clause under which Parliament might act. Thereafter it was found that it is better to split up the original clause (7) into three parts and clearly indicate that there will be a maximum period for which any person or any class or classes of persons can be detained by any law providing for such detention. The matter does not involve any controversy and I believe, quite a number of Members of this House who were consulted in this matter were in agreement that this provision was necessary. This is the only provision that would really make any

indefinite detention impossible. I hope the House will accept the amendments.

**Mr. President :** There were several amendments moved yesterday such as Nos. 78, 82 and 83. Does the present amendment No. 546 cover all those points ?

**Shri T. T. Krishnamachari :** I may mention, Sir, that in drafting this amendment in the present form, we took the advice of those Members who moved the amendments previously referred to. While I am not in a position to commit them, it appears to me that they are satisfied that this amendment will cover all possible contingencies they had in mind.

**Prof. Shibban Lal Saksena :** We will withdraw our amendments.

**Mr. President :** You withdraw both your amendments?

**Prof. Shibban Lal Saxena :** Yes, Sir.

**Mr. President :** Then there are certain amendments to amendment No. 545 of which notice has been given. Mr. Kamath may move his amendments.

**Shri H. V. Kamath :** Mr. president, I beg to move amendments Nos. 579, 581 and 583.

"That in amendment No. 545 of List IV, the proviso to sub-clause (a) of the proposed clause (4) of article 22 be deleted."

"That in amendment No. 545 of List IV in sub-clause (a) of the proposed clause 22, for the word 'or' occurring at the end the word 'and' be substituted."

"That in amendment No. 546 of List IV, in sub-clause (a) of the proposed clause (7) of article 22 the words 'without obtaining the opinion of an Advisory Board in accordance with the provisions of sub-clause (a) of clause (4)' be deleted."

Taking the first of these amendment first, I need not expatiate at great length thereon. I shall only point out that in clause (7) we have merely provided that Parliament may by law prescribe the maximum period for which any person or any class or classes of persons may be detained under any law providing for such preventive detention. After having said that Parliament alone will regulate this matter, no one dare say that any authority in the State will be able to override the law promulgated by Parliament. Therefore in my judgment this proviso to clause (4) is superfluous and redundant. I have no objection to 'it in principle but I think it is unnecessary. We have laid down clearly that Parliament alone is empowered to regulate the maximum period of detention under this article.

Sir, coming now to my next amendment, 581, I may say that this brief monosyllabic amendment seeks to substitute the word 'or' by the word 'and'. In this amendment I wish to make a last attempt towards safeguarding the liberty of the individual. Of course this liberty cannot be safeguarded absolutely, because there is no absolute individual liberty nor is there any absolute safeguard against the violation of such liberty by the executive. I only wish to safeguard it in so far as it does not jeopardise the security of the State. If the article stands as it is, then it would mean that if Parliament lays down in a class of cases the maximum period of preventive detention, then, even without recourse to the machinery of the Advisory Board, a person can be detained upto the maximum period to two or three years--whatever period Parliament may prescribe. Clause (4) refers to two classes of cases; in one category fall those whose cases have been referred to the Advisory Board and who have been detained for more than three months; and, in the other cases of those who have been detained in accordance with the provisions of any law made by Parliament under clause (7).

Under clause (7) Parliament can legislate with regard to the maximum period of preventive detention. I

want, Sir, that in every case of preventive detention. the detenu's case must be referred to the Advisory Board,--in all cases. If the State, if the Government, wants to detain him for a longer period than three months, his case must be referred to the Advisory Board, whatever the class of case it may be; but as the clause stands, the word "or" complicates and vitiates the whole situation. Therefore I propose to substitute the words "or" by the word "and", so that every person must be detained under the law of preventive detention and that person's case must be referred to the Advisory Board in case of detention for a longer period than three months. These are the conditions which must be satisfied before the person can be detained for a period longer than three months. Therefore I suggest that the word "or" in clause (4) may be replaced by the word "and". My amendment No. 581 seeks to do that.

By amendment No. 583 I seek to delete the words "without obtaining the opinion of an Advisory Board in accordance with the provisions of sub-clause (a) of clause (4)". This flows logically from the amendment which I have just moved, No. 581. This amendment No. 581 visualises the reference of all detention cases, irrespective of their category or class or circumstance, to the Advisory Board in cases of detention prolonged beyond the period of three months, and therefore the distinction sought to be made in clause (7) between the class of cases which should be referred to the Advisory Board and the other class where persons are detained without reference to the Advisory Board, goes. Therefore when all cases have to be referred to the Advisory Board in the event of a longer period than three months, the words which I have sought to delete in clause (7) are not necessary. I therefore move amendment No. 583.

The only fundamental Right which this article 22 which we discussed at such great length in the last session confers is the right to detain without trial. I do not know what sort of right it is, but whatever it may be, let us mitigate the harshness and the injustice that might result from the abuse of power. I make this last attempt to safeguard the liberty of the individual, in so far as it is not inconsistent with or does not jeopardise the security of the State. I move my amendments Nos. 579, 581 and 583 and commend them for the acceptance of the House.

**Shri Ajit Prasad Jain** (United Provinces : General) : Sir, I move:

"That in amendment No. 443 of List II, for the proposed proviso to clause (4) of article 22, the following be substituted:

'Provided that nothing in this clause shall authorise the detention of any person beyond the maximum period prescribed by any law under the authority conferred by Parliament under clause (7)'

I find that the redrafted clause (7) does not authorise the Parliament to make any law providing for preventive detention. On the contrary it authorises Parliament to prescribe the circumstances and the classes of cases in which persons may be detained for a period longer than three months. It will be seen that in the opening part of clause (4), ordinarily it will be open to a State Legislature or the Parliament to pass laws for preventive detention for a period upto three months, but two exceptions have been provided: one is sub-clause (a) where the case goes to an Advisory Board consisting of persons qualified to be appointed as judges of the High Court and two is sub-clause (b) when Parliament prescribes the circumstances or the class of cases where a larger period of detention may be provided. It is apparent that in many cases the law will have to be made by the State Legislature as preventive detention falls in the concurrent list. The amendment which I have given takes into account the fact that the law will have to be made by the Legislature of the State but the authority for making that law which prescribes for detention for longer than three months will be made by Parliament. That point is not clear from the amendment of the Drafting Committee and it is to make that point clear that I have moved this amendment.

Sir, I also move :

"That with reference to amendment No. 545 of List IV, for sub-clause (b) of the proposed clause (4) of article 22, the following be

substituted:--

'(b) such person is detained in accordance with the provisions of any law made by a State under the authority conferred by Parliament under clause(7).'

*or alternatively,*

"That with reference to amendment No. 545 of List IV, for sub clause (b) of clause (4) of article 22, the following be substituted:--

'(b) such person is detained in accordance with the provisions of any law made under the authority conferred by Parliament under clause (7).'
"

This amendment is connected with amendment No. 580. Here I have given two alternative drafts for the substitution of sub-clause (b) of clause (4). Sub-clause (b) at present says "such person is detained in accordance with the provisions of any law made by Parliament under sub-clauses (a) and (b) of clause (7)." Clause (7) does not provide for the detention of any person but only prescribes the circumstances and the class or classes of cases in which a longer period may be prescribed. It is to bring clause (4) and clause (7) into line with each other that I have given notice of this amendment, but in fact I must confess that the new amendments which Mr. Krishnamachari has moved just now were not with me and I have not been able to follow exactly the implications of the amendments moved by him. If the points which I have raised in the two amendments Nos. 580 and 582 are covered by his amendments, then of course there is no force in my moving my amendments. As I was not clear I have taken the opportunity of moving these two amendments.

**Shri T. T. Krishnamachari :** Sir, I move:

"That in the Explanation to article 58, for the words 'For the purposes of this clause', the words "for the purposes of this article', be substituted."

"That for clause (3) of article 59, the following clause be substituted :--

"(3) The President shall be entitled without payment of rent to the use of his official residences and shall be also entitled to such emoluments, allowances and privileges as may be determined by Parliament by law and, until provisions in that behalf is so made, such emoluments, allowances and privileges as are specified in the Second Schedule."

"That in clause (3) of article 65, for the words 'privileges, emoluments and allowances', in the two places where they occur, the words 'emoluments, allowances and Privileges' be substituted."

"That in clause (2) of article 71, for the words 'before the date' the words 'on or before the date' be substituted."

**Mr. President :** There is an amendment to this, No. 584 by Mr. Naziruddin Ahmad. I am sorry there is an amendment left out by mistake, No. 617 by Mrs. Purnima Banerji.

**Shrimati Purnima Banerji** (United Provinces : General): Mr. President, Sir, I move :

"That in amendment No. 546 of List IV, the proposed clause (7) of article 22 be deleted."

And the Draft as it stands in Draft Constitution may stand. I mean the original one as circulated by the Drafting Committee and given in the new draft under italics--that should remain. Sir, most of us will agree with the new change made in article 22 by amendment No. 545 providing the proviso that the Advisory Board would not be able to detain a person in spite of a revision of his case for more than the period prescribed by law, but however a change is now sought to be made in clause(7). It raises a certain doubt in our minds. None of us at any stage believed that the Advisory Board would at any stage take the place of Parliament; it

was only suggested that in the absence of any law if a person were to be detained for more than three months, then the matter would go before a judicial body which would look into the case and allow further detention if need be in the absence of any law prescribing detention for more than three months. The doubt we have in our minds today is that under this new amendment proposed by the Drafting Committee where it says in clause (7) that Parliament may prescribe the circumstances of detention "without obtaining the opinion of an Advisory Board in accordance with the provisions of sub-clause (a) of clause (4)" makes us feel that suppose if Parliament has got the power--and we do not content that it has not--of laying down a law by which a man can be detained for more than three months, even so, if any person came under the jurisdiction of that law, would it mean that the case of that person would not go for a judicial review before an Advisory Board? Could the Parliament dispense with the constitution of Advisory Board itself ? Sir I suggest that that should not be and the process of review before an Advisory Board should be kept intact even if it may be perfectly legal for Parliament to enact a general law providing for detention beyond a period of three months. If in the Constitution you have statutorily provided for the detention of a man without trial for a period of three months you have taken away a part of the sting of that measure by providing an Advisory Board which would look into the matter and give a judicial review of the case and decide whether further detention was justifiable or not. If this is not done the man would be dealt with in accordance with the law of the land which Parliament may enact. In the new draft you have specifically said that the Advisory Board need not be consulted. If it means that in the making of the legislation that Board need not be consulted, we are in full agreement and possibly there can be no objection to it. But if it is meant that if a general law provides for the detention of persons for more than three months, and if after the general law has come into force a man innocently has got under the clutches of that law, it seems as the clause now reads in the Constitution that a detenu's case need not go to an Advisory Board at all. Parliament may be empowered not to constitute an Advisory Board at all for even the judicial review of individual cases and that you are going to leave the formation of such a Board to any future law that Parliament may make. I therefore, suggest that the wording of clause (7) of article 22 should remain as it was stated by the Drafting Committee and this particular reference of not consulting the Advisory Board which raises that legitimate doubt in our minds be removed. At no stage we though that the Advisory Board was to take the place of Parliament or was to be a law giving authoritative body. It was meant to be a judicial committee on which people of the stature of judges of the High Court would be sitting and would be a substitute for the ordinary channels of law denied to a detenu and therefore I would suggest in the drafting of this clause, the provision that such a Committee would be constituted in any case wherever a man is detained. That should be explicitly stated here and should not be left to an ambiguous interpretation. With these words, I move my amendment.

**Mr. Naziruddin Ahmad :** Sir, I move:

"That with reference to amendment No. 448 of List II, clause (2) of article 71 be deleted."

*or alternatively,*

"That with reference to amendment No. 448 of List III in clause (2) of article 71, for he words 'before the date of the decision' the words 'up to the time when the decision is communicated to him' be substituted."

The official amendment says that if the election of the President or Vice-President is set aside by the Supreme Court, then according to the amendment, the President or the Vice President will function on or before the date of the decision of the Supreme Court. I submit, Sir, that this would lead to absurdities. If the decision of the Supreme Court is passed, say, at 12 o'clock on a certain day, then according to the amendment the President or the Vice-President will function for the whole of the day on which the judgment is passed. He will function even after he ceases to have office. Although his election is set aside at 12 o'clock, yet he will be able, according to this clause, to function after 12 o'clock for the remainder of the day. My amendment would try first, to eliminate that article because the normal law would be that as soon as the judgment is passed, the President or the Vice-President loses his job and, therefore, he ceases to function altogether and therefore, a clause of this nature is not at all necessary. Even if it is necessary, it should be, I

submit as in my amendment, the second part of amendment No. 584. It is to the effect that as soon as the judgment of the Supreme Court is communicated to him, he ceases to function at once and from that very moment. That is a sensible way of looking at it and the judgment should be effective as soon as it is communicated to him. Unless we are very precise as to the moment when the President or Vice-President ceases to have any office, very glaring constitutional anomalies may follow. In fact the President or the Vice-President may have to perform very important constitutional acts and the legality or propriety of the act will be very much jeopardized or be open to question if we are not very precise as to the moment when he ceased to function because anything done after that will be *ultra vires* and anything done upto that moment would be *intra vires.* In this view of the matter. I think, that the precise moment when the judgment is communicated to him should be the real operative moment from which he ceases to function. That is the reason why I have submitted this amendment.

**The Honourable Dr. B. R. Ambedkar :** Sir, I move:

"That in sub-clause (b) of clause (1) of article 72, for the words 'offence under any law' the words 'offence against law' be substituted."

**Mr. Naziruddin Ahmad :** Sir, I beg to move:

"That amendment No. 449 of List II be deleted."

The amendment is to the effect that the words "offence against any law" be substituted. The question is whether there can be any offence 'against' any law. The text refers to offences under any law. You may offend *against* certain moral principles, *against* society, and so forth; but you cannot offend *against* the Penal Code or any penal enactment. There is an offence under a panel law. The original text as it was, was very good. But, in our attempt to improve it. I think matters have become worse. The way at which the Drafting Committee is proceeding to change its mind makes it obligatory on our Part to agree to the Constitution being passed at once. That would have the immediate effect of stopping the activity of the Drafting Committee. Now, the danger to the Constitution is not likely to come from Members like Mr. Kamath and my humble self, because the amendments will all be rejected, but the real danger to the Constitution is likely to come from the Drafting Committee itself. In order to prevent change of mind up to the last moment. I think, the best way would be to stop all amendments and to pass the Constitution as quickly as possible. It is from this point of view that I regard this attempt to alter matters.

**Mr. President :** Very well. Amendment 586. That also stands on the same footing.

Amendment No. 450 :

"That in the proviso to clause (1) of article 73, after the words 'any State' the words and letter 'specified in Part A and Part B of the First Schedule' be inserted."

**Mr. Naziruddin Ahmad :** Sir, I move :

"That amendment No. 450 of List II be deleted."

In fact, Sir, I really oppose the amendment. The original clause (2) of article 73 dealt with the authority of Parliament to extend to any State, that in States in Parts, A, B, C, and D. But by the amendment, it is now sought to be restricted to a State specified in Part A or Part B of the First Schedule, I do not know why Parliament will cease to have any authority.....

**Mr. President :** Because the others are directly under Parliament.

**Mr. Naziruddin Ahmad :** If that is so, what is the need for specifying it here, I fail to see. In fact, it is difficult to follow the exact implications of this and the result, if any, if this is not passed. At any rate, these difficult constitutional principles are being showered upon the heads of Members with incredible speed and I do not think, I am quite sure, that this amendment is needed. In fact, if we try to introduce last-minute amendments, we do not know what anomalies we would be creating. In order to cure a malady, possibly we are introducing more maladies into the Constitution.

**Mr. President :** Article 81, Amendment No. 451 by the Drafting Committee. There is no amendment to this.

"That in sub-clause (a) of clause (1) article 1, for the words and figures 'article 331' the words and figures 'articles 82 and 331' be substituted."

**Mr. President :** Article 100. Amendment No. 452 by the Drafting Committee.

"That for clause (3) of article 100, the following clauses be substituted:--

'(3) Until Parliament by law otherwise provides, the quorum to constitute a meeting of either House of Parliament shall be one tenth of the total number of members of the House.

(4) If at any time 'during a meeting of a House, there is no quorum, it shall be the duty of the Chairman or Speaker, or person acting as such, either to adjourn the House or to suspend the meeting until there is a quorum.' "

There are two or three amendments to this : No 587, Mr. Naziruddin Ahmad.

**Mr. Naziruddin Ahmad :** Sir, I move :

"That in amendment No. 452 of List II, in the proposed clause (3) of article 100, for the words 'Until Parliament by law otherwise provides, the quorum' the words 'The quorum' be substituted."

Sir, the text of the amendment will make it that the quorum which will be fixed by the Constitution may again be interfered with by Parliament. I should submit that quorum is a fundamental principle and it should not be allowed to be altered by Parliament. The result would be that quorum will depend upon the mood of the Parliament for the time being. That has to be fixed on fundamental principles and on considerations of a fundamental nature. Once we lay down the quorum in the Constitution, it should be kept absolutely free from interference or alteration, by Parliament. If it is necessary to make any change, that change should be in the Constitution itself with the necessary safeguards attaching to an amendment of the Constitution itself. It is an important principle and should not be made to fluctuate with the temper of the House for the time being. In the Government of India Act, the quorum was fixed and it was not liable to be changed by Parliament. It has to be fixed in the Constitution.

**Mr. President :** Amendment No. 588 : Mr. Sidhva. Your amendment is that the quorum should be one-sixth and not one-tenth. That is covered by an amendment which you have already moved. I will take it along with this also.

**Shri R. K. Sidhva :** All right, Sir, It runs :

"That in amendment No. 452 of List II in the proposed clause (3) of article 100, for the word 'one-tenth' the word 'one-sixth' be substituted."

**Mr. President :** The next amendment is 589, to suspend the meeting for half an hour. Do you need a

speech for that ?

**Shri R. K. Sidhva :** I do not want to make a speech, Sir, I formally move amendment 589:

"That in amendment No. 452 of List II, in the proposed clause (4) of article 100, after the words 'suspend the meeting' the words, 'for half an hour' be inserted."

My point is that the article as amended states that the meeting shall stand adjourned.....

**Mr. President :** Either adjourn the House or suspend the meeting.

**Shri R. K. Sidhva :** Up to what time, Sir ? Supposing there is no quorum.....

**Mr. President :** Until there is a quorum.

**Shri R. K. Sidhva :** That means for the whole day and the other Members will have to wait in the House without doing any business. That is the point. I feel this is not correct. After all, fix one hour if half an hour is not sufficient. Some time limit should be fixed.

**Mr. President :** That would, I think be provided in the Rules of Business, Anyhow, you have moved the amendment.

**Shri R. K. Sidhva :** I state, Sir, that a time limit should be there. The quorum is always provided in the Constitution and not in the Rules. We are actually providing for the number of the quorum. Therefore, the time limit should also be there in the Constitution.

**Mr. President :** Amendment No. 453 by the Drafting Committee. I take that as moved.

"That in article 104, for the words 'the Government of India' the words 'the Union' be substituted."

Amendment No. 454 in article 105. There is no amendment to this. I take that also as moved.

"That in clause (1) of article 105, for the words "Subject to the rules and standing orders' the words 'Subject to the provisions of this Constitution and to the rules and standing orders' be substituted."

Article 114. Amendment No. 455

"That in clause (2) of article 114 for the words 'the amendments which are admissible' the words 'whether an amendment is inadmissible' be substituted."

There is an amendment to this : No. 590 : Mr. Naziruddin Ahmad.

**Mr. Naziruddin Ahmad :** Sir, I beg to move :

"That in amendment No. 455 of List II, in clause (2) of article 114, for the words 'whether an amendment is inadmissible' (*proposed to be substituted*) the words 'as to the admissibility of the amendment' be substituted."

It is practically a drafting amendment; but I submit that the draft that I am suggesting would be better in clause (2) of article 114 as it would be amended by the amendment of the Drafting Committee, the text would be that 'the decision of the person presiding as to amendments being inadmissible under this clause shall be final'. I want to make it clear that the decision of the person presiding as to the admissibility of the

amendments under this clause shall be final. In fact the official amendment is that the decision of the person presiding as to whether the amendment is 'inadmissible' is final. I should submit the ruling or the decision of the person presiding as to whether it is 'admissible' or inadmissible', both, should be final and therefore it should be expressed rather more generally that the decision 'as to the admissibility of the amendment' shall be final. It will mean that his decision that the amendment is 'admissible' is final, as also his decision that it is 'inadmissible' is also final.

**Mr. President :** We go to article 124.

**Shri T. T. Krishnamahari :** if I am permitted to explain the reasons for my amendment to 124, my honourable Friend will probably be satisfied. I move :

"That in clause (1) of article 124, for the words 'seven other Judges' the words 'not more than seven other Judges' be substituted."

As it now stands 124 (1) runs thus--

"There shall be a Supreme Court of India consisting of a Chief Justice of India and until Parliament by law prescribes a larger number, of seven other Judges."

It means that immediately on the 26th January when the Constitution is promulgated, the number will have to be raised to that figure whether or not there is enough work. So the alteration has been made prescribing the maximum and leaving it to Government of the day to go on increasing the number or approach Parliament if necessary to go beyond the number 7, so that action need not be taken on 26th January when Constitution is promulgated.

**Mr. President :** Do you wish to move your amendment?

**Mr. Naziruddin Ahmad :** I beg to move:

"That amendment No. 456 of List II be deleted."

I find this is again a last minute change of mind on the part of the Drafting Committee. In the clause in question we have fixed the number as '7 other Judges' apart from the Chief Justice. The amendment would reduce the number by substituting the words 'not more than 7 other Judges'? In fact under the amendment it would be possible to appoint less than 7 judges. I do not know on what basis the original article was conceived and passed by the House. If there was not enough work, then that was the time to introduce suitable amendments in the text. The House has not been given any indication as to the exact amount of work which the Federal Court has or the Supreme Court will have on and from the 26th January next. In fact these changes should be based upon actual figures or actual estimates or work which would be in the hands of the Judges. I believe that the removal of the Jurisdiction of the Privy Council and also giving the Supreme Court the right over criminal matters, general superintendence and various other matters connected with the Constitution, there would be enough work for the Supreme Court on and from the 26th January. So this over-caution in respect of the number of Judges being placed in the discretion of the Government would be wrong. We should proceed on the basis of actual or estimated amount of work which the Court will have on and from 26th January. It is for this reason that I have asked for deletion of this amendment.

**Mr. President :** Article 133. There is amendment to this by the Drafting Committee--*457 and *457A. There is an amendment by Mr. Naziruddin Ahmad to 457A.

**Mr. Naziruddin Ahmad :** I move:

"That in amendment No. 457A of List II, in the proposed new clause (3) of article 133, for the words 'notwithstanding anything in this article, no appeal' the words 'No appeal' be substituted."

This House has been made too familiar with the expression 'Notwithstanding anything in this article or this Constitution'.

There are so many 'Notwithstandings' scattered throughout the Constitution that one ought to be extremely doubtful about how to interpret a particular clause. In fact the Drafting of the Constitution has been progressing on a hand-to-mouth basis from day to day. It is for this reason that this familiar device of 'notwithstanding anything' has been freely introduced here. The more satisfactory way would have been to draft it without these clauses so as to make them not at all necessary. I do not know why this 'notwithstanding' has been used in the context. The matter should require clarification.

**Mr. President :** We go to article 135. There amendment No. *458 by the Drafting Committee. There is no amendment to that. Similarly there is *459 to article 136 by the Drafting Committee. No amendment to that. Then there is article 145--there is an amendment No. *460 by the Drafting Committee. There is no amendment to that, but there were certain amendments which were moved yesterday--308 and 309. I do not know if they are covered.

**Shri H. V. Kamath :** My amendment No. 550, Sir.

**Mr. President,** I move, Sir:

"That for amendment No. 460, of List II, the following be substituted:--

"That in sub-clause (c) of clause (1) of article 145, for the words 'rights conferred by Part III' the words 'right guaranteed by article 32(1) of the Constitution' be substituted."

---

*That the proviso to clause (1) of article 133 be omitted, and for the colon at the end of the said clause a 'full stop' be substituted.

After clause (2) of article 133, the following clause be added:--

> '(3) Notwithstanding anything in this article, no appeal shall, unless Parliament by law otherwise provides, lie to the Supreme Court from the judgment, decree or final order of one Judge of a High Court.'

*458. That in article 135, for the words, "not being a matter referred to in any of the foregoing provisions of this Chapter" the words "to which the provisions of article 133 or article 134 do not apply" be substituted.

*459. That in clause (1) of article 136, for the words "The supreme court" the words "Notwithstanding anything in this Chapter, the Supreme Court" be substituted.

*460. That in sub-clause (c) of clause (1) of article 145, for the words "enforcement of the rights" the words "enforcement of any of the rights" be substituted.

---

As amended, the article would read:

> "145 (c) rules as to the proceedings in the Court for the enforcement of the right guaranteed by article 32 (1) of the Constitution."

If the House will turn to article 32, as adopted by the House, my honourable Colleagues will see that clause (1) of article 32 provides that the right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed. Sir, I am happy to see that in List IV of of amendments, this article has been suitably amended. The word "Rights" which occurs there in clause (4) has been suitably amended, and altered to the word "right" because under clause (1) of this article, there is only one right that is guaranteed by this article. So "right" is the right word and not "rights", as it stands in clause (4) as it is today.

Once that has been disposed of, I turn to this relevant clause of article 145. I think a reference to clause (1) of articles 32 will be adequate so far as the framing of rules as to proceedings in the Court under this article 145 is concerned. The right guaranteed under article 32, clause (1) is with reference to the enforcement of the rights conferred by the Part. Therefore, if recourse is had to this article 32, then it is obvious that what is meant is the enforcement of any of the rights conferred by the Part; and the right to enforce any of the rights conferred by Part III, is guaranteed under this article. Therefore, it will be more appropriate to say that the proceedings with regard to the enforcement of that right are referred to in this sub-clause (c) of article 145, clause (1). I therefore move amendment No. 550 of List IV and commend it to the House for its earnest consideration.

**Mr. President :** Amendment No. 461 by the Drafting Committee.

"That for clause (3) of article 158, the following clause be substituted:--

> '(3) The Government shall be entitled without payment of rent to the use of his official residences and shall be also entitled to such emoluments, allowances and privileges as may be determined by Parliament by law and, until provision in that behalf is so made, such emoluments, allowances and privileges as are specified in the Second Schedule."

There is no amendment to it.

Amendment No. 462 by the Drafting Committee, to which also there is no amendment.

"That in the proviso to article 162, for the words 'the Government of India' the words 'the Union' be substituted."

Amendment No. 463.

"That for Sub-clause (a) of clause (1) of article 168, the following sub-clause be substituted:--

'(a) in the States Bengal, Bihar, Bombay, Madras, Punjab and the United Provinces, two Houses.' "

To this there is the amendment No. 594 by Mr. Naziruddin Ahmad.

**Mr. Naziruddin Ahmad :** Sir, I beg to move formally amendment No. 594

"That in amendment No. 463 of List II for the semi-colon at the end of the proposed sub clause (a) of clause(1) of article 163, a comma be substituted."

It is a drafting amendment and I leave it to the Draftsmen to consider the matter.

**Mr. President :** Then we come to article 181, and there are amendments Nos. 464 and 465 to it. These amendments have no amendments.

"That in clause (1) of article 181, the words 'of a State' be omitted."

"That in clause (2) of article 181, for the word 'House' the word 'Assembly' be substituted."

Then we come to article 185 and the Drafting Committee's amendment No. 466.

"That in clause (2) of article 181, the words 'of a State' be omitted."

To that amendment there is an amendment of Mr. Naziruddin Ahmad--No. 595.

**Mr. Naziruddin Ahmad :** Sir, I move:

"That amendment No. 466 of List II be deleted."

Clause (1) of article 185 as it stands, says: "At any sitting of the Legislative Council of a State.....etc., etc." The words "of a State" are attempted to be deleted by the Drafting Committee. I submit that this expression "the Legislative Council of a State" has been used in various other contexts, and this amendment is a last-minute amendment. I would draw the attention of the House to article 182, where you have the words. "The Legislative Council of every State having such Council....." In fact there are similar expressions in.....

**Mr. President :** Only a State having such a Council.

**Mr. Naziruddin Ahmad :** "The Legislative Council of a State" is not improper. I cannot find out a similar passage at a moment's notice. But if it is to be amended like this, there should be a clean sweep of all such expressions throughout the Draft Constitution in a systematic manner.

**Mr. President :** Article 189 and amendment No. 467 of the Drafting Committee.

"That for clause (3) of article 189, the following clauses be substituted:--

'(3) Until the Legislature of the State by Law otherwise provides, the quorum to constitute a meeting of a House of the Legislature of a State shall be ten members or one-tenth of the total number of members of the House, whichever is greater.

(4) If at any time during a meeting of the Legislative Assembly or the Legislative Council of a State there is no quorum, it shall be the duty of the Speaker or Chairman, or person acting as such, either to adjourn the House or to suspend the meeting until there is a quorum.' "

There are three amendments to this, Nos. 596, 597 and 598.

**Mr. Naziruddin Ahmad :** Sir, I move:

"That in amendment No. 467 of List II, in the proposed clause (3) of article 189, for the words 'until the legislature of the State by law otherwise provides, the quorum' the words 'The quorum' be substituted."

I have already explained my reasons for moving this amendment.

**Shri R. K. Sidhva :** Sir, I formally move amendments Nos. 597 and 598.

"That in amendment No. 467 of List II, in the proposed clause (3) of article 189, for the words 'ten members or one tenth' the words 'twenty

members or one-sixth' be substituted."

"That in amendment No. 467 of List II, in the proposed new clause (4) of article 189, after the words 'suspend the meeting' the words 'for half an hour' be inserted."

**Mr. President :** Article 191--amendments 468 and 469 of the Drafting Committee.

There are no amendments to them.

"That in sub-clause (e) of clause (1) of article 191, for the words 'the Legislature of the State' the word 'Parliament' be substituted."

"That in clause (2) or article 191, for the words 'either for India or for any such State' the words 'either for the Union or for such State' be substituted."

Article 193--amendment No. 470 of Drafting Committee, which also has no amendments.

"That in article 193, for the words 'The Legislature of the State' the words 'Parliament or the Legislature of the State' be substituted."

Article 194--amendment No. 471 of the Drafting Committee.

"That in clause (1) of article 104, for the words 'Subject to the rules and standing orders' the words 'Subject to the provisions of this Constitution and to the rules and standing orders' be substituted.' "

**Shri H. V. Kamath :** Sir, I have an amendment to article 194--my amendment No. 554.

**Mr. President :** All right.

**Shri H. V. Kamath :** Mr. President, Sir, I move:

"That in amendment No. 471 of List II, in clause (1) of article 194, the proposed words 'the provisions of this Constitution and to' be deleted."

Sir, my amendment seeks to restore the *status quo*, that is to say, leaves the clause as it is. I fail to see why this change is sought to be made in this clause at this late stage. As far as the Legislature is concerned, the freedom of speech of Members of the Legislature is subject to the Rules and Standing Orders of the Legislature itself. Neither Dr. Ambedkar, nor Mr. Krishnamachari has told the House why this right is sought to be restricted by the provisions of this Constitution. What exactly is meant by.

**Shri T. T. Krishnamachari :** I may point out to my honourable Friend that if he reads article 211 he will find that it is necessary to add these words.

**Mr. President :** Discussion on the conduct of Judges is ruled out.

**Shri H. V. Kamath :** I hope it does not refer to provisions of article 19 regarding freedom of speech. If it does, it will mean the end of freedom of speech, no freedom of speech at all, taking away by one hand what is given by the other. Well, I shall not move my amendment, as adequate light has been thrown on the matter by Mr. Krishnamachari now.

**Mr. President :** Then we come to article 204 and amendment No. 472 of the Drafting Committee :

"That in clause (2) of article 204, for the words 'the amendments which are admissible' the words 'whether an amendment is inadmissible' be

substituted."

There is an amendment to this, No. 599 of Mr. Naziruddin Ahmad. But it is the same as was already moved and I shall take it as having been moved.

"That in amendment No. 472 of List II, in clause (2) of article 204, for the words 'whether an amendment is inadmissible' (proposed to be substituted) the words 'as to the admissibility of the amendment' be substituted."

Then we come to article 217 and amendment No. 473 of the Drafting Committee.

"That for clause (c) of the proviso to clause (1) of article 217, the following clause be substituted:

'(c) the office of a Judge shall be vacated by his being appointed by the President to be a Judge of the Supreme Court or by his being transferred by the President to any other High Court within the territory of India.' "

There is no amendment to this.

Now we come to articles 230 and 231 and amendments Nos. 474 and 475 of the Drafting Committee.

"That in article 230, after the words 'any State' 'specified in the First Schedule' be inserted."

"That in article 232, after the words 'more than one State' the words 'specified in the First Schedule' be inserted."

**Mr. Naziruddin Ahmad :** Sir, I formally move amendment No. 600 :

"That amendment No. 474 of List II be deleted."

The Original article had reference to "any State" but the amendment has tried to clarify "any State specified in the first schedule". I think that "any State" means a State in the First Schedule. All States are mentioned in the First Schedule in four different classes. If we refer to any State it certainly refers to the First Schedule and it seems to me that the clarification is unnecessary. Sir, I also move:

"That amendment No. 475 of List II be deleted."

The same principle is involved as in the previous amendment.

**Mr. President :** Amendment No. 476.

"That in article 234 after the word 'Governor' the words 'of the State' be inserted, and after the words 'High Court' the words 'exercising jurisdiction in relation to such State' be inserted."

**Mr. Naziruddin Ahmad :** Sir, I move:

"That amendment No. 476 of list II be deleted."

There is reference in the original article 234 to the Governor. The expression "Governor" is attempted to be clarified by the adjectival phrase "Governor of the State." "The Governor" certainly means Governor of a State in Part A of the First Schedule. There can be no Governor, except a Governor of such a State. If we say "the Governor".....

**Shri T. T. Krishnamachari :** My honourable Friend need not labour the question of the Governor. He might confine himself to the latter part of the amendment. Because of the qualification put on "High Court", the adjectival phrase has been added after "Governor".

**Mr. President :** It is better for the honourable Member to leave it there.

**Mr. Naziruddin Ahmad :** I shall then leave it there, Sir.

**Shri T. T. Krishnamachari :** Sir, I do not propose to move amendments Nos. 478 and 479. Amendment No. 556 will cover both, which I move:

"That for the Explanation to clause (1) of article 288, the following be substituted:

*'Explanation.*--The expression 'law of a State in force' in this clause shall include a law of a State passed or made before the commencement of this Constitution and not previously of a State passed or made before the commencement of this Constitution and not previously repealed, notwithstanding that it or parts of it may not be then in operation either at all or in particular areas."

(Shri Ajit Prasad Jain did not move his amendment No. 603.)

[*The following amendment was taken as moved :

*"That in clause (2) of article 289, for the words "any property used or occupied for the purposes thereof, or any income accruing or arising therefrom" the words "any property used or occupied for the purposes of such trade or business, or any income accruing or arising in connection therewith" be substituted."]

**Mr. President :** Amendment 481.

"That for article 294, the following article be substituted:--

As from the commencement of this Constitution,

Succession to property, assets, rights, liabilities and obligations in certain cases.

(a) all property and assets which immediately before such commencement were vested in His Majesty for the purposes of the Government of the Dominion of India and all property and assets which immediately before such commencement were vested in His Majesty for the purposes of the Government of each Governor's Province shall vest respectively in the Union and the corresponding State and

(b) all rights, liabilities and obligations of the Government of the Dominion of India and of the Government of each Governor's Province, whether arising out of any contract or otherwise, shall be the rights, liabilities and obligations respectively of the Government of India and the Government of each corresponding State.

subject to any adjustment made or to be made by reason of the creation before the commencement of this Constitution of the Dominion of Pakistan or of the Provinces of West Bengal, East Bengal, West Punjab and East Punjab.' "

**Mr. Naziruddin Ahmad :** Sir, I move:

"That in amendment No. 481 of List II in the proposed article 294

(a) comma be inserted after the word 'Constitution' in line 1,

(b) a comma be inserted after the word 'Constitution' in line 23."

These are punctuation amendments that would have to be accepted if the Drafting Committee is in a favourable mood.

[*The following amendments were taken as moved :

*"That in sub-clause (a) of clause (1) of article 295, for the words 'the Commencement of this Constitution' the words 'such commencement' be substituted."

"That in sub-clause (a) of clause (1) of article 295, for the words 'the Government of India' the words 'the Union' be substituted."

"That in article 296, after the words 'His Majesty', in the first place where they occur the words 'or, as the case may be, to the Ruler of an Indian State' be inserted."

"That in the proviso to article 296, after the words 'His Majesty' the words 'or to the Ruler of an Indian State' be inserted."

"That to article 296, the following Explanation be added:--

"*Explanation.*--In this article the expressions 'Ruler' and 'Indian State' have the same meanings as in article 363."

"That in the proviso to clause (1) of article 316, for the words 'under an Indian state' the words under the Government of an Indian State' be substituted."

**Shri T. T. Krishnamachari :** Sir, I move amendments No. 557 and 558 in place of amendments No. 488, 489 and 490 :

"That in clause (c) of article 319, for the words 'as the Chairman of a State Public Service Commission other than a Joint Commission' the words 'as the Chairman of the Union Public Service Commission or as the Chairman of a State Public Service Commission' be substituted."

"That in clause (d), for the words 'as the Chairman of any other State Public Service Commission' the words 'as the the Chairman of that or any other State Public Service Commission' be substituted."

**Shri H. V. Kamath :** Sir, I move:

"That in amendment No. 557, in clause (c) of article 319 for the words 'as the Chairman of the Union Public Service Commission or as the Chairman of a State Public Service Commission (proposed to be substituted)' the words 'as the Chairman of a State Public Service Commission or as the Chairman of joint commission' be substituted."

"That in amendment No. 558 in clause (d) of article 319 for the words 'as the Chairman of that or any other State Public Service Commission' the words 'as the Chairman of any other State public Service Commission' be substituted."

These amendments of the Drafting Committee are to my mind an instance of the amazing fickleness of mind that they have displayed on his subject.....

**Mr. Naziruddin Ahmad :** It is no longer amazing: it has been a day to day affair.

**Shri H. V. Kamath :** Within two days they have changed their mind twice and revised their draft. These two lists represent the fruit of their ceaseless labours. I do not know whether they would again change their mind, if you would be so good as to extend the time for amendments beyond tomorrow.....

**Mr. President :** You need not entertain any such fears.

**Shri H. V. Kamath :** But as it is I feel that the new amendments that they have suggested constitute a radical departure from the revised draft presented to us yesterday morning.

My amendments are in conformity with the amendment on article 319 which I moved yesterday. I do not see any point in the changes suggested by the Drafting Committee twice within the last few days.

**Mr. President :** They are only going back to the original proposition passed in the Second Reading.

**Shri T. T. Krishnamachari :** Going back to the Draft as approved by the House.

**Shri H. V. Kamath :** I do no know why they should have changed their mind about the revised draft.

**Shri T. T. Krishnamahri :** Because the honourable Mr. Kamath wills it otherwise!

**Shri H. V. Kamath :** I did not hear what he said! Anyway, I would prefer that, instead of the Chairmanship of the Union Public Service Commission or the Chairmanship of the State Public Service Commission as suggested by the Drafting Committee, the person who vacates office under clause (c)--that is to say a member other than a Chairman of the Union Public Service Commission, should be eligible for the Chairmanship of the State public Service Commission or the Chairmanship of the Joint Commission. The Drafting Committee Visualises the possibility of such a person being appointed to the Chairmanship of the Union Public Service Commission. I do not think it is quite a healthy precedent to set up that a Member of the Public Service Commission on ceasing to hold office as Member should be eligible for appointment as Chairman of the same Commission the membership of which he has vacated. He may be eligible for the Chairmanship of the State public Service Commission or the Joint Commission.

As regards the second amendment, that refers to clause (d) of article 319. It deals with the prohibition of holding office by a member other than a Chairman of a State Public Service Commission on his ceasing to hold office. My amendment seeks to make him eligible for the Chairmanship of any other State Public Service Commission but not of that particular State Public Service Commission. The Drafting Committee's new amendment makes him eligible for the Chairmanship of that or of any other State Public Service Commission. The revised draft had omitted "that State Public Service Commission". But now they are restoring the *Status quo*. It would be healthier if he were not eligible for the Chairmanship of that State Commission from which he has resigned but only for that of any Commission other than that of which he was a Member.

Sir, I move.

**Mr. President :** There is an amendment 491 to article 320 and there is a further amendment No. 559. I think that is an addition.

**Shri T. T. Krishnamachari :** Amendment 559 is an addition. It meets the objections raised in regard to that particular article.

**Mr. President :** We shall take that up later.

**Shri T. T. Krishnamachari :** That may be taken up now.

**Mr. President :** I take it as moved.

Amendment moved :

"That for clause (4) of article 320, the following clause be substituted:--

'(4) Nothing in clause (3) shall require a Public Service Commission to be consulted as respects the manner in which any provision referred to in clause (4) of article 16 may be made or as respects the manner in which effect may be given to the provisions of article 335'."

**Shri T. T. Krishnamachari :** Amendment 491 may not be necessary because Kamath has moved amendments 394 and 395--practically the same amendment.

**Mr. President :** Very well. Then we come to article 351--amendment No. 492.

**Dr. P. S. Deshmukh :** What have you done with amendment 559 to article 320, Sir ?

**Mr. President :** I have taken it as moved. You are referring to amendment No. 559. Do you want to speak, Dr. Deshmukh?

**Dr. P. S. Deshmukh :** Yes, Sir. I am sorry to say that this new amendment does not appear to be at all satisfactory. First of all, Sir, it is very circuitous in its drafting. It is like a definition known as circular. The amendment reads:

"Nothing in clause (3) shall require a Public Service Commission to be consulted as respects the manner in which any provision referred to in clause (4) of article 16 may be made or as respects the manner in which effect may be given to the provisions of article 335."

If this amendment is considered satisfactory by the representatives of the Scheduled Castes and Scheduled Tribes I would at least beg of them that my amendment to 335 may be accepted. If that is done, then the whole thing would be clearer; otherwise it will restrict the scope of this article so far as the backward classes are concerned if not have the effect of excluding them; because, from 335 already the word backward class has been by a mistake omitted and that was the reason why I proposed that the word should be added to 335.

**Mr. President :** You are referring to amendment 530.

**Dr. P. S. Deshmukh :** Yes, Sir. So if we have the amendment now, moved by Mr. T. T. Krishnamachari I would at least request my Friend Mr. T. T. Krishnamachari whether he would accept my amendment which seeks to add backward classes to 335. If this is done then of course I would have no objection because this will bring the whole matter on all fours with the other articles on the subject : otherwise it will be very curious because in article 16(4) we have the word "backward class" whereas in 335 there is no mention of backward class, and we have only two groups--the Scheduled Castes and the Scheduled Tribes. It would be absolutely incongruent and inconsistent. If my Friend, Mr. T. T. Krishnamachari would like this amendment to be accepted, I would be prepared to accept his provided he has no objection to the inclusion of backward class in 335: otherwise we would be saying one thing with respect to one provision but we would be including only the word backward class without mentioning Scheduled Castes or Scheduled Tribes. If this amendment is accepted it would mean that there is no mention or the Scheduled Castes or Scheduled Tribes either in 16(4) or in 320. But in article 335 there is nothing else but Scheduled Castes and Scheduled Tribes, and no mention of backward class.

I would like in the alternative, if my Friend is not prepared to accept my amendment, that this matter may be postponed because we may probably discuss the question this evening.

**Shri T. T. Krishanamachari :** I may mention that 16(4) is an enabling provision in regard to special

representation for backward classes. 335 is an enabling provision in regard to taking into consideration the claims of Scheduled Tribes and Scheduled Castes. These two enabling provisions are brought together in this particular clause. It has merely been made permissible for the Governments not to consult the respective Public Service Commissions in these cases because of the mandatory character of the provision in clause (3) which requires the Public Service Commission to be consulted on every matter. So there is no question of any injustice being done either to the Scheduled Castes and Scheduled Tribes or to the backward classes or any preference being given to one over the other. I do not think my honourable Friend need have any fear that the rights of the backward classes have been taken away or anything has been done to their detriment.

**Dr. P. S. Deshmukh :** I do not feel at all convinced by my Friend's explanation. Article 16(4) reads:

"Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class....."

Backward class has been used as a general term as will be evident from the speech made by Dr. Ambedkar when the House was considering article 16. It includes not only Scheduled Castes and Scheduled Tribes but also other educationally and economically backward communities. Now, my honourable Friend curiously enough wants to play between 16(4) and 335. His contention is absolutely astounding. He does not want to give the same privileges which have been given to the Scheduled Castes and Scheduled Tribes so far as reference to the Public Service Commission is concerned, although according to article 16(4) these three groups of people are supposed to get the benefit of this protection. If the reservation is made and the phrase "appointment and posts" is present in article 16(4), I think it is absolutely wrong to take the view which he is taking. I know the point of view from which my Friend is looking at the whole thing. I think he will be doing a real disservice to the backward classes and in a sort of underhand way harming their interests, because when 16(4) was provided it was for backward classes as a whole without any reference to a particular group or groups. From that point of view I request that this matter be left over for the present. It would be very wrong not to add the word "backward classes" to 335.

**Pandit Thakur Das Bhargava :** May I put one question to my honourable Friend? How is it wrong if the Scheduled Castes and Scheduled Tribes are given more rights than the "backward classes"? They should be given more rights. Are they not more backward?

**Dr. P. S. Deshmukh :** I do not claim to get more rights or less rights than the backward classes. All I want is equal rights. If "backward classes" was to include not only Scheduled Tribes and Scheduled Castes as well as the economically and educationally backward other castes, and if you are now going to drive them to that situation I do not think it will be good for the nation or for you. So I should very much like that the intention to include the backward classes as additional and apart from the Scheduled Castes and Scheduled Tribes should not be given up in this way. Originally, there was no intention of even specifying these two groups and my honourable Friend who interrupted just now was the best and most vehement exponent that the word should be "backward classes" only--the other groups should not be separately and specifically referred to.

**Shrimati G. Durgabai :** (Madras : General): On a point of order, the Drafting Committee has not made any change in article 335. Therefore, I do not think any amendment would arise.

**Mr. President :** Let him finish.

**Dr. P. S. Deshmukh :** So my friend is really speaking against his own contention.

**Pandit Thakur Das Bhargava :** It is the decision of the House I want that all the amenities may be

extended to all backward classes but the decision of the House is against my friend's present contention.

**Dr. P. S. Deshmukh :** If he is prepared to admit that it is in spite of himself, I can understand; but when he wants to lend support to the fact that it is not necessary to retain "backward classes", he is arguing against himself.

**Mr. President :** We have had enough discussion on this article yesterday also and today.

Now I pass on to 351. There is no amendment to 492? Then 352. There is no amendment to this either, 353--there is no amendment. 357--there is none. Then 365--amendment 496. It is being substituted by 561. Then we come to 366. There are three amendments 497, 498 and 499.

There is an amendment by Mr. Naziruddin Ahmad No. 606.

**Mr. Naziruddin Ahmad :** Sir, I beg to move:

"That in amendment No. 499 of List II, in the proposed new clause (18) of article 366, the following be added at the end:

'end the succeeding clauses be remembered accordingly.' "

**Mr. President :** It does not arise. Then we come to 367. There is an amendment No. 500. To this there is an amendment No. 607 by Mr. Naziruddin Ahmad.

**Mr. Naziruddin Ahmad :** I do not move 607, Sir.

**Shri T. T. Krishnamachari :** 500 will not be moved, Sir. Instead 562-A is the amendment which will be moved:

"562A. That in article 367, the following clause be added :

'(3) For the purposes of this Constitution 'foreign State' means any country which is outside the territorial jurisdiction of the Union :

Provided that, subject to the provisions of any law made by Parliament, the President may by order declare any country not to be a foreign country for such purposes as may be specified in the order.' "

---

"492. That in article 351, the words 'so specified' be added."

"493. That in clause(2) of article 352, the brackets and words '(in this Constitution referred to as a 'Proclamation of Emergency)' be omitted."

"494. That in clause (b) of article 353, for the words 'the Government of India or officers and authorities of the Government of India' the words 'the Union or officers and authorities of the Union' be substituted."

"495. That in sub-clause (b) of clause (1) of article, 357, for the words 'the Government of India or officers and authorities of that Government' the words 'The Union or officers and authorities thereof be substituted."

"561. That in article 365, for the words 'the President may hold' the words 'it shall be lawful for the President to hold' be substituted."

"497. That clause (12) of article 366 be omitted."

"498. That clause (13), (14), (15), (16), (17) and (18) of article 366, be renumbered as clauses (12), (13), (14), (15), (16) and (17) respectively."

"499. That after clause (17) as so renumbered, the following clause be inserted:

'(18) Proclamation of Emergency' means a Proclamation issued under clause (1) of article 352.' "

---

**Shri H. V. Kamath :** Mr. President, I move:

"That in amendment No. (with your permission, Sir, I shall substitute 562-A for 500) 562-A of List IV, the proviso to the proposed new clause (3) of article 367 be deleted."

Again, the Drafting Committee has revised the draft which they submitted to the House yesterday and today they have come out with a new draft of the article. It is a happy augury for the future of our country that the Constitution is being drafted by a team of wise men whose minds, are continually open to the light of truth, but my very limited vision does not enable me to grasp the scope of this proviso. To my mind, all States that are not within the territorial jurisdiction of the Indian Union must be regarded as foreign states. So long as we are not One World, I suppose these separate sovereign states will continue to exist and all states outside our jurisdiction should be regarded as foreign States. Of course if we want to treat any particular State on a special footing, then Parliament can legislate with regard to that State. We used to have what was called Imperial Preference, now Commonwealth preferences. Most favoured Nation clause in treaties and the like. I do not see why we should have a proviso here that the President may declare that such and such a State is not a foreign State. We may lay down generally that all States not within the jurisdiction of India are foreign States. It is not at all necessary, in my humble judgment that a proviso of this sort should be there in a delightfully vague form.

**Shri R. K. Sidhva :** I have given notice of an amendment to this article No. 608. I support the arguments of Mr. Kamath. I want clarification from the Drafting Committee as to why this proviso has been made. We have definitely stated yesterday that those who accept foreign citizenship their own citizenship will be affected. Those who accept citizenship of a foreign country shall not be entitled to any rights or privileges of the citizens of the Republic of India. I want to know why this power has been vested in the President to make an exception and declare any country not to be a foreign country. What is the idea behind it? We must have some information in the matter from Dr. Ambedkar. We are rather perplexed about this.

**The Honourable Shri K. Santhanam :** Sir, I am afraid amendment No. 562-A as drafted is defective. In the first part of it 'foreign State' is defined. In the proviso the President is authorised to declare a foreign country as such. There fore the word 'country' or State' should be used in both places. You cannot define a foreign State and allow the President to declare a foreign country. There is confusion.

**Shri R. K. Sidhva :** That does not solve the objection I have raised.

**Mr. President :** It was not said in reply to your objection.

**Shri R. K. Sidhva :** If we get an answer to my doubts it will be helpful.

**The Honourable Dr. B. R. Ambedkar :** Sir, if my friend Mr. Sidhva were to refer to clause (12) of article 366 in the draft as revised by the Drafting Committee, he will notice that there is really nothing new in sub-

clause (3) of article 367 which is the subject, matter of amendment No. 562-A. Article 366 is a definition article and clause (12) there attempts to define what a foreign State is within the meaning of the Constitution. It was felt that clause (12) of article 366 as passed by the Assembly was rather cryptic and too succinct and that it was desirable to give it a more elaborate shape and form. Consequently the Drafting Committee thought that the best way would be to delete clause (12) of article 366. This is done by amendment No. 497 and it is sought to be replaced now by the present amendment No. 562-A. In the draft as presented to the House with the report the main provision was that it was open to the President to declare by an order that a certain country was not a foreign State so far was India was concerned. The main part of clause(3) of article 367 is just the same. The only thing that has been added is that Parliament may legislate on this subject and, while legislating, endow the President with power to proclaim by an order what country is a foreign State and what country is not a foreign State. It was further felt by the Drafting Committee that it was not desirable to confer this power in such rigid terms as would follow from the proviso if the words "for such purposes as may be specified in the order" were not there. The President and Parliament may then be confronted with two inescapable alternatives, either to say that a foreign country was a foreign State or to say that a certain country was not a foreign State with the result that the subjects of the country which is declared not to be a foreign State would become automatically citizens of India and be entitled to all the rights which the citizens of India are entitled to under this Constitution. It may be in the interests of this country that, while it might be desirable to recognise a certain foreign country as not a foreign State, it should be limited to such purposes as may be specified in the order, so that while making the order the President would have his position made perfectly elastic enabling him to say that while we declare that a certain country is not a foreign State the subjects of that foreign State will be entitled only to certain rights and privileges which are conferred upon the citizens of India and not to all. It is for that purpose and in order to make a provision for those other maters that we thought it desirable to transpose clause(12) of article 366 and bring it as clause(3) of article 367.

**Mr. President :** Article 368, amendment No. 609, Mr. Naziruddin Ahmad.

**Shri T. T. Krishnamachari :** No, Sir. We are not moving amendment 501 to article 368.

Sir, I move:

"That in clause (2) of article 370, for the words, brackets, letters and figure 'in paragraph (ii) of sub-clause (b) or in the second proviso to sub-clause (d) of clause (1)',the words, brackets, letters and figure 'in paragraph (ii) of sub-clause (b) of clause (1) or in the second proviso to sub-clause (d) of that clause' be substituted."

## Sir, I also move :

"That in clause (1) of article 379, for the words 'shall exercise' the words 'shall be the provisional Parliament and shall exercise' be substituted."

**Mr. President :** There is an amendment to this, No. 610 by Mr. Sidhva.

**Shri R. K. Sidhva :** Sir, I move:

"That amendment No. 503 of List II be deleted."

The word that I object to is the word "Provisional" before Parliament. In that last session we had discussed this matter and we said that the word "provisional" was not dignified both for the President and also for the Parliament. After all, by an Act the Parliament comes into being from the 26th January. It may be in a sense provisional but it is a Parliament duly authorised under this Constitution, and therefore the word "provisional" does not look proper. I feel that the word "provisional" should be deleted which is now sought to be inserted.

With these words, I commend my amendment to the acceptance of the House.

**Mr. President :** Mr. Balkrishna Sharma, your amendments Nos. 416 and 417 relating to this article 379, do you want to move them ? You can move them if you want.

**Pandit Balkrishna Sharma :** Mr President. Sir, I move:

"That in clause (1) of article 379, for the words 'the body functioning as the Constituent Assembly of the Dominion of India immediately before the commencement of this Constitution' the words 'the Constituent Assembly of India' be substituted; and in the subsequent clauses and articles for the words 'the Constituent Assembly of the Dominion of India' wherever they occur, the words 'the Constituent Assembly of India' be substituted."

If this amendment of mine is accepted by the house, then the article will read:

"Until both Houses of Parliament have been duly constituted and summoned to meet for the first session under the provisions of this Constitution.

and from here those words should be deleted.

"The Constituent Assembly of India shall exercise all the powers and perform all the duties conferred by the provisions of this constitution on Parliament."

My reasons for proposing this amendment are that I somehow do not relish the idea of bringing in this Constitution the words "the Constituent Assembly of the Dominion of India." I think that even though those words find a place in the Government of India Act, 1935, as adapted, i.e. our Independence Act, yet in our Constitution it will be better if we avoid that phraseology. You will see Sir, that in the Preamble where we have resolved to give unto ourselves this constitution, we have done so in our right, and the Constituent Assembly there is the sole authority to give this Constitution of ourselves. Now, if we bring in these words "the Constituent Assembly of the Dominion of India", we shall be perpetuating a situation which somehow historical circumstances have forced upon us, and we do not want that that name should be there. For this reason, I have proposed that his amendment of mine should be accepted by the House so that the only words which will be used will be the Constituent Assembly of India and not the Constituent Assembly of the Dominion of India.

My second amendment is No. 417. I move :

"That in clause (2) of article 379, for the words 'the provisional Parliament' wherever they occur, the words 'the Constituent Assembly of India' be substituted."

My reason for placing this amendment before the House is that it is as the Constituent Assembly and not in any other capacity that we have taken up the supreme authority of governing the country under the Adaptation Act, and so long as a duly constituted Parliament does not come into existence, it will not be proper for us to give up the ghost. Why should we commit harakiri before time? After the Constitution comes into force, we shall disappear, but I do not see any reason why this name "the Constituent Assembly of India" should be changed to Provisional Parliament at this time; because if we retain the name, then certain functions which are being performed at present by the Constituent Assembly will continue to be performed, but it we change our name, then the interpretation might be put that we as the Provisional Parliament are quite a different body from the one which exists at present, and that, therefore, those functions which we are performing through one Secretariat should automatically come to an end. Therefore I submit that it is not the Provisional Parliament that should function in future but that the Constituent Assembly of India should continue to function in future.

**The Honourable Shri K. Santhanam :** Not with all the present powers.

**Pandit Balkrishna Sharma :** My friend Mr. Santhanam says that the Constituent Assembly loses all powers on the 26th of January. But permit me to say, Sir, that on the 26th January we cannot lose all the powers for the simple reason that,--and Mr. Santhanam will see--article 379 definitely states that until the new Parliament comes into existence, this Constituent Assembly of India shall exercise all the powers and perform all the duties conferred by the provisions of this Constitution on Parliament, and because this Constituent Assembly has to perform the functions which the future Parliament will perform, it can not be said that we shall cease to function on the 26th January. It was said that after the 26th January the Constitution making part of us will disappear. There is no doubt about it. It will disappear, but the legislative powers which we have been exercising even during this period shall continue to be vested in us and, therefore, I think we should not change the name "Constituent Assembly of India" to "Provisional Parliament" nor should we keep the name 'Constituent Assembly of the Dominion of India'. I take it that perhaps this "Dominion of India" was inserted in order to distinguish our Constituent Assembly from the Constituent Assembly of the Dominion of Pakistan, but I see no reason why we should stick to it. I have said that in our Preamble we have definitely and solemnly resolved as the Supreme Body to give this Constitution of the country. Why should we call ourselves as the Constituent Assembly of the Dominion of India? With these words, Sir, I commend these two amendments to the acceptance of the House.

**Shri H. V. Kamath :** Mr. President, I move, Sir, amendment No. 563 of List IV which is more or less identical with the one moved by my honourable Friend Pandit Balkrishna Sharma. I agree with him so far as the expression "the Dominion of India" is concerned; it is an unhappy expression and it should be quite adequate for our purposes to simply state "the Constituent Assembly of India". As regards the other point which my Friend Pandit Balkrishna Sharma made out, that the Constituent Assembly shall and ought to continue in existence even after the Constitution commences and the Republic is inaugurated, I feel I cannot agree with him on that issue. *(Pandit Balkrishna Sharma:* In France it was so). I do not know what the position in France was, but to my mind and so far as my reading of history goes, in all countries once the Constitution is inaugurated the Constituent Assembly has become *functus officio.* The Constitution will come into force on the 26th of January 1950 and once that happens, the functions of this Assembly in its capacity as the Constitution-making body cease, and this Constituent Assembly will only continue to function in a legislative capacity, pending elections under the new Constitution. Therefore it is correct to say that the Assembly will be the provisional Parliament, because it is only saying the same thing in other words. Today, the Assembly is called the Constituent Assembly of India (Legislative) when it engages in the functions of legislation, but under the new Constitution we want to confer on this body all the powers of Parliament and unless we call it the Provisional Parliament, the body cannot assume to itself all the powers that the Constitution seeks to confer on Parliament. Therefore, I do not think that the second point which my honourable Friend, Pandit Balkrishna Sharma made out is correct. I therefore move amendment No. 563 of List IV and commend it to the House for its acceptance though on somewhat different grounds than the one suggested by Pandit Balkrishna Sharma.

I move:

"That with reference to amendment No. 503 of List II, in clause (1) of article 379, for the words 'the body functioning as the Constituent Assembly of the Dominion of India immediately before the commencement of this Constitution' the words 'the Constituent Assembly of India' be substituted."

**Mr. President :** There are two other amendments in List IV.

**Shri T. T. Krishnamachari :** May I suggest that in considering article 379 amendment No. 564 might also be taken.

**Mr. President :** Yes. I take it as moved:

"That in clause(5) of article 379, for the words 'after such commencement' the words 'on such commencement be substituted."

There are articles 385, 388 and 392 and there are no other amendments to the amendments of the Drafting Committee.

"565. That in article, 385, for the words 'such commencement' the words 'the commencement of this Constitution' be substituted."

"566. That in clause (1) of article 388, for the words 'The President of the Union', in the two places where they occur, the words 'The President of India' be substituted."

"504, That in clause (2) article 388, for the words 'the provisional Legislature' the words 'the Legislature' be substituted."

"571. That in article 390, for the words 'out of such fund' the words 'out of either of such Funds' be substituted."

**Shri H. V. Kamath :** There is amendment No. 611.

**Shri T. T. Krishnamachari :** We are considering amendments that appear in List IV and not those appearing in List II.

**Shri H. V. Kamath :** My amendment relates to List VI.

**Mr. President :** I am now taking List IV. I am taking the amendments to article 388.

**Shri T. T. Krishnamachari :** I am not moving 392 as it appears in List II and amendment No. 505 is not being moved and instead of that 572 is being moved.

"572. That for clause (3) of article 392, the following clause be substituted :

'(3) The powers conferred on the President by this article, by article 324, by clause (3) of article 367 and by article 391 shall, before the commencement of this Constitution, be exercisable by the Governor General of the Dominion of India.' "

**Mr. President :** So I take it that this 505 is replaced by 572.

**Shri T. T. Krishnamachari :** Yes, Sir.

**Mr. President :** There is an amendment to 572 standing in the name of Mr. Kamath, Amendment No. 573.

**Shri Mahavir Tyagi :** Sir, I could not follow Mr. Krishnamachari's reply.

**Mr. President :** He only suggested that instead of 505 the Drafting Committee would move 572 and notice is given of that. He is only substituting it.

**Shri H. V. Kamath :** My amendment No. 573 is only a verbal amendment.

**Mr. President :** These are all the amendments in List IV. I shall take up the remaining amendments in List IV and there are certain other amendments which have come in later and we shall take them up tomorrow. I have received requests from two honourable Members--one from Shri A. V. Thakkar and another

from Prof. Shibban Lal Saksena. Shri Thakkar wants an amendment to clause (6) of article 238 regarding the appointment of a Minister for Tribal welfare in Madhya Bharat, Rajasthan, Travancore-Cochin and Vindhya Pradesh etc. This is a new amendment altogether which would not ordinarily be taken but if the Drafting Committee has no objection, I can permit that, but it depends upon the Drafting Committee. I understand that the Drafting Committee would like to consult the states Ministry before they can agree to anything like this. So we can do it tomorrow if by that time you have made up your mind.

**The Honourable Shri K. Santhanam :** In that case it must be brought in by the Drafting Committee and not by an individual Member.

**Mr. President :** If they agree, they might.

**Pandit Hirday Nath Kunzru :** What has the agreement of the Drafting Committee got to do with the matter. It may or may not accept my honourable Friend's amendment, but it is for you, Sir, to decide whether it should be moved.

**Mr. Presiden t:** We have so far taken only amendments which are amendments to amendments of the Drafting Committee. This is not an amendment to any amendment moved by the Drafting Committee and so ordinarily under that rule I would have to rule it out, but I am making a point in favour of the amendment of Mr. Thakkar especially if the Drafting Committee after consulting the States Ministry finds that it can accept it at that stage we can take it.

**Prof. Shibban Lal Saksena :** It is at your discretion.

**Pandit Hirday Nath Kunzru :** Do you permit Mr. Thakkar to move his amendment whatever the view of the Drafting Committee may be ? It may reject that amendment, but let Mr. Thakkar place that amendment before the House.

**Mr. President :** I have not allowed any amendment which does not arise out of the amendments of the Drafting Committee so far.

**Shri T. T. Krishnamachari :** The amendment may be accepted, but we will have to ask our advisers whether it would fit in and probably if we get their reply in time we shall finally decide that tomorrow.

**Mr. President :** Prof. Shibban Lal Saksena wants to move an amendment which came in rather late. So, that is out of time. But, otherwise, it is a valid amendment. It says that it refers to one of the clauses relating to language which clause was adopted as a matter of compromise and that some change has been introduced by the Drafting Committee at this state and that he would like to move that amendment.

**The Honourable Shri K. Santhanam :** The provisions in the rules give you no option, Sir. They are absolutely mandatory. It is said that no other amendment shall be moved.

**Mr. President :** This is an amendment to an amendment; it was given late.

**The Honourable Shri K. Santhanam :** I am only referring to the other amendment.

**Mr. President :** I said, then I should have to rule it out unless the Drafting Committee is prepared to accept it.

**Shri Mahavir Tyagi :** The amendment is important from the point of view that it pertains to an

agreement and therefore the Drafting Committee might reconsider it. I would appeal to you also, Sir. After all, the Drafting Committee's amendments have come as a surprise on us all; especially on matters of compromise and agreements, no amendment should have been allowed. This is an important matter and I would therefore request you to kindly consider.....

**Mr. President :** Which is your amendment, Mr. Shibban Lal Saksena? What is the number of the amendment?

**Prof. Shibban Lal Saksena :** It is not printed here. I gave it yesterday; but if was ruled out because it was late. It is not in the List. My amendment is "that for clause (3) of article 348, the original clause (3) be substituted."

**Mr. President :** He wants to substitute the original article as it was passed in the Second Reading stage.

**Prof. Shibban Lal Saksena :** Not the whole article; clause (3) only, Sir.

**Shri Mahavir Tyagi :** Many of the Members agree with Prof. Shibban Lal Saksena.

**Mr. President :** The amendment is that clause (3) of article 348, be restored in the form in which it was passed in the Second Reading stage. We shall consider this tomorrow.

**The Honourable Shri Purushottam das Tandon** (United Provinces: General): May I have a word, Sir, before you rise?

**Mr. President :** Yes.

**The Honourable Shri Purushottam Das Tandon :** So far as this amendment of Prof. Shibban Lal Saksena is concerned, I desire to point out that even in case it is not permitted technically as an amendment--because it was not delivered to the office in time, even then I submit that the whole proposition, a new proposition, brought in by the Drafting Committee can be opposed. I was thinking of opposing it. I did not move any amendment; but I reserved to myself the right of opposing anything moved in this House. That right cannot be taken away from me and I think that I could oppose the Drafting Committee's amendment.

**Mr. President :** That of course is clear. Every amendment of the Drafting Committee or of any other Member may be opposed and voted down.

**The Honourable Shri Purushottam Das Tandon :** Then, it comes to the same thing. If my opposition succeeds, the result would be that the original proposition would be restored. If you accept Prof. Saksena's amendment for procedural purposes, we can discuss that amendment because that also desire the restoration of the original clause.

**Mr. President :** What the effect of that Opposition will be, will also be a matter for consideration, if it succeeds.

The House will now stand adjourned till ten o' clock tomorrow.

**Shri R. K. Sidhva :** Will you apply the guillotine, Sir, tomorrow?

**Mr. President :** Yes, at 11.30 I shall apply the guillotine and allow Dr. Ambedkar to reply and then there

will be voting.

The Assembly then adjourned till Ten of the Clock on Wednesday, the 16th of November, 1949.

---

***[Translation of Hindustani speech.]***

# CONSTITUENT ASSEMBLY OF INDIA DEBATES (PROCEEDINGS) - VOLUME XI

***Wednesday, the* 16*th November* 1949**

**----------**

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

---

## DRAFT CONSTITUTION--*(Contd.)*

**Mr. President :** We shall now take up.....

**Mr. Naziruddin Ahmad** (West Bengal : Muslim): I have a point of order. After the revised Draft Constitution was available to us, a large number of corrections in the shape of list of corrigenda was supplied--that is List No. 1, and as I understand the Constitution as it was accepted by the House for preliminary purposes, the revised draft was accepted subjected to corrections in List No. I. After that, on the same day, i.e., the 14th of this month another list was supplied i.e., List II. Then yesterday another big list was supplied--i.e., List III. The total number of changes sought to be introduced by these lists well exceed 200. I would like to know whether the decision of the House that the revised Draft Constitution must be taken into consideration subject to these correction lists, does also apply to corrigenda Nos. II and III. They came to us after our decision to accept the Draft subject to corrigenda list No. I. In other words, whether corrigenda II and III have any retrospective effect. If they are to be given retrospective effect, this will open up a great deal of difficulties. Some amendments are not merely formal but substantial. That would affect the rights of Members to give notices of amendments with reference to these. They have been delivered day before yesterday and yesterday after the decision was taken. What is more, some of my amendments which I did not move have been stolen and incorporated in these final corrigenda lists.

**Mr. President :** Do you object even to those corrections which have been stolen from your amendments?

**Mr. Naziruddin Ahmad :** No. I am extremely grateful to the Drafting Committee for doing me this honour.

**Mr. President :** As I understand, the corrections are only corrections, that is to say, they represent what was there, and which was not in the printed thing because of printer's mistake. I understand the correction is only to that and nothing more. Therefore all the corrections must be taken as part of the Constitution, as reported by the Drafting Committee.

## Amendment of Article-*(Contd.)*

**Mr. President :** I will now go through the other amendments quickly, of which we have got notice here. I shall take up now List IV.

There is amendment No. 548 to article 32, and that is by the Drafting Committee.

**An Honourable Member :** List No. IV?

**Mr. President :** Yes. We finished List II yesterday, and I am now going to take up amendments in List IV.

**Dr. P. S. Deshmukh** (C.P. & Berar : General): What about List III?

**Mr. President :** List III I am not taking up, because it came out of time.

**Dr. P. S. Deshmukh :** But List III is only a small list, Sir.

**Mr. President :** But List III came after time.

**Dr. P. S. Deshmukh :** Sir, there was only a slight delay, and in view of the fact that we are considering most of the amendments, that also may please be considered.

**Mr. President :** As I said, I would allow any particular amendment if any Member insisted upon it, on its merits, but the List, as a list, I would not take.

**Dr. P. S. Deshmukh :** Sir, I mean only amendment No. 530 of List III.

**Mr. President :** That we discussed yesterday.

**Dr. P. S. Deshmukh :** Shall we take it as having been moved?

**Mr. President :** Yes, I take now, List IV and amendment No. 548 to article 32. That is by the Drafting Committee. I do not see there is any amendment to that amendment. So I take it as moved:

"That in clause (4) of article 32, for the word 'rights' the word 'right' be substituted."

Then article 48, and amendment No. 549. Now, this is an amendment which covers the amendment which has been moved by Professor Shibban Lal Saksena.

**Prof. Shibban Lal Saksena** (United Provinces: General): I withdraw that amendment.

**Mr. President :** You withdraw that amendment, and we accept this in place of that No. 549 reads:

"That in article 48, for the words 'for improving the breeds of milch and draught cattle including cows and calves and for prohibiting their slaughter' the words 'for preserving and improving the breeds and prohibition the slaughter of cows and calves and other milch and draught cattle' be substituted"

**Shri T. T. Krishnamachari** (Madras: General): May I suggest that article 106 and amendment to that in List VII may be taken up?

**Mr. President :** In place of this?

**Shri T. T. Krishnamachari :** No, it is an independent one.

**Mr. President :** I will be coming to that later.

Article 148, amendment No. 551. There is an amendment to that, No. 618. I think that is the latest amendment of the Drafting Committee?

**Shri T. T. Krishnamachari :** Yes, Sir.

**Mr. President :** Which shall I take? Shall I take No. 618?

**Shri T. T. Krishnamachari :** No. 618 is the final amendment.

**Mr. President :** There are three amendments to article 148 i.e. 551, 552 and 553.

**Shri T. T. krishnamachari :** But we have dropped all that and amendment No. 618 is the final one.

**Mr. President :** There is only one amendment?

**Shri T. T. Krishnamachari :** Yes.

**Mr. President :** And we leave the other clauses as they are?

**Shri T. T. Krishnamachari :** Yes, Sir.

**Mr. President :** Amendment No. 618 of List VI:

"That for clause (5) of article 148, the following clause be substituted:

'(5) Subject to the provisions of this Constitution and of any law made by Parliament, the conditions of service of persons serving in the Indian Audit and Accounts Department and the administrative powers of the Comptroller and Auditor-General shall be such as may be prescribed by rules made by the President after consultation with the comptroller and Auditor General.' "

**Mr. President :** There is amendment No. 593 to this, of Shri Raj Bahadur.

**Shri T. T. Krishnamachari :** No. 593 will drop out Sir, because of this amendment. That will no longer be applicable because of this amendment.

**Shri Raj Bahadur** (United State of Matsya): I do not want to move it.

**Mr. President :** Then I come to article 222, and amendment No. 555 of the Drafting Committee. There is no amendment to that, by any Member.

"That in clause (1) of article 222, after the words 'The President may' the words 'after consultation with the Chief Justice of India,' be inserted."

**Mr. President :** Then article 288--amendment No. 556. That is also by the Drafting

Committee. It was moved yesterday.

Article 319, amendment 557.

**Shri T. T. Krishnamachari :** That was also moved yesterday.

**Mr. President :** No. 558 was moved yesterday, also 559. Then we come to article 347 and amendment No. 560.

**Shri R. K. Sidhva** (C.P. & Berar : General): What about Nos. 557 and 558 ?

**Mr. President :** They were moved yesterday. We now come to article 347. Amendment 560.

"That for article 347, the following article be substituted:

> '347. *Special provision relating to language spoken by a section of the population of a State.*--On a demand being made in that behalf, the President may, if he is satisfied that a substantial proportion of the population of a State desire the use of any language spoken by them to be recognised by that State, direct that such language shall also be officially recognised throughout that State or any part thereof for such purpose as he may specify.' "

**Dr. P. S. Deshmukh :** Sir, before you proceed further, may I request you to allow me to move amendment No. 531 which is consequential to No. 530 ? I will only formally move it from List III. It is a consequential amendment, and if this is accepted, that will be necessary.

**Mr. President :** I will take that as moved. When it comes to voting, remind me. I take it as moved.

**Dr. P. S. Deshmukh :** It is about an additional article 340A.

"That after article 340, the following new article be inserted:--

> '340A. (1) The President may after consultation with the Governor or Rajpramukh of a State, by public notification, specify the castes, communities or parts of, or groups within castes or communities which shall, for the purposes of this Constitution, be deemed to be 'Backward Classes' in relation to that State.
>
> (2) The Parliament may, by law, include in or exclude from the list of Backward Classes, specified in a notification, issued under clause (1) any caste or community or part of or group within any caste or community but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.' "

**The Honourable Shri K. Santhanam** (Madras: General): Sir, it is not an amendment, but only a reversion to the original article. Amendment No. 531 is not really an amendment, because it only seeks to retain the original article.

**Mr. President :** That is not exactly the case, there are some changes; though there is no change in the substance there is a slight change in the wording.

Well then, we come to amendment No. 605, and that is in the name of Mr. Naziruddin

Ahmad.

**Mr. Naziruddin Ahmad :** I do not wish to move it, Sir.

**Mr. President :** Article 379.

**Shri T. T. Krishnamachari :** Sir, we are accepting amendment No. 418 and so No. 564 need not be moved.

**Dr. P. S. Deshmukh :** Sir, as a last request I would submit that there is only one amendment I am rather keen on moving and that is No. 535 to article 379.

**Mr. President :** No, I do not think I can allow that amendment to be moved. It is altogether a new article and it involves a complete reversal of what is contained in those articles. I cannot allow that, I am sorry.

Then we come to article 388, and there is amendment No. 566. Mr. Krishnamachari ?

**Shri T. T. Krishnamachari** Yes, all those amendments, Nos. 566 to 570 are moved.

"That in clause (1) of article 388, for the words "the President of the Union", in the two places where they occur, the words "the President of India" be substituted."

"That in the first proviso to clause (1) of article 388, for the words "mentioned in this article" the words "mentioned in this clause" be substituted.'

'That in the first proviso to clause (1) of article 388, for the words "representing a State" the words "representing a Province or. as the case may be, a State" be substituted.'

'That in the second proviso to clause (1) of article 388, for the words "representing a State" the words "representing a Province or a State" be substituted.'

'That in the second proviso to clause (1) of article 388, for the words "Legislative Assembly of that State" the words "Legislative Assembly of that Province or of the corresponding State or of that State, as the case may be," be substituted.'

**Mr. President :** Article 388, amendments Nos. 611 and 621.

(Amendment No. 611 was not moved.)

**Shri H. V. Kamath** (C.P. and Berar: General): Sir, I would like to move amendments Nos. 621, 622 and 623.

**Mr. President :** Yes.

**Shri H. V. Kamath :** Mr. President, I move:

'That with reference to amendment No. 568 of List IV, in the second proviso to clause (1) of article 388, the words and letter "Part A of" be deleted.'

'That with reference to amendment No. 569 of List IV, in the second proviso to clause (1) of article 388, the words and

letter "Part A of" be deleted.'

'That with reference to amendment No. 570 of List IV, in the second proviso to clause (1) of article 388, for the words "The Legislative Assembly of that State" the words "the Legislative Assembly of that Province or of the Corresponding State or of that State, wherever such Assembly has been constituted" be substituted.'

These amendments, Sir, arise out of the proviso to clause (1) of article 388. That proviso refers to the filling of seats caused by vacancies on account of persons belonging to the Scheduled Caste, Muslim or Sikh community leaving the Assembly.

The difficulty that presents itself to me is this. Under the Cabinet Mission scheme the mode of election to the Constituent Assembly was through and electoral college, consisting of the Members of the provincial legislatures and there were separate electorates also consisting of the General, Sikh and Muslim communities. I could have understood if the reference in this proviso to clause (1) of article 388 was to the General, Sikh and Muslim communities, as adumbrated in the Cabinet Mission scheme under which this Assembly was elected. But, Sir, this proviso mentions the Scheduled Caste Muslims, and Sikhs, but there is no reference to the general community. The Scheduled Castes have been brought in.

Therefore, I feel that we have, to some extent, set aside in this regard the scheme of the Cabinet Mission of 1946 under which this Assembly was constituted. I see no reason why the States specified in Part A of the First Schedule alone should be mentioned here. If you turn to the First Schedule, you find there are three parts: Part A, Part B and Part C. The three units of Part C, namely Ajmer-Merwara, Coorg and Delhi were envisaged in the Cabinet Mission Scheme of 1946. So, whatever was applicable to the States in Part A of the First Schedule must be made applicable to these three States at least of Part C. But in view of this change of the language from General to Scheduled Castes, I think that this article 388 must be made applicable to all the States of the First Schedule, namely States in Part A, States in Part B and States in Part C. It is with this end in view that I have tabled the first two amendments (Nos. 621 and 622), that is, that whatever seat is rendered vacant on account of a member of the Scheduled Castes, or Sikh or Muslim community leaving the Assembly, must be filled, as far as practicable, by a member belonging to that community. This should not be confined only to the States of Part A of the First Schedule, because the States mentioned in Part B, many of them have got legislatures--at least a good number of them. Mysore has got a legislature functioning: Travancore- Cochin have a legislature functioning: Madhya Bharat also has a legislature, I believe. The provision applicable to the States in Part A should, therefore, be made applicable to these States as well.

My last amendment No. 623 also has a bearing on the subject matter I have just referred to. The amendment suggested by the Drafting Committee says that instead of the words "the Legislative Assembly of that State", the words "Legislative Assembly of that province or the corresponding State or of that State as the case may be" be substituted. This is all right, because the Drafting Committee visualises the application of this article only to the States in Part A of the First Schedule. But my amendment goes further. It makes it more comprehensive; it makes it applicable to all the States in the First Schedule, that is States in Part A, Part B and Part C. We are all aware that in some of the States there is no Legislature functioning. My amendment suggests that wherever there is an Assembly or Legislature functioning in any of the States mentioned in Part A, B or C of the First Schedule, this article must be brought into operation, and not merely in the case of States mentioned in Part A of the First Schedule.

Sir, I move amendments 621, 622 and 623 and commend them to the House for its

earnest consideration.

**Mr. President :** There is an amendment of the Drafting Committee (No. 574) to article 394.

**Shri T. T. Krishnamachari :** Sir, I move:

"That in article 394 after the figure '60' the figure '324' be inserted, and after the figure '388' the figure '391' be inserted."

**Shri Jaspat Roy Kapoor** (United Provinces: General): May I have your permission to say a word about amendment No. 572? I would like to invite the attention of the Drafting Committee and ask them whether they have not considered it necessary to include 366 also in sub-clause (3) of article 392, because article 366 is also to be operative immediately after we pass this Constitution. Article 366 relates to definitions but under the same article the President is also expected to perform certain functions and therefore it must be made permissible for the Governor-General to perform those functions from the date of the commencement of this Constitution on the 26th January.

**Mr. President :** But article 366 deals with definitions.

**Shri Jaspat Roy Kapoor :** Under the proposed clause to article 392 it is suggested that the powers conferred on the President by this article, by article 324, by clause (3) of article 367 and by article 391, shall before the commencement of this Constitution be exercisable by the Governor-General of the Dominion of India. It does not refer to article 366. What I submit is that it is perhaps necessary that the powers exercisable by the President under article 366 may also be permitted to be exercised by the Governor-General of India under clause (3) of article 392.

**Mr. President :** There is no power to be exercised under 366--it deals only with definitions.

**Shri Jaspat Roy Kapoor :** There are powers there, Sir. May I refer you to clauses (12), (21), (22) and (30) thereof ? These are the various clauses under which the President is expected to perform certain functions.

**Shri T. T. Krishnamachari :** Mr. President, Sir, under article 394, article 366 will come into operation the moment this Constitution is passed. But it is not necessary to vest the Governor-General with the powers of the President in regard to this particular article because, as you have yourself mentioned, there is no function for the Governor- General to exercise contemplated by this article in the mean time. The particular reference to clause (12) of this article no longer applies because clause (12) has been taken away from the interpretation clause and put separately. So far as clauses (21), (22) and (30) are concerned they are powers which will not be exercisable by the Governor-General and there will be no occasion for him to exercise these powers in the interim period until the new Constitution comes into being when the President will take over. I do not think there is any point in the suggestion made by my honourable Friend though I am very grateful to him for pointing out this matter.

**The Honourable Shri K. Santhanam :** Sir, in amendment No. 572, article 324 is included but it is not brought in to operation by article 394. So there is a mistake here.

**Mr. President :** There is amendment No. 574 which covers the point you have raised.

Then amendments to the First Schedule.

**Shri T. T. Krishnamachari :** Sir, I move:

"That in Part A of the First Schedule under the sub-heading 'Territories of States', the paragraph commencing with the words "The territory of the State of Bombay.....' and ending with the words and figure 'Extra-Provincial Jurisdiction Act, 1947' be omitted."

**Mr. President :** There is amendment No. 613 of Mr. Sidhva to one of these amendments.

**Shri R. K. Sidhva :** My amendment is:

"That amendment No. 575 be deleted."

As we see from the First Schedule there are territories of States mentioned. The first clause refers to State of Assam that is retained. The State of Bengal is retained. But the third clause containing reference to the State of Bombay is going to be omitted. Provision is made regarding other States also. I fail to understand why Bombay has been particularly mentioned in this amendment to be deleted. Nothing is being substituted in its place and I am rather perplexed as to what is the idea in not mentioning the territory of the State of Bombay. I therefore thought that it should not be deleted unless there is specific reason and some provision for a substitution is made. I have already moved my amendment but I would like to understand from the Drafting Committee as to what is their object in seeking to delete this clause. I cannot give my comments on it before I know what is the object in its deletion. I can only state that it should be retained.

**Shri K. M. Munshi** (Bombay : General): Mr. President, Sir, Mr. Sidhva referred to amendment No. 575. The reason for the deletion is this, that it is no longer necessary because appropriate orders have been passed by the Government of India whereby parts of Sirohi will be covered by the subsequent portion of the Schedule. It will be included in the four lines on top of page 182.

"The territory of each of the other States *in this Part* shall comprise the territories which immediately before the commencement of this Constitution were comprised in the corresponding and the territories which, by virtue of an order made under section 290A of the Government of India Act, 1935, were immediately before such commencement being administered as if they formed part of that Province".

A part of Sirohi will fall under this part of the Schedule and another part of it will fall under the last paragraph on page 183. So it is no longer necessary to have the last lines of this paragraph.

**Shri Jainarain Vyas** (United State of Rajasthan): On a point of information, Sir. Has a Covenant been signed by the Ruler of Sirohi or by anybody to divide Sirohi into two parts and to merge one part with Bombay and the other with Rajasthan ?

**Shri K. M. Munshi :** I do not think that question is appropriate here. I am only explaining the constitutional position and why we have omitted this. Any question as to what has been done should be addressed to the proper quarters.

**Shri Jainarain Vyas :** Constitutionally it is not in order to divide a State into two parts,

unless the people desire to have it. I object to it.

**Shri K. M. Munshi :** As I said it is a matter of the policy of the Government of India and the honourable Member should address himself to the Honourable the Deputy Prime Minister or the proper authority. It is not for me to explain the matter here.

**Shri R. K. Sidhva :** My Friend Mr. Munshi quoted from pages 181 and 182 of the Constitution but he was not very explicit in what he said and I could not understand him.

**Mr. President :** The State now falls under one or other of the two categories mentioned in the para. Part of the State falls under the first category and the other part falls under the second category.

**Shri R. K. Sidhva :** The new territories of Assam and Bengal are mentioned but Punjab is also a new territory, which has been created by Partition and it should have been there. Otherwise only the last clause should remain.

**Mr. President :** The question which Mr. Sidhva has raised is why Bengal is mentioned and not Punjab, as both have been created on account of partition. I understand that Punjab as it stands new comprises some portions of the States and therefore it will come under this last para; whereas in the case of Bengal no State has been incorporated with Bengal and therefore Bengal is mentioned specially.

**Shri Jainarain Vyas :** Sir, I understand that some orders have been passed regarding Sirohi. Whatever the orders are, I do not want to bother myself with them. But in Schedule I, I want to point out that there are three parts. Part I includes those areas which are called provinces, part II incorporates those areas which are centrally governed and part III incorporates those areas which are now Unions or States. I do not find the name of Sirohi in all these three parts. Now the mere statement that such and such a thing has happened behind a curtain cannot solve the question. Sirohi is no-man's land today. it is not in India according to the Constitution which has been placed before us. It is neither in part I, nor II nor III. Had you retained the words ending with "Extra-Provincial Jurisdiction Act, 1947," Sirohi would have been incorporated in Bombay. But by taking out those words you have taken out Sirohi from Bombay, but you have not put it in either part I, or II or III. So a lacuna has been left in the constitution, and I hope Mr. Munshi or some member of the Drafting Committee would please explain the point, so that I may proceed further.

**Mr. President :** As far as I understand, Sirohi is not mentioned anywhere and there are so many other States also which are not mentioned anywhere, because they have become integrated with some province or other. Those States which have become integrated with provinces now form part of those provinces. Those which have not become integrated are mentioned separately in Part B. Part of Sirohi has become incorporated in Bombay and part in another province and it is not necessary now to mention it anywhere. Therefore, the last portion of the third para does not now apply. It is not now being governed by the Extra-Provincial Jurisdiction Act. That is as I understand the position.

**Shri Jainarain Vyas :** I understand what you say, Sir, but I am not very much satisfied with the position.

**Mr. President :** That is a different matter.

**Shri Jainarain Vyas :** Now Sir, Sirohi has been divided. Rajasthan as it stands does not incorporate Sirohi. I know it. To divide Sirohi without the consent of the people is doing injustice to the people of Sirohi and Rajasthan and perhaps to justice itself. I raise a mild or strong protest against the action of the government behind the curtain in interfering with the Constitution at a time when the Constitution of India is in the making and when the ruler of Sirohi is not in a position to make his say and when the people of Sirohi have already protested against their being incorporated in Bombay. If Shri Gokulbhai who represents Bombay and who once represented Sirohi is satisfied with the position then I will have no objection.

**Kanwar Jaswant Singh** (United State of Rajasthan): Sir, in regard to Sirohi a very serious situation has arisen, so far as Rajasthan is concerned. In regard to other Indian States the position is that their Rulers have agreed in a Covenant to incorporate their States either in Provinces or State Unions. So far as Sirohi is concerned the Ruler is an infant and therefore no Covenant has been entered into with that State and as such it cannot be divided or incorporated either with a States Union or a Province. Therefore in this way to divide the State of Sirohi without a proper procedure or any Covenant is most irregular and great injustice is being done to Rajasthan.

**Shri Gokulbhai Daulatram Bhatt** (Bombay States): *[Mr. President, The question of Sirohi has no doubt, been rather difficult of solution. What I know about this question is this that about a year ago the President of the Regency Council, the Rajmata of Sirohi handed over the administration of the State to the Central Government. She had also requested the Central Government in writing to carry on in its discretion the administration of the State. Since then the administration of the State is being carried as by the Government of Bombay on behalf of the Central Government. Now the question has come up as to the future of Sirohi. It was decided here that some portion of Sirohi should go to Bombay and some to Rajasthan. I was not present here when this decision was taken. It has not yet been finally decided as to what part should go to Bombay and what part to Rajasthan. Nothing has been decided about Mount Abu also. So far as I know no final decision has been taken with regard to these matters. But I know that proper decision will be taken in regard to this matter by Sardar Patel and others in consultation.

**Mr. President :** What Mr. Gokulbhai is saying has already been said by Mr. Munshi that orders have been already issued and until such notifications it would remain as it is. That (previous) orders will cease to have any effect after the other notification is available to cancel it.

**Shri Gokulbhai Daulatram Bhatt :** One thing, however, has now become clear with regard to this matter. During the last sitting there was a doubt in our minds that the whole of the Sirohi State would go to Bombay. Now it has become clear that only a portion and not the whole of Sirohi would go to Bombay and that a major portion of it is going to be merged with Rajasthan. As I am not aware of all the facts, I cannot say anything more. We the people of Sirohi have thought it in this way that whatever decision is taken by Sardar Patel will be taken with due consideration to the view point of the people of Sirohi and Rajasthan, and that shall be acceptable to us.]

**Shri Raj Bahadur** (United State of Matsya): May I speak a few words, Sir ?

**Mr. President :** But honourable Members must remember that we have to close the

discussion at half past eleven.

**Shri Raj Bahadur :** Sir, I take this opportunity simply to express myself on this point which has been for a long time agitating the minds of the people of Rajasthan. Ever since Sirohi was taken under the administration of' Bombay as a Centrally administered area, the Provincial Congress Committee and the other Congress committees in Rajputana have been passing resolutions that it should not be taken away from Rajasthan and should be placed under the administration of Rajasthan Government. Yesterday it was in the air that Sirohi has been vivisected, part of it going to Rajasthan and part of it to Bombay. As a matter of fact the people's desire in this case has been that the hill station of Mount Abu is not in any case taken away from them. Mount Abu is the most beautiful spot and the only hill station in that area, which fascinates the attention and attraction of all the people living there. This has been the only health resort and sanatorium for the people of Rajasthan, who want to go to one. Mount Abu therefore happens to be the apple of discord in this case. It is, therefore, a painful surprise for those who live in Rajasthan that it has been taken away from them. It is, however, not yet clear whether Mount Abu remains with Rajasthan or forms part of Bombay. It would have been much better that if any part of Sirohi were to be partitioned off then this House should have been informed about it in good time and the people told what part goes to Rajasthan and what part to Bombay. At present everything is almost in the dark. We are all in the dark about it and it is really surprising that without even taking the people into confidence and without even consulting the local congress committee this division has been gone through. It is claimed that this Constitution would bear the stamp of the free will and consent of the people of India and of its component parts. I do not think it will be in consonance with this principle that we have accepted if Sirohi is divided into parts without even ascertaining the wishes of the people. We have the utmost respect and admiration for our leader Sardar Vallabhbhai Patel. I implore him that in this case he may kindly note our feelings. If any orders have been passed already I wish that such orders are reconsidered and revised before this constitution is finalised. The State of Sirohi including Mount Abu should go to the province to which it rightly belongs, and to the people who have made of Mount Abu what it is today.

**Mr. President :** I do not think any further discussion is necessary. I will ask Mr. Munshi to let the House know the notification under which Sirohi has been divided so that the misgivings of the Members may be removed.

**Shri K. M. Munshi :** There is no such notification.

**Mr. President :** If there is no Such notification, how can you take notice of it in the Constitution? I understood from you that there was a notification.

**The Honourable Sardar Vallabhbhai J. Patel** (Bombay : General): Mr. Munshi will not be able to explain it. I shall explain it.

Some people of Rajasthan who have come here on behalf of the Congress consider this Mount Abu to be a beautiful spot and therefore say that Rajasthan has a claim on it. There are many beautiful spots in India and that is no justification for claiming Mount Abu. The Rajasthan Congress Committee was told from the very beginning that Sirohi is a part of Gujarat and will go with Bombay. The Congress committee took cudgels with the Ministry and started this cry. Before that, when the annual session of the Congress was held in Rajasthan, Shri Gokulbhai Bhatt, who was the Chief Minister of Sirohi, was also the President of the Rajasthan Congress Committee. Shri Gokulbhai also comes from Gujarat. I asked them whether they wanted Gokulbhai because he was President of the Rajasthan Congress

Committee or whether they wanted Sirohi. Really what they wanted was that Gokulbhai, who was elected to the Reception Committee as its Chairman, should continue as the President of the Rajasthan Congress Committee as well. It was difficult for them to keep him there unless Sirohi was in it while our decision was that Sirohi should go to Bombay. Therefore, to accommodate them, we said we would take Sirohi to the Centre for the present but it was to be administered by the Bombay Government. Thus it eventually went to the Bombay Government. There are people in one or two portions of Rajasthan still who want to go to Bombay such is Dungarpur, etc. They are Gujarati people. When this decision was taken after the Congress session was over, the Congress came into Conflict with the Ministry there and as a consequence with the States Ministry also. The Rajasthan representatives who have come here on behalf of the Congress have started this cry that Sirohi should go into Rajasthan. They have removed Shri Gokulbhai Bhatt from the Presidentship of the Congress and have also passed I vote of no-confidence against the Ministry.

**Shri Jainarain Vyas :** More resolutions to place Sirohi in Rajasthan were passed during Shri Gokulbhai's Presidentship than afterwards.

**The Honourable Sardar Vallabhbhai J. Patel :** I do not want to be interrupted. I want to explain what the position is.

Therefore eventually, in order to accommodate them we sent a special officer to make enquiries. His report was to the effect that a certain portion of Sirohi Should go to Bombay inasmuch as a large majority of the people there asked for it. Sirohi people are divided among themselves except the portion that has to be separated.

Now, if the Rajasthan people want that a portion of Sirohi including the City Should be given to them we are willing to accommodate them. But if they claim the whole of Sirohi, it is impossible to accommodate them.

Then the question is whether they want a division or not. If they do not want a division, then the whole of Sirohi will go to the Bombay province. If they want a division, then a portion of it would go to the Bombay province. A map has been prepared and orders are to be passed before the Constitution comes into force. The map can be shown to them, they can come and see it in the office even now. The gentleman who spoke just now is not from Sirohi. He comes from Bharatpur. He says Abu is a delightful place. Bharatpur is all equally delightful place. Therefore it cannot be claimed by somebody else. It may be that they may not like it, but the fact is that orders have already been passed. They have only been kept over because of the decision of these people. We want still to accommodate them if they can agree to reason. If they do not, then the whole of Sirohi will go, but whatever orders are to be passed will be passed before the Constitution comes into force. But Sirohi by itself as a separate entity will not remain. Either the whole of it will go to Bombay or one portion will go to Rajasthan and one portion will go to Bombay. That is the position. If Sirohi is to be split up, it has to be split up with their consent. Then that will go into two parts. If they do not want separation, then the whole of it will go to Bombay.

**Mr. President :** I am not concerned at the present moment, Sardar, with the merits of the question whether Sirohi....

**The Honourable Sardar Vallabhbhai J. Patel :** But the merits were discussed.

**Mr. President :** But only with orders.

**The Honourable Sardar Vallabhbhai J. Patel :** But the division orders are there already.

**Mr. President :** I am not concerned with the merits but I am concerned only with orders. Orders have been passed, so that the amendment which is now proposed represents a state of fact which has been accepted by the States Ministry.

**The Honourable Sardar Vallabhbhai J. Patel :** Yes.

**Mr. President :** If that is so, then the amendment can come in, but if it is to come into force in the future, the amendment cannot come in.

**The Honourable Sardar Vallabhbhai J. Patel :** The orders are there but the orders could be modified before the Constitution comes into force if they want.

**Mr. President :** In that case, we cannot take it in the form of an amendment. If we take the order as the final order, then it can come in in the form it has come. Otherwise, if the order is not there, we cannot take it. So, I take it from you that the orders have already been passed.....

**The Honourable Sardar Vallabhbhai J. Patel :** Yes.

**Mr. President :** And Sirohi has been divided into two parts, one part going to Bombay and one part to Rajasthan.

**The Honourable Sardar Vallabhbhai J. Patel :** It is only to accommodate these people it is not published. The order is there.

**Shri Mahavir Tyagi** (United Provinces: General). The arguments advanced by our honourable Friend Sardar Vallabhabhai Patel are in my humble opinion not very weighty. That Sirohi.....

**Mr. President :** That is a different matter. I am afraid we are not concerned here with the merits of the question.

**Shri Mahavir Tyagi :** May I know what language the Sirohi people speak?

**Mr. President :** That I do not know but there are so many States which have been merged in some provinces or the other and in those cases we have accepted the fact of the merger and we have incorporated it in the Constitution. If Sirohi stands on the same footing as the other States, *i.e.*, if Sirohi has been merged with some State or other, then we can accept this amendment. As I understood from Sardar Patel, orders have been passed Sirohi into two parts, one part going to Bombay and the other going to Rajasthan. Then we accept the amendment. Otherwise not. We are not concerned in this House with the merits of the case, whether it has been rightly done or wrongly done.

**Kanwar Jaswant Singh :** The Deputy Prime Minister only said that orders are on the file. So long as orders are not issued, they cannot take effect. Therefore, in my opinion, this

question cannot be taken up in the Constituent Assembly at this stage. The question of Sirohi has to be deferred to a future date, by when wish of the people of Rajasthan should be obtained.

**Mr. President :** They have been passed, as I understood from Sardar Patel.

Then we pass on to the other amendments.

**Shri T. T. Krishnamachari :** Sir, I move:

"That in Part B of the First Schedule, for the paragraph under the sub-heading 'Territories of States', the following paragraph be substituted:--

'The territory of each of the States in this Part shall comprise the territory which immediately before the commencement of this Constitution was comprised in the corresponding Indian State, and--

(a) in the case of each of the States of Rajasthan and Saurashtra, shall also comprise the territories which immediately before such commencement were being administered by the Government of the corresponding State, whether under the provisions of the Extra-Provincial Jurisdiction Act, 1947, or otherwise; and

(b) in the case of the State of Madhya Bharat, shall also comprise the territory which immediately before such commencement was comprised in the Chief Commissioner's Province of Panth Piploda.'

"That in Part C of the First Schedule, for the first two paragraphs under the sub-heading 'Territories of States' the following paragraph be substituted:--

'The territory of each of the States of Ajmer, Coorg and Delhi shall comprise the territory which immediately before the commencement of this Constitution was comprised in the Chief Commissioner's Province of Ajmer-Merwara, Coorg and Delhi, respectively.' "

"That in List of the Seventh Schedule, for entry 8, of the following entry be substituted:--

"8. Central Bureau of Intelligence and Investigation."

**Mr. President :** Amendment No. 542. I do not think I can take that. It is too late.

**Shri T. T. Krishnamachari :** Sir, I move:

*'Sixth Schedule*

"That clause (g) of sub-paragraph (1) of paragraph 3 be omitted, and the remaining clauses '(b), (i), (j) and (k)' be relettered as (g), (h), (i) and (j)' respectively."

"That to paragraph 4, the following sub-paragraph be added:--

'(4) The Regional Council or the District Council, as the case may be, may with the previous approval of the Governor make rules regulating--

(a) the constitution of village councils and courts and the powers to be exercised by them under this paragraph;

(b) the procedure to be followed by village councils or courts in the trial of suits and

cases under sub-paragraph (1) of this paragraph;

(c) the procedure to be followed by the District or Regional Council or courts constituted by such Council in appeals and other proceedings under sub-paragraph (2) of this paragraph;

(d) the enforcement of decisions and orders of such councils and courts;

(e) all other ancillary matters for the carrying out of the provisions of subparagraphs (1) and (2) of this paragraph.' "

"That in sub-paragraph (3) of paragraph (5), for the words 'and the Governor may by rules prescribe the procedure to be followed at such trial' the words and figure 'to which the provisions of this paragraph or paragraph 4 apply' be substituted."

"That in the proviso to sub-paragraph (2) of paragraph 20, for the words, brackets and letters 'clauses (e), (f) and (g)' the words, brackets and letters 'clauses (e) and (f)' be substituted.' "

**Mr. President :** This completes list VI. Then there are three amendments in List VIII.

**Shri T. T. Krishnamachari :** Sir, I move:

"That in article 106, for the words 'Constituent Assembly of India' the words 'Constituent Assembly of the Dominion of India' be substituted."

"That in clause (3) of article 348, for the words 'shall for the purposes of the said clause be deemed to be the authoritative text thereof' the words 'shall be deemed to be the authoritative text thereof in the English language under this article,' be substituted."

**Mr. President :** I take amendments.* Nos. 615 and 616 as moved. No. 630 by Mr. Chaliha.

**Shri Kuladhar Chaliha** (Assam: General): Mr. President, Sir, I move:

"That in amendment No. 621 of List VI, for the first three lines of the proposed subparagraph (4) of the Sixth Schedule, the following be substituted:--

'(4) That the Governor shall make rules regulating--' "

My whole object is that in primitive societies for which these Schedules have been prepared, we should be a little more careful in granting powers to make rules to these Regional and District Councils. In some places like the Khasi Hills we have got educated people but in places like the Naga Hills, the people are not literate. In these areas there is not even a single man who can read or write. The British rule when they were here was autocratic. Somehow or other before they departed, they have given these people the idea that they are a very democratic people, that they can frame their rules. They have given them all these nice ideas before they left, and we have been caught in the trap, and we think that they are very democratic, they are autonomous, that they can frame their rules, etc., but it is not so. The Drafting Committee says that they shall frame rules with the previous approval of the Governor. Why this? Why cannot the Governor make the rules? These people are not capable of doing that. They do not know how to do it. As such I have always thought that in this Sixth Schedule the Governor should have more and more powers. We have given power to the Regional Council or the District Council to make rules with the approval of the Governor. Instead of that why not allow the Governor to make the rules so that it may be easy for simple people there to follow what has been laid down by the Governor? Instead of sending

the rules, we find they are to frame the rules and have the Governor's approval. First of all, the Governor will be in a delicate position and once the rules are framed, he is bound by those rules to a certain extent but if you leave it to the Governor, he has his legal advisers, political advisers and he will have the advantage of their advice. So that he will frame the rules better. My humble amendment is to allow the Governor to make the rules and nothing else and to eliminate the trouble of the primitive people from framing rules for these very cumbrous and complex things and as such I should like to request the Drafting Committee to accept the amendment and simplify the whole thing. This is the whole object of the amendment, Sir.

We start with a very wrong background that the primitive people are very democratic but if we read anthropological or sociological books, we find that there is nothing like democracy in a primitive society except in a few places such as Hawai and South America and excepting those parts nowhere in the world there is any democratic society among the primitive tribes, and as such my submission is that we should not burden them with framing the rules, and we must allow the Governor to make the rules for them, and I commend this amendment for the acceptance of the House.

---

*615. That in entry 75 of List I of the Seventh Schedule, after the words "Emoluments, allowances," the word "privileges", be inserted.

616. That in entry 46 of List III of the Seventh Schedule, for the words "other then the Supreme Court" the words "except the Supreme Court" be substituted.

---

**The Honourable Rev. J. J. M. Nichols Roy** (Assam : General) : Sir, I support the amendment made by the Drafting Committee. I oppose the amendment made by Mr. Chaliha. I have not seen the amendment of Mr. Chaliha. Is it printed?

**Mr. President :** The amendment only says that in place of the Regional or District Council as the case may be we give the power to the Governor to make the rules.

**The Honourable Rev. J. J. M. Nichols Roy :** Mr. Chaliha has stated that in those areas which will be governed by the District Councils there are no people who will run this administration or will be able to make rules. I think he is mistaken altogether because these District Councils are only with six hill districts. The position of these hill districts is quite different from the other tribal areas which are outside the District Council. These District Councils will be run by the people who are intelligent there. They are enough intelligent people in these areas who will run these administrations and will also be able to make rules. The North Cachar Hills and Mikir Hills which are not well-advanced will be supervised by District Officers who will be the Chairmen of the District Councils, but in the other areas we can find people who will carry on the administration. Therefore, I oppose the amendment moved by Mr. Chaliha and I support the amendment moved by the Drafting Committee.

**Shri Brajeshwar Prasad** (Bihar: General): Sir, I would like to add one word....

**Mr. President :** I do not think we need have any more discussion on this point. Both the points of view have been placed and we are hard pressed for time. Now there are three amendments left to be moved or otherwise disposed of.

**Shri H. V. Kamath :** Has 616 been disposed of, Sir?

**Mr. President :** I have taken both as moved because they are all amendments.

**Shri H. V. Kamath :** I had an amendment to that. I gave notice of it this morning. I do not want to say much, but only....

**Mr. President :** Which is your amendment?

**Shri H. V. Kamath :** I handed it in this morning, Sir.

**Mr. President :** I will take that as moved. As I was saying there are three sets of amendments which somehow or other will have to be disposed of. One set of amendments relate to the name of Bengal. I have taken List VII also and I have taken them as moved.

**Shri H. V. Kamath :** With reference to amendment 628, may I ask why the Drafting Committee has fallen in love with the word "Dominion" and go on repeating it *ad nauseam?*

**Mr. President :** Anyhow you may throw it out if you like. There are three amendments which are connected and which come to this that the name of Bengal as in the Drafting Constitution should be 'West Bengal'. That is one amendment. Then there is the second amendment, which I mentioned yesterday, of Prof. Shibban Lal Saksena relating to article 348 clause (3). Do you wish to move that?

**Prof. Shibban Lal Saksena** (United Provinces: General): I have already moved it.

**Mr. President :** I will take that as moved.

**Shri T. T. Krishnamachari :** It is covered by 629, Sir.

**Mr. President :** It is covered. Very well. Then it need not be moved. Then there was an amendment by Shri A. V. Thakkar. What is the position of the Drafting Committee with regard to that?

**Shri P. T. Chacko** (United State of Travancore and Cochin): I rise to a point of order if the amendment is allowed to be moved. This is almost a surprise on us who represent the States which are mentioned therein Moreover the mover is introducing a substantial matter neither necessary nor consequential.....

**Mr. President :** He is seeking to move only with regard to Madhya Bharat and so you are not touched.

**Shri P. T. Chacko :** Then I do not press my point.

**Shri A. V. Thakkar** (Saurashtra): At the time when the provinces were named, the tribal of which will have the benefit of a special Minister to be in charge of that portfolio, i.e. in the year 1947 the States were not in the picture at all. They have been admitted in the Union afterwards; they have been assimilated or they have been joined on in the various sections of Schedule I; and among those States which had a large number of tribal these are the four Unions--Madhya Bharat, Rajasthan, Travancore-Cochin and Vindhya Pradesh but the States

Ministry agrees that it should be adopted for Madhya Bharat only as a covenant has already been contracted with them and they have accepted that. So I propose that the State of Madhya Bharat should be added to article 164, Sir.

**Mr. President :** There is another amendment; Mr. Krishnamachari.

**Shri T. T. Krishnamachari :** Sir, I move:

"That in Part XVI of the Constitution, for the word minorities wherever it occurs, the words 'certain classes' be substituted."

Sir, objection has been taken by several honourable Members to the use of the word 'minorities' even in the heading of this Part and also the consequential use of this word elsewhere. It has therefore been decided to drop this word and to suggest the use of the word "certain classes" in the place of 'minorities.'

I have also another amendment to suggest.

"That in entry 67 of List I of the Seventh Schedule, after the word 'record' the words 'and archaeological sites and remains' be inserted."

This finds mention in the Concurrent List. But so far as the Centre is empowered to declare any archaeological sites and remains and ancient monuments by law to be vested in the Centre, this is an omission which is now sought to be rectified. Therefore, I trust that you will give permission for this amendment to be moved and the House will accept that.

Mr. President, Sir, I would like to apologise to you and to the House for venturing to make this amendment at this late hour. I would like to draw the attention of the honourable Members to amendment No. 562A in regard to article 367 which was moved yesterday. The first part of this amendment relating to sub-clause (3) of article 367 reads thus.

"For the purposes of this Constitution 'foreign State' means any country which is outside the territorial jurisdiction of the Union."

Certain honourable Members at that time, particularly, my honourable Friend Mr. Santhanam, pointed out that the wording was not very happy. The matter has been further examined and our legal adviser suggests that the words "which is outside the territorial jurisdiction of the Union" may be omitted and the following words substituted: "other than India." The operative part of the clause will read like this, if the amendment is accepted:

"(3) For the purposes of this Constitution, 'foreign State' means any State other the India."

In the proviso also, the objection of my honourable Friend Mr. Santhanam has been accepted and the word 'country' will be changed into 'State' in the two places. For the benefit of the honourable Members, I shall read the clause as amended.

**Dr. Bakhshi Tek Chand** (East Punjab: General): These amendments have not been circulated; we are not also able to hear the honourable Member.

**Shri. T. T. Krishnamachari :** This is merely a verbal change. I will read it again:

"(3)For the purposes of this Constitution, 'foreign State' means any State other than India:

Provided that, subject to the provisions of any law made by parliament, the President may by order declare any State not to be a foreign State for such purposes as may be specified in the order."

There is another matter which needs to be mentioned, Sir. In amendment No. 463 to article 168, a consequential change will have to be made because an amendment has been moved to change the name of Bengal to West Bengal. That amendment would be made subject to the approval of the House.

**Mr. President :** You have moved the amendment to entry No. 67?

**Shri T. T. Krishnamachari :** Yes, I have moved.

**Shri H. V. Kamath :** Sir, I have an amendment relating to the re-arrangement of several Chapters of the Constitution, amendment No. 430 in List I. That may be taken as moved; I do not want to take the time of the House.

**Mr. President :** I think this will involve a re-arrangement of the whole thing.

**Shri H. V. Kamath :** Numbering only, Sir.

**Mr. President :** Not only numbering, but a re-arrangement.

**Shri H. V. Kamath :** You may take it as moved or rule it out of order. I would request you, Sir, to be so good as to permit me to formally move two amendments 207 and 197 of List I. One refers to the name of the Upper Chamber of the Central Parliament: to substitute the name "Chamber of States" instead of "Council of States". I shall only formally move them.

**Mr. President :** That does not arise out of any amendment.

**Shri H. V. Kamath :** I want your special permission, Sir.

**Mr. President :** No I will not permit this as also 430.

**Shri H. V. Kamath :** Amendment 197, Sir, regarding joint and several responsibility of Ministers and not merely collective responsibility.

**Mr. President :** That also does not arise out of any of the amendments. I will not allow any of these.

**Shri Jaspat Roy Kapoor :** Mr. President, one important amendment remains yet undecided in the sense that it seems that the Members are not agreed with regard to the name that may be given to the United Provinces. In that view, may I have your permission to move formally an amendment to the following effect, so that there may be no difficulty in taking a decision with regard to the name of the United Provinces and possibly Bengal also, because Bengal Members also want a change in the name of their province before the 26th of January. If I have your permission, Sir, I may move like this:

"That a new article be inserted :

'Notwithstanding any thing in article 3, the Constituent Assembly of India, before the commencement of this Constitution, may be resolution alter the name of any State.' "

I understand, Sir, honourable Members are anxious that no name of a State may be changed except with their consent and therefore I am specifying in this amendment that any change in name may be done by a resolution of the Constituent Assembly before this Constitution comes into force. I understand we are not only meeting up to the 26th of November, but we shall have to meet some time in January also for the election of the President and perhaps for some other business also. If between now and then an agreement is arrived at between the Members with regard to this subject, by a resolution which may be accepted by the House, the name may be changed. Otherwise, the name can only be changed by the cumbersome process mentioned in article 3. If I have your permission, It may be taken as moved.

There is one little amendment which will also have to be made in article 394 to the effect that after the figure 392, the figure 392A be inserted which would mean that the amendment which I have just mentioned may also be enforced from the very day on which this Constitution is passed.

Shri Prabhu Dayal Himatsingka : (West Bengal : General): Article 391 covers the point raised by my friend. If there is agreement, the President merely passes an order and that can be done before the commencement.

**Shri Jaspat Roy Kapoor :** I have consulted legal experts on this question and they advise that under 891 it could not be done. If it could be done, then there is no need for my amendment, but I am advised that 391 relates to amendment of the Government of India Act which of course is a cumbersome process.

**Mr. President :** If Your amendment is accepted it will mean that the Constitution as it will be adopted here at the Third Reading stage may be amended so far as name is concerned simply by a resolution of this House.

**The Honourable Shri K. Santhanam :** It will involve a session after the Third Reading. I do not think it should be allowed.

**Shri Mohan Lal Gautam** (United Provinces : General) : The real question before the House is that the name of the United Provinces is to be changed and we have not yet been able to come to a decision and we want that the name should be changed before the commencement of the Constitution, i.e., before the 26th January. That is the issue before the House. My suggestion is that, instead of asking the Assembly again to meet and pass a resolution to change the name which is a cumbersome process and, therefore, in my opinion, not advisable, on the recommendation of the Provincial Government the President may be given the power to change the name of the united Provinces. This is a very simple question. The name could have been changed even long ago. If the Provincial Government had changed its name by now, it would have been a settled fact and nobody might have raised any objection to it but now that it has come before us and now that U.P. is still the name of the province, the question is being discussed by us. Therefore, my submission is that on the recommendation of the province, i.e., the provincial Government, the President may accept it and the House may not be required to go through the whole process and may not be required

to meet for this purpose. If it is accepted, then the Drafting Committee may propose suitable amendment to that effect.

**Pandit Thakur Das Bhargava :** I think there is ample time before the There Reading is passed--between now and the end of the Third Reading the question may be decided.

**Mr. President :** Pandit Bhargava has suggested that there is still time between now and the 25th for the Members to come to an agreement on this question. If it is agreed to by them, that can be done.

**The Honourable Dr. B. R. Ambedkar** (Bombay : General): I think the difficulty could be easily got over if this Assembly before it closes its session on the 26th November could pass an act amending the Government of India Act 1935, section 290, permitting the Governor-General among other things which he is empowered to do to change also the name of a Province so that the President can act under article 391 and amend the schedule in order to carry out the action that has been taken by the Governor-General under the Government of India Act, as proposed. This matter cannot take more than a few minutes. It would be possible for the Drafting Committee or the Home Department to bring before this Assembly a Bill to amend the Government of India Act 1935, section 290. Such a Bill could be passed before the 26th January.

**The Honourable Shri K. Santhanam :** Our difficulty is not objection to changing the name but only to 'Aryavarta', Similarly we cannot allow the Governor-General also to change the name to 'Aryavarta'.

**The Honourable Dr. B. R. Ambedkar :** It cannot be Aryavarta as the party has given its verdict on that. I am sure Babu Purushotam Das Tandon has taken note of that.

**The Honourable Pandit Govind Ballabh Pant** (United Provinces : General) : What you have rejected will not be put forward by the U.P. Government nor accepted by the Governor-General. That we all accept.

**Mr. President :** Then nothing has to be done at present.

**The Honourable Pandit Govind Ballabh Pant :** On the understanding that an amending Bill of the nature suggested by Dr. Ambedkar will be passed before we disperse.

**Mr. President :** That is for Dr. Ambedkar to do.

**Shri A. Thanu Pillai** (United State of Travancore and Cochin) : It is for this House to decide. The people of the Province may like to call it *'Bharata Hriday'*. We will not accept that. It is a matter of importance for the whole of India as to what parts of it are called by what names.

**Mr. President :** You may oppose the amending Bill when it comes up. Nothing has to be done at this stage.

**Shri Mahavir Tyagi :** There is yet, I am afraid, a very serious lacuna left. Article 394 says that articles 5, 6, 7 etc. will come into force at once. Among these, article 379 is also included, which pertains to such members as are also Members of the Provincial Assemblies and therein it is mentioned that their membership here will cease on the commencement of this

Constitution. Now, if in accordance with Article 394, immediate effect is to be given to article 379, the double membership will cease at once. But the article sought to be given effect to immediately lays down that the double membership would cease at the commencement of this Constitution which means on January 26th, 1950. The wordings are : "from the commencement of this Constitution the seat of such member in the Constituent Assembly shall, unless he has ceased to be a member of that Assembly earlier, become vacant and every such vacancy shall be deemed to be a casual vacancy". Both the articles stand parallel to each other without being related to each other by the word "notwithstanding" and they are contradictory to each other in meaning. I want to know whether the membership ceases immediately or on the 26th January.

**Mr. President :** I do not think that interpretation can be given to it. Membership does not cease before the 26th January.

**Shri B. Das** (Orissa : General) : I would like to know, Sir, if amendment No. 618 of the Drafting Committee has been moved.

**Mr. President :** Yes, it has been moved.

Now, we have finished all the amendments, and there is no time for any further general discussion. But as a matter of fact, we have discussed everything which came up and which required discussion. So I would request Dr. Ambedkar to reply to the debate on the various amendments.

**Shri Raj Bahadur :** Sir, I want to refer to only one point. May I request that the order about Sirohi be placed before the House so that we may know what its contents are, and whether this Assembly can ratify or endorse it, or in any way take note of it or not.

**Mr. President :** I do not think that is a matter which comes before this House. It is a matter for the other House, not for this House, Dr. Ambedkar.

**The Honourable Dr. B. R. Ambedkar :** Mr. President, Sir, in my reply I propose to take certain article which have been subjected to stronger criticism by the Members of the Assembly. It is, of course, impossible for me to touch upon every article to which reference has been made by the Members in the course of their observations. I therefore, propose to confine myself to the more important ones against which serious objections were raised.

I begin with article 22. Listening to the debate, I found that this article 22 and its provisions as amended by the Drafting Committee's amendments, have not been completely understood, and I should therefore like to state in some precise manner exactly what the article as amended by the Drafting Committee's amendments proposes to do. The provisions of article 22, as amended by the Drafting Committee, contain the following important points.

First, every case of preventive detention must be authorised by law. It cannot be at the will of the executive.

Secondly, every case of preventive detention for a period longer than three months must be placed before a judicial board, unless it is one of those cases in which Parliament, acting under clause (7), sub-clause (a) has, by law, prescribed that it need not be placed before a judicial board for authority to detain beyond three months.

Thirdly, in every case, whether it is a case which is required to be placed before the judicial board or not, Parliament shall prescribe the maximum period of detention so that no person who is detained under any law relating to preventive detention can be detained indefinitely. There shall always be a maximum period of detention which Parliament is required to prescribe by law.

Fourthly, in cases which are required by article 22 to go before the Judicial Board, the procedure to be followed by the Board shall be laid down by Parliament. I would like Members to consider the provisions of this new article 22 as amended by the Drafting Committee, with the original article 15A. It will be seen that the original article 15A was open to two criticisms. One was that (4) (a) did not appear to be subject to maximum period of detention prescribed under clause (7). Clause (4) (a) appeared to stand by itself, independent of clause (7). The second defect was that the requirements as to the communications of the grounds of detention did not apply to persons detained under (4) (a). It will now be seen that the present (4) of article 22 removes these two defects is they existed in the original draft of 15A.

Notwithstanding the improvement made by article 22, I find from the observations of Mrs. Purnima Banerji that she has still some complaint against the article. In the course of a speech yesterday, she said that preventive detention can take place without the authority of law, and secondly, that there are still cases which need not go to the Judicial Board. With regard to her first comment, I should like to say respectfully that she is very much mistaken. Although preventive detention is different from detention under ordinary law, nonetheless, preventive detention must take place under law. It cannot be at the will of the executive. That point is perfectly clear. With regard to the second comment which she has made, that the new article 22 excepts certain cases from the purview of the Judicial Board, I admit that that statement is correct. But I also say that it is necessary to make such a distinction, because there may be cases of detention where the circumstances are so severe and the consequences so dangerous that it would not even be desirable to permit the members of the Judicial Board to know the facts regarding the detention of any particular individual. It might be too dangerous, the disclosure of such facts, to the very existence of the State. No doubt, she will realise that there are two mitigating circumstances even in regard to the last category of persons who are to be detained beyond three months, without the intervention of the Judicial Board. The first is this, that such cases will be defined by Parliament. They are not to be arbitrarily decided by the executive. It is only when Parliament lays down in what cases the matter need not go to the Judicial Board, it is only in those cases that the Government will be entitled to detain a person beyond a period of three months. But what is more important to realise is that in every case, whether it is a case which is required to go before the Judicial Board or whether it is a case which is not required to go before the Judicial Board, there shall be a maximum period of detention prescribed by law.

I think, having regard to these amendments, which have been suggested by the Drafting Committee in article 22, there is a great deal of improvement in the original harshness of the provisions embodied in article 15A. Sir, having said what I think is necessary to say about article 22, I will next proceed to take article 373, because that article is intimately connected with article 22.

There has been a great deal of criticism against article 373 and some Members have even challenged the legitimacy or propriety of including such an article in the Constitution. But, in reply, I would like to invite the attention of the Members to this question. What would happen if this article did not find a place in the Constitution ? I think it is quite clear that what would happen if this article 373 did not find a place in the Constitution is this, that all persons detained under preventive detention would have to be released forthwith on the 26th of

January 1950, if by that date they have undergone the three months detention permitted by article 22 and if Parliament is not able to pass a law under clause (7) of article 22 permitting a longer period of detention. The question is this : is this a desirable consequence ? Is it desirable to allow all persons who are detained under the present law to be released on the 26th of January, simply because Parliament is not in a position to make a law on the 26th of January, 1950 permitting a further period of detention. It seems to me that that would be a very disastrous consequence. Consequently, it is necessary, in view of the fact that it is quite impossible for Parliament immediately or before the 26th of January to meet and to pass a law which will take effect from that date, to empower some authority under the Constitution to do the work which Parliament is expected to do in order to give full effect to the provisions of article 22. Who is such an authority under the Constitution ? Obviously the President. The President is the only authority who will be in existence on or before the 26th of January and who could expeditiously make a law stepping into the shoes of Parliament and giving effect to the provisions of a article 22 permitting a longer period of detention. It is, therefore, absolutely essential to provide for a break-down of the law relating to preventive detention, to have an article such as 373 empowering the President to enact a law which is within the power of Parliament to enact. Sir, I should further like to add that there is nothing very novel in the provisions contained in article 373, because we have given power by other articles to the President to adapt existing laws in order that they may be brought in conformity with the provisions of the Constitution. Such modification can only be made by Parliament, but we also realise that it would not be possible for Parliament immediately on the 26th of January to adapt so many voluminous laws enacted by the Indian Legislature to bring them in conformity with the Constitution. That power has, therefore, been given to the President. Similarly, by another article we have given to the President the power to amend temporarily this very Constitution for the purpose of removing difficulties. I, therefore, submit that there is nothing novel, there is nothing sinister in this article 373. On the other hand, it is a very necessary complementary article to prevent the breakdown of any law relating to preventive detention.

Now, Sir, I come to article 34 which relates to martial law. This article, too, has been subjected to some strong criticism. I am sorry to say that Members who spoke against article 34 did not quite realise what article 20, clause (1) and article 21 of the Constitution propose to do. Sir, I would like to read article 20, clause (a) and also article 21, because without a proper realisation of the provisions contained in these two articles it would not be possible for any Member to realise the desirability of--I would even go further and say the necessity for--article 34. Article 20, clause (1) says :

"No person shall be convicted of any except offence for violation of a law in force at the time of the commission of the act charged as an offence."

Article 21 says :

"No person shall be deprived of his life or personal liberty except according to procedure established by law."

Now, it is obvious that when there is a riot, insurrection or rebellion, or the overthrow of the authority of the State in any particular territory martial law is introduced. The officer in charge of martial law does two things. He declares by his order that certain acts shall be offences against his authority, and, secondly, he prescribes his own procedure for the trial of persons who offend against the acts notified by him as offence, is quite clear that any act notified by the military commander in charge of the disturbed area is not an offence enacted by law in force, because the Commander of the area is not a law-making person. He has no authority to declare that a certain act is an offence, and secondly the violation of any order made by him would not a be an offence within the meaning of the phrase "law in force",

because "law in force" can only mean law made by a law-making authority. Moreover, the procedure that the Commander-in-Chief or the military commander prescribes is also not procedure according to law, because he is not entitled to make a law. These are orders which he has made for the purpose of carrying out his functions, namely, of restoring law and order. Obviously, if article 20 clause (1) and article 21 remain as they are, without any such qualification as is mentioned in article 34, martial law would be impossible in the country, and it would be impossible for the State to restore order quickly in an area which has become rebellious.

It is therefore necessary to make a positive statement or positive provisions to permit that notwithstanding anything contained in article 20 or article 21, any act proclaimed by the Commander-in-Chief as an offence against his order shall be an offence. Similarly, the procedure prescribed by him shall be procedure deemed to be established by law. I hope it will be clear that if article 34 was not in our Constitution, the administration of martial law would be quite impossible and the restoration of peace may become one of the impossibilities of the situation. I therefore submit, Sir, that article 34 is a very necessary article in order to mitigate the severity of articles 20(1) and 21.

**Shri H. V. Kamath :** May I ask why the indemnification of persons other than public servants is visualised in this article ?

**The Honourable Dr. B. R. Ambedkar :** Because my friend probably knows if he is a lawyer.....

**Shri H. V. Kamath :** I am not.

**The Honourable Dr. B. R. Ambedkar :** ....That when martial law is there it is not merely the duty of the Commander-in- Chief to punish people, it is the duty of every individual citizen of the State to take the responsibility on his own shoulder and come to the help of the Commander-in-Chief. Consequently if it was found that any person who was an ordinary citizen and did not belong to the Commander-in- Chief's entourage, so to say, does any act it is absolutely essential that he also ought to be indemnified because whatever act he does he does it in the maintenance of the peace of the State and there is a no reason why a distinction should be made for a military officer and a civilian who comes to the rescue of the State to establish peace.

Now, Sir, I come to article 48 which relates to cow slaughter. I need not say anything about it because the Drafting Committee has put in an agreed amendment which is No. 549 in List IV. I hope that that would satisfy those who were rather dissatisfied with the new draft of article 48 as proposed by the Drafting Committee.

Then I come to article 77 which deals with rules of business. In the course of the debate on this article, some Members could not understand why this article was at all necessary. Some Members said that if at all this article was necessary the authority to make rules of business should be vested in the Prime Minister. Others said that if this article was at all necessary it was necessary for the purpose of the efficient transaction of business and consequently the word "efficient" ought to be introduced in this clause. Now, Sir, I am sorry to say that not many Members who participated in the debate on article 77 have understood the fundamental basis of this article. With regard to the point that the authority to make rules of business should be vested in the Prime Minister, I think it has not been understood properly that in effect that will be so for the simple reason that although the article speaks of the

President, the President is also bound to accept the advice of the Prime Minister. Consequently, the rules that will be issued by the President under article 77 will in fact be issued by the Prime Minister and on his advice.

Now, Sir, in order to understand the exact necessity of article 77, the first thing which is necessary to realise is that article 77 is closely related to article 53. In fact, article 77 merely follows on to article 53. Article 53 makes a very necessary provision. According to the general provisions of the Constitution all executive authority of the Union is to be exercised by the President. It might be contended that, under that general provision, that the executive authority of the Union is to be exercised by the President, such authority as the President is authorised and permitted to exercise shall be exercised by him personally. In order to negative any such contention, article 53 was introduced which specifically says that the executive authority of the Union may be exercised by the President either directly or indirectly through others. In other words, article 53 permits delegation by the President to others to carry out the authority which is vested in him by the Constitution. Now, Sir, this specific provision contained in article 53 permitting the President to exercise his authority through others and not by himself must also be given effect to. Otherwise article 53 will be nugatory. The question may arise as to why it is necessary to make a statutory provision as is proposed to be done in article 77 requiring the President to make rules of business. Why not leave it to the President to do so or not to do so as he likes ? The necessity for making a statutory provision in terms of article 77 is therefore necessary to be explained.

There are two things which must be borne in mind in criticising article 77. The first is that if the President wants to delegate his authority to some other officer or some other authority, there must be some evidence that he has made the delegation. It is not possible for persons who may have to raise such a question in a court of law to prove that the President has delegated the authority. Secondly, if the President by his delegation proposes to give authority to any particular individual to act in his name or in the name of the Government, then also that particular person or that particular officer must be specifically defined. Otherwise a large litigation may arise in a court of law in which the questions as to the delegation by President, the question as to the authority of any particular individual exercising the powers vested in the Union President may become matters of litigation. Those who have been familiar with litigation in our courts will remember that famous case of Shibnath Banerjee *vs.* Government of Bengal. Under the Defence of India Act, the Governor had made certain rules authorising certain persons to arrest certain individuals who committed offences against the Defence of India Act. The question was raised as to whether the particular individual who ordered the arrest under that particular law had the authority to act and in order to satisfy itself the Calcutta High Court called upon the Government of Bengal to prove to its satisfaction that the particular individual who was authorised to arrest was the individual meant by the Government of Bengal. The Government of Bengal had to produce its rules of business for the inspection of the Court before the Court was satisfied that the person who exercised the authority was the person meant by the rules of business.

It is in order to avoid this kind of litigation as to delegation of authority for acts that we thought it was necessary to introduce a provision like article 77. This article of course does not take away the power of the Parliament to make a law permitting other persons to have delegated authority as to permit them to act in the name of the Government of India. But while Parliament does make such a provision it is necessary that the President shall so act as to avoid any kind of litigation that may arise otherwise.

With regard to article 100 which relates to the question of quorum I do not know whether it is necessary for me to say anything in reply. All that I would say is that there is a fear

having regard to the comparative figures relating to quorum prescribed in other legislative bodies in other countries that the quorum originally fixed was probably too high and we therefore suggested that the quorum should be reduced. The Drafting Committee's proposal is not an absolute proposal, because it is made subject to law made by Parliament. If Parliament after a certain amount of experience as to quorum comes to the conclusion that it is possible to carry on the business of Parliament with a higher quorum there is nothing to prevent Parliament from altering this provision as contained in article 100. The provision therefore is very elastic and permits the existing situation to be taken into account and permits also the future experience to become the guide of Parliament in altering the provision.

Something was said with regard to article 128. It was contended that we ought not to pamper our judges too much. All that I would say is that the question with regard to the salaries of judges is not now subject to scrutiny. The House has already passed a certain scale of salary for existing judges and a certain scale of salary for future judges. The only question that we are called upon to consider is when a person is appointed as a judge of a High Court of a particular State, should it be permissible for the Government to transfer him from that Court to a High Court in any other State ? If so, should this transfer be accompanied by some kind of pecuniary allowance which would compensate him for the monetary loss that he might have to sustain by reason of the transfer ? The Drafting Committee felt that since all the High Courts so far as the appointment of judges is concerned form now a central subject, it was desirable to treat all the judges of the High Courts throughout India as forming one single cadre like the I.C.S. and that they should be liable to be transferred from one High Court to another. If such power was not reserved to the Centre the administration of justice might become a very difficult matter. It might be necessary that one judge may be transferred from one High Court to another in order to strengthen the High Court elsewhere by importing better talent which may not be locally available. Secondly, it might be desirable to import a new Chief Justice to a High Court because it might be desirable to have a man who is unaffected by local politics and local jealousies. We thought therefore that the power to transfer should be placed in the hands of the Central Government.

We also took into account the fact that this power of transfer of judges from one High Court to another may be abused. A Provincial Government might like to transfer a particular judge from its High Court because that judge had become very inconvenient to the Provincial Government by the particular attitude that he had taken with regard to certain judicial matters, or that he had made a nuisance of himself by giving decisions which the Provincial Government did not like. We have taken care that in effecting these transfers no such considerations ought to prevail. Transfers ought to take place only on the ground of convenience of the general administration. Consequently, we have introduced a provision that such transfers shall take place in consultation with the Chief Justice of India who can be trusted to advise the Government in a manner which is not affected by local or personal prejudices.

The only question, therefore, that remained was whether such transfer should be made so obligatory as not to involve any provision for compensation for loss incurred. We felt that that would be a severe hardship. A judge is generally appointed to the High Court from the local bar. He may have a household there. He may have a house and other things in which he will be personally interested and which form his belongings. If he is transferred from one High Court to another obviously lie cannot transfer all his household. He will have to maintain a household in the original Province in which he worked and he will have to establish a new household in the new Province to which he is transferred. The Drafting Committee felt therefore justified in making provision that where such transfer is made it would be permissible for Parliament to allow a personal allowance to be given to a judge so transferred.

I contend that there is nothing wrong in the amendment proposed by the Drafting Committee.

With regard to article 148 I need say nothing at this stage for the simple reason that the amendment moved by my friend Mr. T. T. Krishnamachari (No. 618) is one which has found itself agreeable to all those who had taken interest in this particular article.

Similarly article 320, over which there was so much controversy (if I may say so, without offence, utterly futile controversy) all controversy has now been set at rest by the revised amendment No. 558, which removes the objectionable parts which Members at one stage did not like.

With regard to article 365 there has been already considerable amount of debate and discussion. I also participated in that debate and stated my point of view. I am sure that after taking all that I said into consideration Members will find that article 365 is a necessary article and does not in any sense override the decisions taken by the House at an earlier stage.

I come to article 378. It was contended that this article should contain a provision of a uniform character for determining the population for election purposes. I am sorry to say that I am not in a position to accept this proposal of a uniform rule. It is quite impossible to have a uniform rule in the changing circumstances of the different Provinces. The Centre therefore must retain to itself the liberty to apply different tests to different Provinces for the purpose of determining the population. If any grave departure is made by reason of applying different rules to different Provinces, the matter is still open for the future Parliament to determine, because all matters which have relevance to constituencies will undoubtedly be placed before the Parliament and Parliament will then be in a position to see for itself whether the population as ascertained by the Central Government is proper, or below or above. Now, Sir, I come to article 391.

**Pandit Balkrishna Sharma :** Article 379 ?

**The Honourable Dr. B. R. Ambedkar :** About article 379 I can quite appreciate the objection of my honourable Friend Mr Sharma. He objects to the words principally "Dominion of India". I tried yesterday with the help of Mr Mukerjee, the Chief Draftsman, my hand to redraft the article with the object of eliminating those words 'Dominion of India'. But I confess that I failed. I would therefore request Mr. Sharma to allow the article to stand as it is. It is unfortunate, but there is not remedy to it that I can see within the short time that was left to us.

Now coming to article 391, the position is this: The Constitution contains two sets of provisions for the creation of new provinces. Provinces can be created after the commencement of the Constitution. New Provinces can be created between 26th November and 26th January. With regard to the creation of Provinces after the commencement of the Constitution, the articles that would become operative are articles 3 and 4. They give power to Parliament to make such changes in the existing boundaries of the provinces in order to create new Provinces. Those articles are so clear that I do not think any further commentary from me is necessary.

With regard to the creation of new Provinces between now and the 26th of January, the article that would be operative would be section 290 of the Government of India Act of 1935 and article 391 of the present Constitution. Sir, article 391 says that if between now and the 26th of January the authority empowered to take action tinder the Government of India Act,

1935 does take action, then the President, under article 391 is empowered to give effect to that order made under the Government of India Act Section 290. 'Notwithstanding the fact'--this is an important thing--"notwithstanding the fact that on the 25th January the Government of India Act, 1935, would stand repealed, the action would stand. The President is empowered under article 391 to carry over that action taken under the Government of India Act, 1935 and to give effect to it by an order amending the First Schedule and consequentially the Fourth Schedule which deals with representation in the Council of States.

**An Honourable Member :** He can only act after 26th January.

**The Honourable Dr. B. R. Ambedkar :** He can act at any time. The Constituent Assembly will not be able to take notice of it, because it will not be in existence for this purpose after the 26th November. The point is this that the Government of India Act, 1935 will continue in operation after the 25th November, So long as that Act continues, the Governor-General's right to act under it also continues. He may take action at any time that he likes.

My friend Mr. Sidhva raised one question, namely that any action that may be taken between now and the 25th January should be subject to the scrutiny of Parliament. I think what he intends is that it should not be merely the act of the executive. My friend Mr. Sidhva will remember that our Constitution will come into operation on the 26th of January. Till the 25th of January, the Constitution which will be operative in India will be the Constitution embodied in the Government of India Act, 1935, as adapted on 15th August 1947. Therefore, between now and the 25th of January, the Constitution is not the Constitution that we shall be passing, but the Constitution embodied in the Government of India Act 1935. Therefore in replying to his question whether the Parliament should have the right or the Indian legislature should have the right to be consulted in this matter, must be determined by the terms contained in section 290 of the Government of India Act, 1935.

If my friend Mr. Sidhva were to turn to section 290 of the Government of India Act, he will see that the Governor-General is not required to ascertain the views of the Provincial legislature nor is he required to ascertain the views of the Indian Legislature. All that lie is required to do is to ascertain the views of the Government of any Province affected by the order. Therefore, so far as the operation of section 290 is concerned--and it is the only section which can be invoked so far as any action with regard to reconstitution of provinces between now and the 25th January is concerned--this has placed both the Provincial Legislature and the Indian Legislature outside the purview of any consultation that the Governor-General may make for acting under section 290. Therefore with the best wishes in the world it is not possible to carry out the wishes of my friend Mr. Sidhva. He must therefore remain content with such provisions as we have got under section 290. Sir, I do not think any other article calls for a reply. I would therefore close with the hope that the House will be in a position to accept the amendments proposed by the Drafting Committee. *(Cheers)*

**Mr. President :** I will now put the amendments one by one to vote. Members have noticed that there are many amendments which arise on some amendment or other of the Drafting Committee. It may be that some of the amendments which have been moved by members may be acceptable to the Drafting Committee and it may be that some Members are willing to withdraw the amendments which they have moved.

**Shri T. T. Krishnamachari :** May I mention the amendments which we are prepared to

accept ?

**Mr. President :** I was just coming to that. If an indication is given on behalf of the Drafting Committee as to which of the amendments are acceptable to them, we can avoid putting them to the vote, and if on the other hand, private Members are also able to express as to which of the amendments they would not like to press, we would leave them alone, so that the number of amendments which will have to be put to the vote may be reduced.

**Shri T. T. Krishnamachari :** Mr. President, Sir, honourable Members of this House will please note that some of the amendments suggested by the Drafting Committee which appear in Lists IV, V, VI and VII, are the result of the discussions with some of the Members who moved amendments which find a place in List I and as a result of the compromise which has been arrived at between them and the Drafting Committee some of these amendments have been moved which, we think, the House will accept. The honourable Members who have moved the original amendments which find a place in List I will, I think, not persist in putting forward these amendments but withdraw them in view of the action taker by the Drafting Committee by introducing fresh amendments to suit the purpose they had in mind. Barring these amendments, there are a few amendment which we will accept and which find a place in List 1. All these amendments happen to be in the name of my honourable Friend, Mr. H. V. Kamath. They are amendments No. 329 to article 164 for changing the name from "Koshal Vidarbh" to "Madhya Pradesh", the first alternative in the two amendments Nos. 394 and 395 to article 320. The Drafting Committee had an amendment to similar effect, but in view of the fact that my honourable Friend has moved this amendment, we are wining to accept it--amendment No. 418 to article 379, and amendment No. 431 to the First Schedule which is a consequence of the acceptance of amendment No. 329. *viz*., change of name from "Koshal Vidarbh" to "Madhya Pradesh". These amendments we are willing to accept. So far as the other amendments are concerned, the more important ones among them have been accepted by the Drafting Committee themselves tabling amendments to suit the purpose that honourable Members had in mind when they tabled those amendments because we found that the amendments had to be put in a different form to suit legal technicalities. I do hope that honourable Members will help the House by not pressing their amendments.

**Shri H. V. Kamath :** What about my amendment to article 41 which I discussed with my honourable Friend and which he was willing to accept ?

**Mr. President :** We shall take it up when we come to that.

**Shri T. T. Krishnamachari :** I may mention, Sir, that he did mention to me that the words in article 41 should be "State assistance" instead of "public assistance". If the amendment is tabled, you may kindly permit the amendment being moved. I have no objection to the amendment as such but I see that no amendment has been tabled.

**Shri H. V. Kamath :** My amendment is there, No. 138* in List I.

**Shri T. T. Krishnamachari :** I will accept that.

**Mr. President :** You mentioned that this morning. I will now take up me amendments as they have been moved. First, amendment No. 6 by Mr. Kamath.

---

*138. That in article 41, for the words 'public assistance' the words 'State assistance' be substituited.

---

**Shri B. Das :** Sir, you need not read the amendments in List I. We all agree that all our amendments can be withdrawn, because the Drafting Committee have introduced the very amendments in another form. Take for instance my amendment No. 313. It is covered by No. 618. There is no need for your reading out the amendments. We will take it that all the amendments in List I stand withdrawn.

**Mr. President :** There are other amendments which honourable Members may not like to withdraw. I think I had better put all the amendments to the vote. The question is:

"That in clause (1) of article 1, after the words 'that is' a comma be inserted and the comma after the word 'Bharat' be deleted."

The amendment was negatived.

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

"That in sub-clause (a) of clause (3) of article 13

(i) after the word 'having' the words 'the force of law' be inserted;

(ii) after the word 'India' the words 'or any part thereof' be inserted; and

(iii) the words 'the force of law' be deleted."

The amendment was negatived.

**Mr. President :** If I leave out any amendment by mistake, honourable Members will draw my attention to it. Amendment No. 83 to article 22 which has been considerably altered.

**Mr. Naziruddin Ahmad :** I would like to have leave to withdraw it.

The amendment was, by leave of the Assembly, withdrawn.

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

"That article 34 be deleted."

The amendment was negatived.

**Mr. President :** There are some other amendments to this article, No. 122.

**Shri H. V. Kamath :** I withdraw Nos. 122 and 123 but not 124.

Amendment Nos. 122 and 123 were, by leave of the Assembly, withdrawn.

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

"That in article 34, for the words 'done under martial law' the words 'done by such person under martial law' be substituted."

The amendment was negatived.

**Shri H. V. Kamath :** What about my amendment No. 138 to which I referred just now?

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

"That in article 41, for the words 'public assistance' the words 'State assistance' be substituted"

The amendment was negatived.

**Mr. President :** We then go to article 48.

**Prof. Shibban Lal Saksena :** I beg to withdraw my amendment No. 141.

The amendment was, by leave of the Assembly, withdrawn.

**Pandit Thakur Das Bhargava :** I beg to withdraw all my amendments (142 and 144) relating to article 48.

The amendments Were, by leave of the Assembly, withdrawn.

**Mr. President :** I take it that 549 will take its place. I shall therefore put 549 straightaway to vote.

The question is:

"That in article 48, for the words 'for improving the breeds of milch and draught cattle including cows and calves and for prohibiting their slaughter' the words preserving and improving the breeds and prohibiting the slaughter of cows and calves and other milch and draught cattle' be substituted."

The amendment was adopted.

**Mr. President :** Then we go to article 53.

**Shri H. V. Kamath :** I beg to withdraw my amendment No. 151.

The amendment was, by leave of the Assembly, withdrawn.

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

"That in clause (1) of article 53, after the word 'Constitution' the words 'and the law be added."

'The amendment was negatived.

**Mr. President :** Then we go to article 57.

The question is:

"That in article 57, the words 'subject to the other provisions of this Constitution', be deleted."

The amendment was negatived.

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

"That in the form of oath or affirmation in article 69, the words 'as by law established' be deleted."

The amendment was negatived.

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

"That in the form of oath or affirmation in article 69, for the words 'the duty upon Which I am about to enter' the words 'the duties of the office upon which I am about to enter' be substituted."

The amendment was negatived.

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

"That in clause (2) of article 71, for the words 'the date of the decision', the words 'the time of the decision' be substituted."

The amendment was negatived.

(Mr. Naziruddin Ahmad did not press his amendment No. 584.)

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

"That in clause (2) of article 71, for the words 'before the date' the words 'on or before the date' be substituted."

The amendment was adopted.

**Prof. Shibban Lal Saksena :** I beg to withdraw my amendment No. 201.

The amendment was, by leave of the Assembly, withdrawn.

**Shri R. K. Sidhva :** I beg to withdraw my amendment No. 202.

The amendment was, by leave of the Assembly, withdrawn.

**Shri H. V. Kamath :** Sir, I beg to withdraw my amendment No. 203.

The amendment was, by leave of the Assembly, withdrawn.

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

"That in clause (3) of article 77, for the words 'more convenient' the words 'efficient and convenient' be substituted.

*or alternatively*

That in clause (3) of article 77, the word 'more' be deleted."

The amendment was negatived.

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

"That in clause (2) of article 96, for the words 'and shall, notwithstanding anything in article 100, be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of equality of votes' the words 'but, notwithstanding anything in article 100, shall not be entitled to vote at all on such resolution or on any other matter during such proceedings' he substituted."

The amendment was negatived.

**Shri H. V. Kamath :** I withdraw, my amendment No. 228.

The amendment was, by leave of the Assembly, withdrawn.

(Mr. H. V. Kamath did not press his amendments Nos. 231, 234 and 235.)

**Mr. President :** There is amendment No. 233 to article 100. I think I had not better put it to vote just now, I think it is a renumbering of paragraphs.

Amendment No. 238 stands in the name of Mr. Kamath and Prof. Shibban Lal Saksena. I forgot who moved it.

**Prof. Shibban Lal Saksena :** That has been accepted.

**Shri T. T. Krishnamachari :** That is covered by amendment No. 452.

**Mr. President :** I take it that amendment No. 238 is withdrawn.

**Prof. Shibban Lal Saksena :** Yes, Sir.

The amendment was, by leave of the Assembly, withdrawn.

**Mr. President :** As for amendment No. 452, I had better leave that for the present.

The question is:

"That in clause (3) of article 100, for the word 'one-tenth' the word 'one-sixth' be substituted."

The amendment was negatived.

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

"That in article 128, for the words 'the President may by order' the words 'Parliament may by law' be substituted."

The amendment was negatived.

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

"That sub-clause (3) of clause (1) article 145 be deleted and before clause (1) of article 145, the following be inserted:--

> "The Supreme Court shall make rules for regulating the practice and procedure of the appropriate proceeding relating to the enforcement of rights conferred under Part III;
>
> and the subsequent clauses be renumbered accordingly."

The amendment was negatived.

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

"That sub-clause (c) of clause (1) of article 145 be deleted; and after clause (1) of the said article, the following new clause be and consequential changes be made:--

> '(2) The Supreme Court shall make rules for regulating the practice and procedure of the appropriate proceedings relating to the enforcement of rights conferred under Part III."

The amendment was negatived.

**Mr. President :** Amendment No. 313. There is another amendment. It is covered by amendment 618 of the Drafting Committee.

**Shri B. Das :** I beg leave to withdraw this, Sir.

The amendment was, by leave of the Assembly, withdrawn.

**Shri H. V. Kamath :** I beg leave to withdraw No. 320.

The amendment was, by leave of the Assembly, withdrawn.

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

"That in clause (1) of article 154, after the word 'Constitution' the words 'and the law' be added."

The amendment was negatived.

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

"That in the proviso to clause (1) of article 164, for the words 'Koshal Vidarbh' the words 'Madhya Pradesh' be substituted."

The amendment was adopted.

**Prof. Shibban Lal Saksena :** I beg leave to withdraw No. 332.

**Shri R. K. Sidhva :** And No. 333, Sir.

The amendments were, by leave of the Assembly, withdrawn.

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

"That in clause (3) of article 166, for the words 'more convenient' the word 'efficient' be substituted."

The amendment was negatived.

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

"That in clause (3) of article 166, the words 'in so far as it is not business with respect to which the Governor is by or under this Constitution required to act in his discretion' be deleted."

The amendment was negatived.

**Shri H. V. Kamath :** I beg leave to withdraw No. 340.

The amendment was, by leave of the Assembly, withdrawn.

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

"That in clause (2) of article 172, for the word 'possible' the word 'practicable' be substituted."

The amendment was negatived.

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

"That in clause (2) of article 181, for the words 'and shall, notwithstanding anything in article 189, be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of equality of votes' the words 'but not with standing anything in article 189, shall not be entitled to vote on such resolution or on any matter during such proceedings' be substituted."

The amendment was negatived.

**Shri H. V. Kamath :** I beg leave to withdraw No. 344.

The amendments were, by leave of the Assembly, withdrawn.

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

"That in clause (2) of article 185, for the words 'and shall, notwithstanding anything in article 189, be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of equality of votes' the words 'but, notwithstanding anything in article 189, shall not be entitled to vote on such resolution or on any matter during such proceedings' be substituted."

The amendment was negatived.

**Shri H. V. Kamath :** I beg leave to withdraw 346.

The amendment was, by leave of the Assembly, withdrawn.

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

"That in the second paragraph of clause (3) of article 189, for the words 'The quorum shall, until the legislature of the State by law otherwise provides,' the words 'Until the legislature of the State by law otherwise provides, the quorum shall' be substituted."

The amendment was negatived.

**Shri H. V. Kamath :** Is that not covered by an amendment of the Drafting Committee?

**Mr. President :** It has a different wording. If it is covered by any other amendment, it will be taken up.

The question is :

That in clause (3) of article 189. for the words 'ten' and 'one-tenth' the words 'twenty' and 'one-eighth' be substituted."

The amendment was negatived.

**Shri R. K. Sidhva :** Sir, I withdraw No. 353.

The amendment was, by leave of the Assembly, withdrawn.

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

"The Clause (2) of article 222 be deleted."

The amendment was negatived.

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

"That in article 224, for the words 'the President may by order' the words 'Parliament may by law' be substituted."

The amendment was negatived.

**Pandit Thakur Das Bhargava :** I beg leave to withdraw No. 383.

The amendment was, by leave of the Assembly, withdrawn.

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

"That in the proviso to article 309, the words 'or such person as he may direct, wherever they occur, be deleted."

The amendment was negatived.

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

"That in clause (3) of article 311, for the words 'reasonably practicable to give to any person an opportunity' the words 'practicable to give to any person a reasonable opportunity' be substituted.' "

The amendment was negatived

**Shri H. V. Kamath :** I beg to withdraw No. 389.

The amendment was, by leave of the Assembly withdrawn.

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

"That in clause (c) of article 319, for the words 'other than a Joint Commission' the words 'or as the Chairman of a joint Commission' be substituted:'

The amendment was negatived.

**Mr. President :** Amendment No. 394.

**Shri H. V. Kamath :** Nos. 394 and 395 have been accepted, Sir, the first alternative.

**Shri T. T. Krishnamachari :** They may be put together; they are practically the same.

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

"That in sub-clause (d) of clause (3) of article, 320, for the words 'under an Indian State' the words 'under the Government of an Indian State' be substituted."

The amendment was adopted.

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

"That in sub-clause (e) of clause (3) of article 320, for the words 'under an Indian State' the words 'under the Government of an Indian State' be substituted."

The amendment was adopted.

**Pandit Thakur Das Bhargava :** I withdraw No. 396.

The amendment was, by leave of the Assembly, withdrawn.

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

"That in article 325, for the words 'shall be ineligible for inclusion in any such roll or claim to be included in' the words 'shall be excluded from or claim to be included in' be substituted."

The amendment was negatived.

**Mr. President :** Article 333.

**Shri H. V. Kamath :** There is my amendment No. 399, Sir.

**Mr. President :** I do not know if it arises; however, I shall put it to vote.

The question is :

"That in article 325, after the word caste, the word 'class' be inserted."

The amendment was negatived.

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

"That in clause (3) of article 344, for the words 'persons belonging to the non-Hindi speaking areas' the words 'the non-Hindi speaking sections of the population' be substituted."

The amendment was negatived.

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

"That article 365 be deleted."

The amendment was negatived.

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

"That in article 365, after the word 'Where' the words 'The President is satisfied that' be inserted."

The amendment was negatived.

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

"That in article 365, after the words 'under any of the provisions of this Constitution' the words 'which is in direct contravention of the declared policy of the Union' be inserted.

The amendment was negatived.

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

"That article 373 be deleted."

The amendment was negatived.

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

"That in article 373, for the words 'one year' the words 'three months' be substituted."

The amendment was negatived.

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

"That in clause (5) of article 379, for the words 'after such commencement' the words 'on commencement' be substituted."

The amendment was adopted.

**Pandit Balkrishna Sharma :** Amendment No. 416 has been left out.

**Mr. President :** I will take it along with amendment No. 503. The question is :

"That in article 387 the words 'and different provisions may be made for different States and for different purposes by such order' be substituted."

The amendment was negatived.

**Shri H. V. Kamath :** I withdraw Nos. 424 and 425.

**Shri R. k. Sidhva :** Also No. 426.

The amendments were, by leave of the Assembly, withdrawn.

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

"That in clause (3) of article 392 for the word 'before' the word 'until' be substituted."

The amendment was negatived.

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

"That in clause (3) of article 392 for the word 'before' the words 'until immediately before' be substituted "

The amendment was negatived.

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

"That in item 5 of Part A of the First Schedule for the name 'Koshal Vidarbh' the name 'Madhya Pradesh' be substituted."

The amendment was adopted.

**Shri H. V. Kamath :** I withdraw No. 432.

The amendment was, by leave of the Assembly, withdrawn.

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

"That in item 9 of Part A of the First Schedule, for the name 'The United Provinces' the name 'Aryavarta' be substituted."

The amendment was negatived.

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

"That in sub-paragraph (3) of paragraph 9 the words beginning with 'during the period' and ending 'before such commencement' be deleted."

The amendment was negatived.

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

"That sub-paragraph (2) of paragraph 10 be deleted."

The amendment was negatived.

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

"That in sub-paragraph (4) of paragraph 10, for the words 'for any State' the words 'of any State' be substituted."

The amendment was negatived.

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

"That in sub-paragraph (3) of paragraph 12, for the word 'and' occurring in line 1, a comma be substituted."

The amendment was negatived.

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

"That in the Fourth Schedule in Column I, for the name 'Koshal Vidarbh' the name 'Madhya Pradesh' be substituted."

The amendment was adopted.

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

"That in entry 1 of List I of the Seventh Schedule, after the word 'preparation' the words 'and operation' be inserted."

The amendment was negatived.

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

"That in entry 65 of List I of the Seventh Schedule, before the word 'police' the words 'Administrative or' be inserted."

The amendment was negatived.

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

"That in entry 34 of List III be transferred to List I."

The amendment was negatived.

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

"That in article 9 after the word and figure 'article' the words 'or be deemed to be a citizen of India by virtue of' be inserted."

The amendment was adopted.

**Shri T. T. Krishnamachari :** Sir, I withdraw No. 443.

The amendment was, by leave of the Assembly, withdrawn.

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

"That in the Explanation to article 58, for the words 'For the purposes of this clause' the words 'For the purposes of this article' be substituted."

The amendment was adopted.

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

"That for clause (3) of article 59 the following clause be substituted:

> '(3) The President shall be entitled without payment of rent to the use of his official residences and shall be also entitled to such emoluments, allowances and privileges as may be determined by Parliament by law and, until provision in that behalf is so made, such emoluments, allowances, and privileges as are specified in the Second Schedule.' "

The amendment was adopted.

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

"That in clause (3) of article 65 for the words 'privileges, emoluments and allowances' in the two places where they occur, the words 'emoluments, allowances and privileges' be substituted."

The amendment was adopted.

**Mr. President :** 447.

**Dr. P. S. Deshmukh :** All the Drafting Committee's amendments may be put together.

**The Honourable Shri K. Santhanam :** Some of them might not have been moved.

**Mr. President :** Then I will go as it is one by one.

The question is :

"That in the Explanation to article 66 for the words 'For the purposes of this clause' the words 'For the purposes of this article' be substituted."

The amendment was adopted.

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

"That amendment No. 449 of List 11 be deleted."

The amendment was negatived.

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

"That in sub-clause (b) of clause (1) of article 72 for the words 'offence under any law' the words 'offence against any law' be substituted."

The amendment was adopted.

(Mr. Naziruddin Ahmad did not press his amendment No. 586)

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

"That in the proviso to clause (1) of article 73 after the words 'any State' the words and letters 'specified in Part A or Part B of the First Schedule' be inserted."

The amendment was adopted.

**Mr. president :** The question is :

"That in sub-clause (a) of clause (1) of article 81, for the word and figures 'article 331' the words and figures 'articles 82 and 331' be substituted."

The amendment was adopted.

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

"That in amendment No. 452 of List II, in the proposed clause (3) of article 100, for the words 'until Parliament by law otherwise provides, the quorum' the words 'The quorum' be substituted."

The amendment was negatived.

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

"That in amendment No. 452 of List II in the proposed clause (3), of article 100 for the word 'one-tenth' the word 'one-sixth' be substituted."

The amendment was negatived.

**Shri R. K. Sidhva :** I withdraw No. 589.

The amendment was, by leave of the Assembly, withdrawn.

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

'That for clause (3) of article 100 the following clauses be substituted:

> (3) Until Parliament by law otherwise provides, the quorum to constitute a meeting of either House of Parliament shall be one-tenth of the total number the House.
>
> (4) If at any time during a meeting of a House there is no quorum, it shall be the duty of the Chairman or Speaker or person acting as such, either to adjourn the House or to suspend the meeting until there is a quorum."

The amendment was adopted.

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

"That in article 104 for the words 'the Government of India' the words 'the Union' be substituted."

The amendment was adopted.

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

"That in clause (1) of article 105 for the words 'Subject to the rules and standing orders' the words 'Subject to the provisions of this Constitution and to the rules and standing orders' be substituted."

The amendment was adopted.

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

"That in amendment No. 455 of List II in clause (2) of article 114, for the words 'whether an amendment is inadmissible' (proposed to be substituted) the words 'as to the admissibility of the amendment' be substituted."

The amendment was negatived.

**Mr. President :** Then I put amendment No. 455 to vote.

The question is :

"That in clause (2) of article 114, for the words 'the amendments which are admissible' the words 'whether an amendment is inadmissible' be substituted."

The amendment was adopted.

(Mr. Naziruddin Ahmad did not press his amendment No. 591)

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

"That in clause (1) of article 124, for the words 'seven other Judges' the words 'not more than seven other Judges' be

substituted."

The amendment was adopted.

**Mr. President :** That the proviso to clause (1) of article 133 be omitted and for the colon at the end of the said clause a 'full stop' be substituted."

The amendment was adopted.

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

"That after clause (2) of article 133, the following clause be added:--

'3. Notwithstanding anything in this article. No appeal shall, unless Parliament by law otherwise provides, lie to the Supreme Court from the judgment, decree or final order of one Judge of a High Court.' "

The amendment was adopted.

**Mr. President :** Then article 135, and amendment No. 458.

The question is:

"That in article 135, for the words 'not being a matter referred to in any of the foregoing provisions of this Chapter' the words 'to which the provisions of article 133 or article 134 do not apply' be substituted."

The amendment was adopted.

**Mr. President :** Amendment No. 459.

The question is

"That in clause (1) of article 136, for the words 'The Supreme Court' the words 'Notwithstanding anything in this Chapter, the Supreme Court' be substituted."

The amendment was adopted.

**Mr. President :** Then we come to article 145. There is amendment No. 460 of the Drafting Committee and there is also No. 550 of Mr. Kamath.

**Shri H. V. Kamath :** Sir, I withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

**Mr. President :** Then I put amendment No. 460.

The question is :

"That in sub-clause (c) of clause (1) of article 145, for the words 'enforcement of the rights' the words 'enforcement of

any of the rights' be substituted."

The amendment was adopted.

**Mr. President :** Article 158, and amendment No. 461.

The question is :

'That for clause (3) of article 158, the following clause be substituted:--

> '(3) The Governor shall be entitled without payment of rent to the use of his official residences and shall be also entitled to such emoluments, allowances and privileges as may be determined by Parliament by law and, until provision in that behalf is so made, such emoluments, allowances and privileges as are specified in the Second Schedule.' "

The amendment was adopted.

**Mr. President :** No. 462.

The question is:

"That in the proviso to article 162, for the words 'the Government of India' 'the words 'the Union' be substituted."

The amendment was adopted.

**Mr. President :** No. 463. And to that there is the amendment No. 594 by Mr. Naziruddin Ahmad.

**Shri T. T. Krishnamachari :** There is another amendment to article 168 that I have moved, that 'Bengal' may be changed to 'West Bengal'. So it may be put as amended.

**Mr. President :** Yes, we take that amendment which has been moved today with regard to the name of Bengal, along with this, and all the consequential changes with regard to the name "Bengal", "West Bengal" will be put in place of "Bengal".

The question is:

"That for sub-clause (a) of clause (1) of article 168, the following sub-clause be substituted:--

> '(a) in the States of West Bengal, Bihar, Bombay, Madras, Punjab and the United Provinces, two Houses.' "

The amendment was adopted.

**Mr. President :** Article 181, amendment No. 464.

The question is :

"That in clause (1) of article 181, the words 'of a State' omitted."

The amendment was adopted.

**Mr. President :** Article 181, amendment No. 465.

The question is :

"That in clause (2) of article 181, for the word 'House' the word 'Assembly' be substituted."

The amendment was adopted.

**Mr. President :** Amendment No. 466, and there is No. 595 to this.

**Shri T. T. Krishnamachari :** No. 595 is a negative amendment.

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

"That in clause (1) of article 185, the words 'of a State' be omitted."

The amendment was adopted.

**Mr. President :** Article 189 and amendment No. 467. There are several amendments to this. There is No. 596 of Mr. Naziruddin Ahmad.

**Shri T. T. Krishnamachari :** It is the same as No. 100. Probably the honourable Member will be willing to withdraw it.

**Mr. Naziruddin Ahmad :** I beg leave to withdraw it.

The amendment was, by leave of the Assembly, withdrawn.

**Mr. President :** Then there is No. 597 of Mr. Sidhva. Do you press it? It is about "ten members or one-tenth" and "twenty members or one-sixth".

**Shri R. K. Sidhva :** Yes, Sir.

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

"That in amendment No. 467 of List II, in the proposed clause (3) of article 189, for the words 'ten members or one-tenth' the words 'twenty members or one-sixth' be substituted."

The amendment was negatived.

**Mr. President :** Then No. 598. You withdraw it, I suppose?

**Shri R. K. Sidhva :** I withdraw it.

The amendment was, by leave of the Assembly, withdrawn.

**Mr. President :** Amendment No. 467. The question is:

"That for clause (3) of article 189, the following clauses be substituted:--

> '(3) Until the Legislature of the State by law otherwise provides, the quorum to constitute a meeting of a House of the Legislature of a State shall be ten members or one-tenth of the total number of members of the House, whichever is greater.
>
> (4) If at any time during the meeting of the Legislative Assembly or the legislative Council of a State there is no quorum, it shall be the duty of the Speaker or Chairman, or person acting as such, either to adjourn the House or to suspend the meeting until there is a quorum.' "

The amendment was adopted.

**Mr. President :** No. 468. The question is:

"That in sub-clause (e) of clause (1) of article 191, for the words 'the Legislature of the State' the word 'Parliament' be substituted."

The amendment was adopted.

**Mr. President :** No. 469. The question is:

"That in clause (2) of article 191, for the words 'either for India or for any such State' the words 'either for the Union or for such State' be substituted."

The amendment was adopted.

**Mr. President :** No. 470. The question is:

"That in article 193 for the words 'the Legislature of the State' the words 'Parliament or the Legislature of the State' be substituted."

The amendment was adopted.

**Mr. President :** Then No. 471. There is an amendment to this--No. 554 of Mr. Kamath.

**Shri H. V. Kamath :** Sir, I withdraw that amendment.

The amendment was, by leave of the Assembly, withdrawn.

**Mr. President :** Then the question is:

"That in clause (1) of article 194, for the words 'Subject to the rules and standing orders' the words 'Subject to the provisions of this Constitution and to the rules and standing orders' be substituted."

The amendment was adopted.

**Mr. President :** No. 472. The question is:

"That in clause (2) of article 204, for the words 'the amendments which are admissible' the words 'whether an

amendment is inadmissible' be substituted."

The amendment was adopted.

**Mr. President :** No. 473. The question is:

"That for clause (c) of the proviso to clause (1) of article 217, the following clause be substituted:--

> (c) the office of a Judge shall be vacated by his being appointed by the President to be a Judge of the Supreme Court or by his being transferred by the President to any other High Court within the territory of India.

The amendment was adopted.

(Mr. Naziruddin Ahmad did not press his amendments Nos. 599, 600 and 601.)

**Mr. President :** No. 474. The question is:

"That in article 230, after the words 'any State' the words 'specified in the First Schedule' be inserted."

The amendment was adopted.

**Mr. President :** No. 475. The question is:

"That in article 232 after the words 'more than one State' the words 'specified in the First Schedule' be inserted."

The amendment was adopted.

**Mr. President :** No. 476. The question is:

"That in article 234, after the word 'Governor' the words 'of the State' be inserted, and after the words 'High Court' the words 'exercising jurisdiction in relation to such State' be inserted."

The amendment was adopted.

**Mr. President :** No. 477. The question is:

"That in item (4) of article 238, in the proposed clause (3) of article 158, for the words 'entitled to the use of an official residence without payment of rent' and there shall be paid to the Rajpramukh such allowances' the words 'entitled without payment of rent to the use of an official residence and shall be also entitled to such allowances and privileges' be substituted."

The amendment was adopted.

**Mr. President :** No. 478. That is withdrawn, as it is covered by No. 556. No. 479 is also withdrawn.

No. 480. The question is:

"That in clause (2) of article 289 for the words 'any property used or occupied for the purposes thereof, or any income accruing or arising therefrom' the words 'any property used or occupied for the purposes of such trade or business, or any

income accruing or arising, in connection therewith be substituted."

The amendment was adopted.

**Mr. President :** No. 481. The question is:

"That for article 294, the following article be substituted:--

'294. *Succession to property, assets, rights, liabilities and obligations in certain cases.*--As from the commencement of this Constitution--

> (a) all property and assets which immediately before such commencement were vested in His Majesty for the purposes of the Government of the Dominion of India and all property and assets which immediately before such commencement were vested in His Majesty for the purposes of the Government of each Governor's Province shall vest respectively in the Union and the corresponding State, and
>
> (b) All rights, liabilities, and obligations of the Government of the Dominion of India and of the Government of each Governor's Province, whether arising out of any contract or otherwise, shall be the rights, liabilities and obligations respectively of the Government of India and the Government of each corresponding State,

subject to any adjustment made or to be made by reason of the creation before the commencement of this Constitution of the Dominion of Pakistan or of the Provinces of West Bengal, East Bengal, West Punjab and East Punjab.' "

The amendment was adopted.

(Mr. Naziruddin Ahmad did not press his amendments Nos. 604 and 606 to articles 294 and 366 respectively)

**Mr. President :** No. 482. The question is:

'That in sub-clause (a) of clause (1) of article 295, for the words 'the commencement of this Constitution' the words 'such commencement' be substituted."

The amendment was adopted.

**Mr. President :** No. 483. The question is:

"That in sub-clause (a) of clause (1) of article 295, for the words 'the Government of India' the words 'the Union' be substituted."

The amendment was adopted.

**Mr. President :** No. 484. The question is:

'That in article 296, after the words 'His Majesty' in the first place where they occur. the words 'or, as the case may be, to the Ruler of an Indian State' be inserted."

The amendment was adopted.

**Mr. President :** No. 485. The question is:

"That in the proviso to article 296, after the words 'His Majesty' the words 'or to the Ruler of an Indian State' be inserted."

The amendment was adopted.

**Mr. President :** No. 486. The question is:

"That to article 296, the following Explanation be added:--

*"Explanation.*--In this article, the expressions 'Ruler' and 'Indian State' have the same meanings as in article 363. "

The amendment was adopted.

**Mr. President :** No. 487. The question is:

"That in the proviso to clause (1) of article 316, for the words 'under an Indian State' the words 'under the Government of an Indian State' be substituted."

The amendment was adopted.

**Mr. President :** Then article 319. Amendments 488, 489 and 490. There is some substitution for these. These are, therefore, withdrawn, I take it. Then article 320. Amendment No. 491. But amendment No. 559 covers it, and so I take it that No. 491 is withdrawn.

Then article 351 and amendment No. 492.

The question is :

"That in article 351, the words 'so specified' be deleted."

The amendment was adopted.

**Mr. President :** No. 493. The question is:

"That in clause (2) of article 352, the brackets and words '(in this Constitution referred to as a "Proclamation of Emergency")' be omitted."

The amendment was adopted.

**Mr. President :** No. 494. The question is:

"That in clause (b) of article 353, for the words 'the Government of India or officers and authorities of the Government of India' the words 'the Union or officers and authorities of the Union' be substituted."

The amendment was adopted.

**Mr. President :** No. 495. The question is:

"That in sub-clause (b) of clause (1) of article 357, for the words 'the Government of India or officers and authorities of

that Government' the words 'the Union or officers and authorities thereof' be substituted."

The amendment was adopted.

**Mr. President :** Article 365: Amendment No. 496. But we have amendment No. 561 which has taken the place of amendment No. 496, and so it is withdrawn.

Article 366. The question is :

"That clause (12) of article 366 be omitted."

The amendment was adopted.

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

"That clauses. (13), (14), (15), (16), (17) and (18) of article 366 be renumbered as classes (12), (13), (14), (15), (16) and (17) respectively."

The amendment was adopted.

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

"That after clause (17) as so renumbered, the following clause be inserted:--

> "(18) 'Proclamation of Emergency' means a Proclamation issued under clause (1) of article 352;' "

The amendment was adopted.

**Mr. President :** Then we come to amendment No. 500.

**Shri T. T. Krishnamachari :** Sir, it has been replaced by amendment No. 562.

**Mr. President :** I shall, therefore, treat it as withdrawn. I am told 501 was not moved. Let us therefore go to 502.

The question is:

"That in clause (2) of article 370, for the words, brackets, letters and figures 'in paragraph (ii) of sub-clause (b) or in the second proviso to sub-clause (d) of clause (1)' the words, brackets, letters and figure 'in paragraph (ii) of sub-clause (b) of clause (1) or in the second proviso to sub-clause (d) of that clause' be substituted."

The amendment was adopted.

**Mr. President :** I find there are several amendments to 503.

**Pandit Balkrishna Sharma :** Sir, I withdraw Nos. 416 and 417.

The amendment was, by leave of the Assembly, withdrawn

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

"That with reference to amendment No. 503 of List II, in clause (1) of article 379, for the words 'the body functioning as the Constituent Assembly of the Dominion of India immediately before the commencement of this Constitution' the words 'the Constituent Assembly of India' be substituted."

The amendment was negatived.

**Mr. President :** No. 564 is withdrawn. The question is:

"That in clause (1) of article 379, for the words 'shall exercise' the words 'shall be the provisional Parliament and shall exercise' be substituted."

The amendment was adopted.

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

"That in clause (2) of article 388, for the words 'the provisional legislature' the words 'the Legislature' be substituted."

The amendment was adopted.

**Mr. President :** There is one amendment (No. 530) which I allowed Dr. Deshmukh to move to article 335 that after the word "members" the words "the Backward classes" be inserted.

The question is:

"That in article 335, after the word 'members' the words 'the Backward Classes' be inserted."

The amendment was negatived.

**Mr. President :** Then we come to amendment No. 545. There are several amendments to this. The question is:

"That in amendment No. 545 of List IV, the proviso to sub-clause (a) of the proposed clause (4) of article 22 be deleted."

The amendment was negatived.

**Mr. President :** Mr. Ajit Prasad Jain's amendment No. 580 does not arise. I shall put 581 to vote. The question is:

"That in amendment No. 545 of List IV, in sub-clause (a) of the proposed clause (4) of article 22, for the word 'or' occurring at the end the word 'and' be substituted."

The amendment was negatived.

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

"That with reference to amendment No. 545 of List IV, for sub-clause (b) of the proposed clause (4) of article 22, the following be substituted:--

'(b) such person is detained in accordance with the provisions of any law made by a State under the authority conferred by Parliament under clause (7).' "

The amendment was negatived.

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

"That with reference to amendment No. 545 of List IV, for sub-clause (b) of clause (4) of article 22, the following be substituted:--

'(b) such person is detained in accordance with the provisions of any law made under the authority conferred by Parliament under clause (7).' "

The amendment was negatived.

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

"That with reference to amendment No. 545 of List IV, for sub-clause (b) of clause (4) of article 22, the following be substituted:--

'(b) such person is detained in accordance with the provisions of any law made under the authority conferred by Parliament under clause (7).' "

The amendment was negatived.

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

"That for clause (4) of article 22, the following clause be substituted:--

'(4) No law providing for preventive detention shall authorise the detention of a person for a longer period than three months unless--

(a) an Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as, judges of a High Court has reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention:

Provided that nothing in this sub-clause shall authorise the detention of any person beyond the maximum period prescribed by any law made by Parliament under sub-clause (b) of clause (7); or

(b) such person is detained in accordance with the provisions of any law made by Parliament under sub-clause (a) and (b) of clause (7).' "

The amendment was adopted.

**Mr. President :** I find there are two amendments to amendment 546. Let me put Mr. Kamath's amendment to vote first.

The question is:

"That in amendment No. 546 of List IV, in sub-clause (a) of the proposed clause (7) of article 22, the words 'without obtaining the opinion of an advisory Board in accordance with the provisions of sub-clause (a) of clause (4)' be deleted."

The amendment was negatived.

**Shrimati Purnima Banerji :** Sir, I withdraw my amendment No. 617.

The amendment was, by leave of the Assembly, withdrawn.

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

"That for clause (7) of article 22, the following clause be substituted:--

'(7) Parliament may by law prescribe--

(a) the circumstances under which, and the class or classes of cases in which, a person may be detained for a period longer than three months under any law providing for preventive detention without obtaining the opinion of an Advisory Board in accordance with the provisions of sub-clause (a) of clause (4);

(b) the maximum period for which any person may in any class or classes of cases be detained under any law providing for preventive detention; and

(c) the procedure to be followed by an Advisory Board in an inquiry under sub-clause (a) of clause (4)."

The amendment was adopted.

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

"That in clause (4) of article 32, for the word 'rights' the word 'right' be substituted."

The amendment was adopted.

Amendments Nos. 551, 552 and 553 were, by leave of the Assembly, withdrawn.

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

"That in clause (1) of article 222, after the words 'The President may' the words 'after consultation with the Chief Justice of India' be inserted."

The amendment was adopted.

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

"That for the Explanation to clause (1) of article 288, the following be substituted:--

*'Explanation.*--The expression 'law of a State in force' in this clause shall include a law of a State passed or made before the commencement of this Constitution and not previously repealed, notwithstanding that it or parts of it may not be then in operation either at all or in particular areas.' "

The amendment was adopted.

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

"That in clause (c) of article 319, for the words 'as the Chairman of a State Public Service Commission other than a Joint Commission' the words 'as the Chairman of the Union Public Service Commission or as the Chairman of a State Public Service Commission' be substituted."

The amendment was adopted.

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

"That in clause (d) of article 319, for the words 'as the Chairman of any other State Public Service Commission' the words 'as the Chairman of that or any other State Public Service Commission' be substituted."

The amendment was adopted.

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

"That for clause (4) of article 320, the following clause be substituted:--

> '(4) Nothing in clause (3) shall require a Public Service Commission to be consulted as respects the manner in which any provision referred to in clause (4) of article 16 may be made or as respects the manner in which effect may be given to the provisions of article 335.' "

The amendment was adopted.

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

"That for article 347, the following article be substituted:--

'347. *Special provision relating to language spoken by a section of the population of a State*.--On a demand being made in that behalf, the President may, if he is satisfied that a substantial proportion of the population of a State desire the use of any language spoken by them to be recognised by that State, direct that such language shall also be officially recognised throughout that State or any part thereof for such purpose as he may specify.' "

The motion was adopted.

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

"That in article 365, for the words 'the President may hold' the words 'it shall be lawful for the President to hold' be substituted."

The amendment was adopted.

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

"That in amendment No. 500 of List II, the proviso to the proposed new clause (3) of article 367 be deleted."

The amendment was negatived.

**Mr. President :** Amendment No. 562A.

**Shri T. T. Krishnamachari :** With the change as suggested by me.

**Mr. President :** Yes. It will now read as follows and I will put it to vote.

The question is:

"That in article 367, the following clause be added:--

'(3) For the purposes of this Constitution 'foreign State' means any State other than India:

Provided that, subject to the provisions of any law made by Parliament, the President may by order declare any State not to be a foreign State for such purposes as may be specified in the order."

The amendment was adopted.

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

"That in article 385, for the words 'such commencement' the words 'the commencement of this Constitution' be substituted."

The amendment was adopted.

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

"That in clause (1) of article 388, for the words 'the President of the Union' in the two places where they occur, the words 'the President of India' be substituted."

The amendment was adopted.

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

"That in the first proviso to clause (1) of article 388, for the words mentioned in this article' the words 'mentioned in this clause' be substituted."

The amendment was adopted.

**Mr. President :** Amendment No. 568. There is an amendment, No. 621, to this amendment by Mr. Kamath. I will put it first. The question is:

"That with reference to amendment No. 568 of List IV, in the first proviso to clause (1) of article 388, the words and letter 'Part A of' be deleted."

The amendment was negatived.

**Mr. President :** Then I will put No. 568.

The question is:

"That in the first proviso to clause (1) of article 388, for the words 'representing a State' the words 'representing a

Province or, as the case may be, a State' be substituted."

The amendment was adopted.

**Mr. President :** Amendment No. 569. There is amendment No. 622 to this amendment. I will put No. 622 first.

The question is:

"That with reference to amendment No. 569 of List IV, in the second proviso to clause (1) of article 388, the words and letter 'Part A of' be deleted."

The amendment was negatived.

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

"That in the second proviso to clause (1) of article 388, for the words 'representing a State' the words 'representing a Province or a State' be substituted."

The amendment was adopted.

**Mr. President** Amendment No. 570. There is an amendment to this, No. 623 which I will put first.

The question is:

"That with reference to amendment No. 570 of List IV, in the second proviso to clause (1) of article 388, for the words 'the Legislative Assembly of that State' the words 'the Legislative Assembly of that Province or of the corresponding State or of that State, wherever such Assembly has been constituted' be substituted."

The amendment was negatived.

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

"That in the second proviso to clause (1) of article 388, for the words 'Legislative Assembly of that State' the words 'Legislative Assembly of that Province or of the corresponding state or of that State, as the case may be', be substituted."

The amendment was adopted.

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

"That in article 390, for the words 'out of such Fund' the words 'out of either of such Funds' be substituted."

The amendment was adopted.

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

"That for clause (3) of article 392, the following clause be substituted:--

> '(3) The powers conferred on the President by this article, by article 324, by clause (3) of article 367 and by article 391 shall, before the commencement of this Constitution,

be exercisable by the Governor-General of the Dominion of India.' "

The amendment was adopted.

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

"That in article 394, after the figure '60', the figure '324', be inserted, and after the figure '388' the figure '391', be inserted."

The amendment was adopted.

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

"That in Part A of the First Schedule under the sub-heading 'Territories of States', the paragraph commencing with the words 'The territory of the State of Bombay.....' and ending with the words and figure 'Extra-Provincial Jurisdiction Act, 1947' be omitted."

The amendment was adopted.

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

"That in Part B of the First Schedule, for the paragraph under the sub-heading 'Territories of States', the following paragraph be substituted."

'The territory of each of the States in this Part shall comprise the territory which immediately before the commencement of this Constitution was comprised in the corresponding Indian State, and--

(a) in the case of each of the States of Rajasthan and Saurashtra, shall also comprise the territories which immediately before such commencement were being administered by the Government of the corresponding Indian State, whether under the provisions of the Extra-Provincial Jurisdiction Act, 1947, or otherwise; and

(b) in the case of the State of Madhya Bharat, shall also comprise the territory which immediately before such commencement was comprised in the Chief Commissioner's Province of Panth Piploda.' "

The amendment was adopted.

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

"That in Part C of the First Schedule, for the first two paragraphs under the sub-heading. 'Territories of States' the following paragraph be substituted:--

'The territory of each of the States of Ajmer, Coorg and Delhi shall comprise the territory which immediately before the commencement of this Constitution was comprised in the Chief Commissioner's Province of Ajmer-Marwara, Coorg and Delhi, respectively.' "

The amendment was adopted.

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

"That in List I of the Seventh Schedule, for entry 8, the following entry be substituted:--

'8. Central Bureau of Intelligence and Investigation.' "

The amendment was adopted.

**Mr. President :** Then we come to List V. Amendment No. 614 has not been moved. I will put 615 to the House.

The question is:

"That in entry 75 of List I of the Seventh Schedule, after the words 'Emoluments allowances', the word 'privileges,' be inserted."

The amendment was adopted.

**Shri H. V. Kamath :** Sir, I have an amendment to amendment No. 616 which I handed in this morning. It was taken as moved.

**Mr. President :** Yes. I will put it to vote.

The question is:

"That for the word 'except' the words 'other than' be substituted and the two commit in entry 46 of List III, Seventh Schedule, be deleted."

The amendment was negatived.

**Shri H. V. Kamath :** Bad punctuation, Sir.

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

"That in entry 46 of List III of the Seventh Schedule, for the words 'Other than the Supreme Court' the words 'except the Supreme Court' be substituted."

The amendment was adopted.

**Mr. President :** Now we come to List VI. Amendment No. 618.

The question is:

"That for clause (5) of article 148, the following clause be substituted:--

'(5) Subject to the provisions of this Constitution and of any law made by Parliament, the conditions of service of persons serving in the Indian Audit and Accounts Department and the administrative powers of the Comptroller and Auditor-General that be such as may be prescribed by rules made by the President after consultation with the Comptroller and Auditor-General.' "

The amendment was adopted.

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

"That clause (g) of sub-paragraph (1) of paragraph 3 be omitted, and the remaining clauses, '(h), (i), (j) and (k)' be re-lettered as '(g), (h), (i) and (j)' respectively.' "

The amendment was adopted.

**Mr. President :** Amendment No. 625. There is an amendment to this by Mr. Chaliha, No. 630. I will put it to vote.

The question is:

"That in amendment No. 621 of List VI, for the first three lines of the proposed sub-paragraph (4) of paragraph 4 of the Sixth Schedule, the following be substituted:--

'(4) That the Governor shall make rules regulating--.

The amendment was negatived.

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

"That to paragraph 4, the following sub-paragraph be added:--

'(4) The Regional Council or the District Council, as the case may be, may with the previous approval of the Governor make rules regulating--

(a) the constitution of village Councils and courts and the powers to be exercised by them under this paragraph;

(b) the procedure to be followed by village Councils or courts in the trial of suits and cases under sub-paragraph (1) of this paragraph;

(c) the procedure to be followed by the District or Regional Council or courts constituted by such Council in appeals and other proceedings under sub-paragraph (2) of this paragraph ;

(d) the enforcement of decisions and orders of such Councils and courts;

(e) all other ancillary matters for the carrying out of the provisions of sub-paragraphs (1) and (2) of this paragraph.' "

The amendment was adopted.

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

"That in sub-paragraph (3) of paragraph 5, for the words 'and the Governor may by rules prescribed the procedure to be followed at such trial' the words and figure 'to which the provisions of this paragraph or paragraph 4 apply' be substituted."

The amendment was adopted.

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

"That in the proviso to sub-paragraph (2) of paragraph 20, for the words, brackets and letters 'clauses (e), (f) and (g)' the words brackets and letters 'clauses (e) and (f)' be substituted."

The amendment was adopted.

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

"That in article 106, for the words 'Constituent Assembly of India' the words 'Constituent Assembly of the Dominion of India' be substituted."

The amendment was adopted.

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

"That in clause (3) of article 348 for the words 'shall for the purposes of the said clause be deemed to be the authoritative text thereof' the words 'shall be deemed to be the authoritative text thereof in the English language under this article be substituted."

The amendment was adopted.

**Mr. President :** I shall now put to the House Mr. T. T. Krishnamachari's amendment.

The question is:

"For the word 'minorities' in Part XVI the words 'certain classes' be substituted."

The amendment was adopted.

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

"That in entry 67 of List I of the Seventh Schedule after the word 'records' the words 'and logical sites and remains' be inserted."

The amendment was adopted.

**Mr. President :** There is a consequential amendment.

The question is:

"That in entry 40 of List III, Schedule VII after the words 'and remains' the words 'other than those declared by Parliament by law to be of national importance' be added."

The amendment was adopted.

**Mr. President :** I take it that the amendment relating to the name of Bengal which is substituted by West Bengal has been accepted. There is an amendment by Thakkar Bapa which I shall put to the House.

The question is:

"That in article 164 in the proviso shall be inserted 'Provided that in the State of Madhya Bharat there shall be a minister in charge of tribal welfare, who may in addition be in charge of the welfare of the Scheduled Castes and backward classes or any other work.' "

The amendment was adopted.

**Mr. President :** Before we adjourn for the day we shall make some arrangement regarding the time table as to what we propose to do. I take it that we do not sit this afternoon. I want to know from Members how many of them would like to speak, so that I might fix an order as also the time. As regards sitting on Saturday next it is not possible for me to decide now. I shall decide it on Friday as to whether we shall sit on Saturday or not. As regards the sessions from day to day, what is the wish of the House?

**Several Honourable Members :** Five hours a day.

**Prof. N. G. Ranga** (Madras: General): One sitting from 2-30 to 6-30 P.M., so that we shall come only once.

**Mr. President :** What is the time limit for each speaker?

**Shri K. M. Munshi :** I suggest 15 minutes and five hours a day so that Members might get a few days between this and the next session.

**Several Honourable Members :** Half an hour.

**Mr. President :** As a compromise the time limit will be 20 minutes for each speaker.

**The Honourable Dr. B. R. Ambedkar :** All that we can do now is to decide whether we should sit tomorrow. In the meantime it would be desirable if you could invite Members who desire to speak to send in their names to you. After ascertaining the number of speakers who desire to take part in the general debate it will be possible for you to determine whether we should have two sessions a day and also as to the time limit for every speaker. At the moment nobody is in a position to know how many Members wish to speak. If the number of speakers are not too many it will be possible to increase the time for each Member and it will also be possible to have one session a day. I therefore suggest that you should only fix the meeting for tomorrow and in the meantime ask Members to indicate their wishes to you, so that you may have a list of speakers and then we can come to a decision as to other points, such as the time limit for each speaker and the number of the daily sessions, whether it should be one or two.

**Mr. President :** I think that is a practical suggestion.

**Shri T. T. Krishnamachari :** May I say, Sir, that we sit tomorrow as usual from ten to one and from three to five ?

**Mr. President :** For the present I decide that we meet tomorrow as usual at Ten of the Clock and I expect Members to send to the office by this evening their names if they wish to take part in the debate. That information will enable me to decide the hours of sitting, etc. I may say that it would be open to a Member not to. participate in the debate even though he has given his name.

The House stands adjourned till Ten of the Clock tomorrow.

The Assembly then adjourned till Ten of the Clock on Thursday, the 17th November, 1949.

---

*[Translation of Hindustani speech.]*

# CONSTITUENT ASSEMBLY OF INDIA DEBATES (PROCEEDINGS) - VOLUME XI

***Thursday, the* 17*th November* 1949**

**----------**

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

---

**DRAFT CONSTITUTION--*(Contd.)***

*(Third reading)*

**Mr. President :** We shall now take up the third reading of the Constitution. Dr. Ambedkar.

**The Honourable Dr. B. R. Ambedkar** (Bombay : General) : Mr. President, Sir, I move :

" That the Constitution as settled by the Assembly be passed."

*(Cheers)*

**Shri Mahavir Tyagi** (United Provinces : General) : Congratulations.

**Shri H. V. Kamath** (C. P. & Berar : General): Let Dr. Ambedkar kindly speak.

**The Honourable Dr. B. R. Ambedkar :** I propose to speak at the end. It is not the usual thing to speak now.

**The Honourable Shri N. V. Gadgil** (Bombay : General) : This question be now put. *(Laughter).*

**Shri Mahavir Tyagi :** What is the opinion of Dr. Ambedkar about this Constitution we are passing ?

**Mr. President :** I think we must now proceed with the business. Dr. Ambedkar has moved that the Constitution as settled by the Assembly be passed. The Motion is now open for discussion. Yesterday we were discussing the time that we would take for this Third Reading and I requested Members to give me names. Till yesterday evening I had received 71 names of Members who want to speak, and some additional names have come this morning; but even as it is, it seems to me that if we take about twenty minutes each and if we sit three days this week and five days next week, we shall have twenty-four hours, and twenty minutes for each speaker will give seventy-two speakers. So far as the time is concerned, I think we can very well manage within this time giving opportunities to every speaker who has expressed a desire to speak. So, it is not necessary to sit longer.

**Shri H. V. Kamath :** Let us sit for four hours.

**Mr. President :** At this rate we shall not require to sit, four hours.

**Shri H. V. Kamath :** If we sit four hours, we will be able to finish the session by next Thursday instead of Friday. If we finish earlier, we will have a longer interval before the session of the Legislature.

**Dr. P. S. Deshmukh** (C. P. & Berar : General) : Some honourable Members may come here later and give their names hereafter.

**Mr. President :** They may come. We have got some other work also to attend to. Today and tomorrow at any rate or till the end of this week, we sit only for three hours, and if necessary and if we find that sufficient progress is not made, we may have a second session next week.

**Shri L. Krishnaswami Bharathi** (Madras : General) : Is it from ten to one?

**Mr. President :** Yes.

**Shri L. Krishnaswami Bharathi :** We are quite agreeable.

**Mr. President :** Now, I do not know in what order I should call Members. I suppose I must follow the usual practice. If Members stand in their places, I shall select one of them.

**Shri H. J. Khandekar** (C. P. & Berar : General) : They should be called alphabetically.

**Mr. President :** I think that would be too mechanical. I shall follow the usual procedure and I hope there will be no difficulty in that. Shri Muniswamy Pillay.

**Shri V. I. Muniswamy Pillay** (Madras : General): Mr. President, Sir, I stand before this august Assembly to support the Motion moved by my honourable Friend, Dr. Ambedkar. Sir, I will be failing in my duty if I do not refer to the magnanimous way in which you have conducted the proceedings of this august Assembly in preparing the Constitution of this great land of ours. Sir, as one of the signatories of the epoch-making Poona Pact, you will be happy today that we have opened a new chapter in the history of India by giving equal opportunities to all classes and sections of the people who inhabit India. Sir, Mahatma Gandhi laid the seed for the amelioration of the condition of the Depressed Classes and that took shape in a formidable way and today we find ourselves in the company of men who have thought it necessary to afford facilities for the common man in our great country.

Sir, I proceed now to appreciate the great services that have been rendered by the Drafting Committee whose services are so valuable to us; they have not spared days and nights in coming to decisions on important articles. I must say a word of praise to the caliber and capacity of the Chairman of the Drafting Committee--Dr. B. R. Ambedkar. *(Loud cheers.)* Coming as I do from a community that has produced Dr. Ambedkar, I feel proud that his capacity has now been recognized, not only by the Harijans but by all communities that inhabit India. The Scheduled Castes have produced a great Nandanar a great devotee, a Tirupazanalwar a great Vaishnaivite saint, and above all a Tiruvalluvar, the great philosopher whose name and fame is not only known throughout the length and breadth of India but of

the whole word.

To that galaxy of great men of Harijans now we have to add Dr. Ambedkar who as a man has been able to show to the world that, the Scheduled Castes are no less important but they can rise to heights and give to the world their great services. I know, Sir, that he has served the community of the Harijans and also of India by his great service and sacrifice in preparing a Constitution which will be the order of the day from the 26th of January 1950 and I also feel, Sir, of the Chief Draftsman and of the staff that have worked in preparing the Constitution cannot be littled; they equally receive our praise.

Now coming to the Constitution itself, Sir, I feel proud that our countrymen have thought it necessary that the Fundamental Rights should give no discrimination, to any man who is considered to be lower in the rank and file of the nation. Articles 15 and 16 go to give no discrimination; at the same time they give equal opportunities of employment. I specially welcome these provisions.

The great thing that this Constitution brings to notice, not only to this country but to the whole world is the abolition of untouchability. The fair name of India was a slur and a blot by having untouchability, Great *avathars* and great saints tried their level best to abolish untouchability but it is given to this august Assembly and the new Constitution to say in loud terms that no more untouchability shall stay in our country.

Again, article 29 gives power to the would be Government throwing open all Hindu religious institutions to all classes and sections of Hindus. At one time dogs and swine might enter the sacred precincts of temples but the shadow of an untouchable was considered a great abomination. I feel proud, Sir, that by this article that slur has been removed away. Due to this discrimination of not allowing a certain section of Hindus, my people have been converted to various faiths and thereby our population has dwindled as also their merit, but today I am proud that under article 29 not only all Hindu religious institutions have been thrown open to all classes and sections of Hindus but all educational institutions maintained by the State or are receiving aid from Government will be thrown open to all the sections of the people.

Another thing, Sir, is that Mahatma Gandhi has told in unequivocal terms that prohibition must be the order of the day. We declare that if he were to be a dictator for even one day he would have proclaimed prohibition for the whole of India. Article 47 rightly puts in the Constitution that there shall be prohibition through the length and breadth of India. Article 46 gives the Scheduled Castes and Scheduled Tribes a very important place and I welcome that. Another article, 48, deals with the preservation of much cow and prohibition of cow slaughter. As a Hindu I feel that the great value of a cow is felt in India and it is a religious sentiment that the cow must be preserved and I feel happy that an article has been brought in this Constitution. Under article 343 we have been able to agree for a common official language for the whole of India. Fifteen years has been set as the target period by which India must get into the common language, but coming as I do from a non-Hindi area, my community especially have not the occasion or the opportunity to train themselves in the language of Hindi. Whatever it may be, the future Government that will come to stay will think over this matter and see that, if a great section of the non-Hindi area or population have not developed to that state to take up Hindi, they will see that some more time is given.

Coming to article 74 which allows the choice of ministers, I am one of those, Sir, who believe in the political rights of a community. During the past years when the Act of 1935 was in force there was a convention that the unrepresented communities must be given a choice to

be ministers but that has been taken away from here but I am sure the people who will be in charge in Future will see that the unrepresented communities in the ministries are given a chance so that the backwardness of such communities may be removed and they may keep an equal status with others. Coming to article 81 I find that in the composition of the Peoples Assembly no reservation has been given. When I questioned this matter in this august Assembly, the Chairman of the Drafting Committee told us that the Minorities Advisory Committee have not made any special recommendation as to this matter, but I am sure the President who will be responsible for getting the composition of the provisional Parliament will find ways and means later whereby a certain reservation may be got for these people.

Sir, I am proud that the Drafting Committee have understood the views of the members of the Scheduled Castes and others and have brought in articles 320 and 335 which deal with the representation of Scheduled Castes in the services. I feel it very important that a community that was at the outskirts of the society for centuries must be given a place and I think these articles go a long way to protect the interests of the Scheduled Castes in the matter of representation in the services.

Another important factor in the Draft Constitution is the giving of adult franchise in India. This will open the door to all the adults in this country, especially to the Scheduled Castes, who form one-sixth of the population of India, to equal opportunity to send proper representatives to the various assemblies. My only fear is, whether these people who have not yet been duly educated will be able to exercise their vote intelligently and send proper representatives. But, I am sure that with the help and assistance of the various communities in India, they will be able to send their proper representatives in the various assemblies.

Sir, in the matter of reservation of seats for the Scheduled Castes in the provincial assemblies, it was necessary to put a time limit of ten years. Though I pleaded before the Advisory Committee that there should be no time limit, due to the most crucial times and due to, the demise of Mahatma Gandhi, the whole country was not in a mood to give any reservation to any section. It is due to this and to the generosity of Sardar Patel: who so ably conducted the meetings of the Minorities Advisory Committee that we have agreed to a time limit of ten years and also to the appointment of a Special Officer to see to the needs of the Harijan community and the Scheduled Tribes. If in that period we have developed properly, we will not hesitate to remove the time limit; but if it is found that these people have not risen up to the level of the other communities, it is my humble belief that the future parliamentarians and the Government will see that the time limit is extended.

Sir, another important thing is that a definition has been given of Scheduled Castes and scheduled Tribes. Before the Provincial Parliament comes into effect, it is said that the President by a declaration will say which are the communities that come under the category of Scheduled Castes and Scheduled Tribes. It has come to my knowledge and of other members of my community that some people have been playing to eliminate some of the communities that really come under the category of Scheduled Castes. I think, Sir, proper care will be taken to see that no community that comes under the category of Scheduled Castes is eliminated.

The great thing in this Constitution, that is before the House, is that the word 'minorities' has been removed. I know, as a matter of fact, it is not the desire of myself or of my community to be ever called a minority or Scheduled Castes, we want to merge with the thirty crores of people in this country. But, as Mahatma Gandhi rightly said, it is the change of heart that is required. If the caste Hindus and those people who predominate in this country only show that change of heart, it will be time, Sir, that we ourselves merge into the great

community of Indians and I do not want to perpetuate this seclusion for ever.

In conclusion, I may, on behalf of the members of the Harijans that are present in this House and of Harijans outside, assure you and the august Assembly and the Government that we Harijans.....

**Shri K. Hanumanthaiya** (Mysore State) : Do we not represent the Harijans ?

**Shri V. I. Muniswamy Pillay :** We come under the special label of Harijans. On behalf of the Harijans, I may assure you and the future Government of India that the Harijans to the last man will uphold the Constitution that has been passed by the Constituent Assembly and work it to the very letter and spirit.

I thank you, Sir.

**Seth Govind Das** (C. P. & Berar : General) : *[Mr. President, I am very happy today on seeing that the third reading of the Constitution, completed by us in about three years, has now begun. On this occasion, I would at first like to congratulate Dr. Ambedkar who has laboured hard to put this Constitution into proper shape. Today he has moved the Motion that the Constitution as settled by the Assembly be passed. It has been said about Dr. Ambedkar that he is the Manu of the present age. Whatever be the truth of that statement, I can say that Dr. Ambedkar was quite equal to the task of constitution making that had been entrusted to him

I feel, Sir, that another person who deserves our sincere thanks and gratitude in this connection is our Prime Minister, Pandit Jawaharlal Nehru. It was he who for the first time brought forward before this Constituent Assembly that Objectives Resolution which can be said to be the foundation stone of this Constitution.]

**Shri Rohini Kumar Chaudhuri** (Assam : General) : On a point of information; in describing Dr. Ambedkar as Manu, was the honourable Member referring to the Hindu Code ?

**Seth Govind Das :** *[No, Sir, that statement did not have any reference to the Hindu Code, I believe that the House is aware that I am opposed to many of the provisions of the Hindu Code.

So I may remind the House of that Resolution which was moved in this Assembly by Pandit Jawaharlal Nehru in the beginning and, which as I have just said, is the foundation stone of our present Constitution.

The third honourable Member who deserves our congratulations is Sardar Vallabhbhai Patel, who has merged together into unions the numerous States, which had kept our country divided into many fragments.

Thus while supporting this Motion today, I congratulate these three honourable Members.

Our country is one of the six oldest countries of the world, which are India, China, Egypt, Greece, Babylon and Mesopotamia. In so far as Babylon and Mesopotamia are concerned, they do not occupy today any position of importance in the world. If we look at Greece, we find that the ancient Greece can be seen only in its ruins. The culture and civilisation of ancient Greece is not accepted in the Greece of the present day. Christian Culture and civilisation is

now dominant there. In so far as Egypt is concerned, its ancient culture and civilisation is found only in its Pyramids. If one goes to Egypt today, he would hardly find there the ancient culture and civilisation of Egypt. Today the Muslim culture and civilisation are there. In so far as China is concerned we can see a little of the Culture and civilisation of India of the Buddhist age combined it its after effects. But there too we find mostly the effect of the modern age. In this way in five out of those six ancient countries, we do not find their ancient cultures. Only India is one of those six ancient countries where the tradition of its ancient culture and civilisation can be seen in a very field of life.

If there be any one here who desires that the India of Rigveda should exist again today in our country, such a one cherishes but a forlorn hope, a hope which can never be fulfilled. Nor do I consider it proper that such a hope should be entertained. I do not think any one of us can transform the India of today into the India of Rigvedic times; but while I hold this view, I would like to make it clear at the same time that the civilisation and culture, which is the heritage of our early history and the continuity and vitality of which are visible in all spheres of our society and life and for the maintenance of which in our age Mahatma Gandhi--the Father of our Nation--sought to promote in many a way, should not be rejected by us. We should adopt all that the modem world has to give to us to fulfill our needs, as also all the inventions of the modern science. We need not have contempt for things European or American. We should be ready to assimilate all the new ideas which are useful to our country. Modern India should be so built up that we may be able to retain our culture and civilisation as well as also the advantages of the modern age. If we look at our Constitution from this view point, we would discover many shortcomings in it. Many people think that the present Constitution is an enlarged volume of the Government of India Act, 1935. From the view-point I have already placed before you, we may find some shortcomings but I am not prepared to accept that it is an enlarged edition of the Government of India Act, 1935. It was necessary that some sections of the Government of India Act should be kept in it. We find many articles of the Constitutions of other countries *e.g*., Ireland, Canada, and America also to have been drawn upon. And then, it is not a fact that this Constitution does not possess any originality. There is enough of originality in this Constitution. Of course, I am prepared to accept that this Constitution is not entirely satisfactory. Some people hold that this Constitution has become too bulky, it contains too many articles as also many details which could well have been left out. But I differ from them. If the Constitution is lengthy and if somethings have been given in detail that fact by itself should not make us dissatisfied with it, as these details will guide our Parliament in many a way. I feel that on the contrary we should be satisfied that this Constitution contains many articles and many details.

One thing that troubles me, however, and which I am afraid would continue to cause uneasiness to me, is that the Constitution of this ancient country has been framed in a foreign language even after the attainment of independence. I have always been drawing your attention to this shortcoming. You had assured us, not once, but more than once, that you also desired that our Constitution should be in our national language. In my opinion we would have definitely succeeded in this task if we had made an attempt. We have been sitting here for three years to pass this English draft. I think it would not have been either impossible or even inconvenient to have set for one month more and passed the Hindi constitution. I wish to say that our passing the Constitution in a foreign language after the end of our slavery and attainment of independence would for ever remain a blot on us. This is a badge of slavery a sign of slavery. You may publish the translation by the 26th January, still, I would say frankly that a translation will after all remain a translation. The translation cannot replace the original and whenever any constitutional difficulty arises, whenever any constitutional point arises before our Supreme Court, High Court or any other Court, we would have before us a Constitution in a foreign language and therefore I feel the domination of that foreign

language. This will always hurt us and I am thinking of the day, dreaming of the day when our country will form another Constituent Assembly and that Constituent Assembly will place our original Constitution before us in our national language.

Now, if we look at our Constitution our attention is attracted towards the Adi Vakya, called Preamble in English. As I have just said Pandit Jawaharlal Nehru's motion, is the foundation stone of the Constitution similarly the preamble, the Adi Vakya contains the whole gist of the Constitution.

In this preamble we have made it clear that we will have a democratic government in our country. There were only two ways open to us. Either we could frame a democratic constitution or advance towards despotism and frame a type of constitution which would have in essence meant the establishment of despotism in this country. We have made it clear in this preamble, in this Adi Vakya, that our Government would be a democratic one. Further, I would also invite your attention to the four points in this preamble, which are justice, liberty, equality and fraternity. Justice has been quite rightly given the first place. In our country justice has always been given the first place. If we look at our past history, the traditions of that history we would come to know that justice has always got the first place in this country. It has been said:

*Swasti Prajabhyah Paripalayantam*

*Nyayana Margana Mahim Mahishah.*

That is, 'the ruler should protect, nourish and cherish his subjects in accordance with justice.' So, it is quite proper that justice has been given the first place in the Preamble after the declaration of democracy. After that the next place has been given to liberty. All is of no worth without liberty. If our liberty is gone, every thing is gone. We have gained every thing by attaining liberty. Goswami Tulsidas has said in Ramayan:

*Pradhin Sapanaihu Sukh Nahi*

(one who is dependent on others cannot be happy even in dreams.)

This sentence of the Goswami will always retain its importance even though it has become so common. Thus the second place given to liberty in this preamble is quite proper. After this the third place has been given to equality. No country can be happy wherein on the one hand, one per cent, of the people live in big palaces eat a variety of dishes, put on covers like Pashmina in winter and the finest raiment in summer, while on the other 99 per cent of the people do not even get tents to live in, do not get even dry bread to eat, do not get clothes, so much so that their womenfolk do not get clothes to cover their body, that country must inevitably face a revolution. Hence 'equality' must rightly get a place in this preamble. The fourth place has been given to fraternity. No social structure can beget happiness without mutual love. So I hope that our country would be ruled according to the Preamble of this Constitution.'

So far as the various articles of this Constitution are concerned, I would make a few remarks regarding only three of them. One is regarding the name of the country. In this Constitution, our country has been named 'India that is Bharat'. It is a matter of gratification that the name Bharat has been adopted, but the way in which this has been put there has not given us full satisfaction. 'India that is Bharat' is a strange name. The second article, which I

wish to refer to, is regarding cow protection. It is a matter of satisfaction that an article regarding 'cow protection' has been added in this Constitution. But just as we have provided in the Fundamental Rights, that 'untouchability is a crime'. similarly we should have said, 'cow killing is a crime'. This we could not see our way to do. The third article concerns our language. We are not fully satisfied with this article too. English will prevail in this country for another fifteen years, and the Nagri script has also been disfigured by introduction of English numerals in it. The Hindi-speaking people are very much disgusted at this.

So I would say that we are not fully satisfied with the three things which I have been emphasising from the very beginning. But the fact that these three things have found place in this Constitution is a matter of gratification.

In conclusion, I again congratulate Doctor Ambedkar, Pandit Jawaharlal Nehru, Sardar Vallabhbhai Patel, other members of the Drafting Committee, and you, Mr. President along with the whole Constituent Assembly, on having framed a Constitution of free India, a Constitution of which we and the whole country can feel proud.]

**Shri Lakshminarayan Sahu** (Orissa : General) : *[Mr. President, now that the Draft Constitution is under final review I must take the opportunity of making a few observations. Firstly, I feel that in framing the Constitution, we have deviated from the ideals we had sat for it. The ideals on which this Draft Constitution is framed have no manifest relation to the fundamental spirit of India. This is what I think my Friend Seth Govind Das also made clear in his speech. It is the opinion of many people that we should not have drawn upon so heavily on the Government of India Act for preparing the draft of this Constitution. I feel that this Constitution has become a queer and unwholesome amalgam on account of the varied provisions it has borrowed from the Government of India Act and the other Constitutions of the world, things that cannot be compounded to form a harmonious whole.

It may be that this mixture may be to the taste of such people as are found of such mixed drinks as cocktails or such mixed food as Khichri. But while such mixtures may be enjoyable on occasions I can assure you that this cannot become staple food of any one and this Constitution made as it is for regulating our daily life, would not prove suitable and would break down soon after being brought into operation.

When at first we had started the work of framing the Constitution, our idea was to make India a Federal State with provinces as autonomous units. But gradually we gave up that line and as is evident from the present Draft Constitution the units have been practically robbed of all powers. This document, I would say, appears to be based on a lack of faith in the Provinces.

Confidence begets confidence, but contrary to this maxim Constitution does not place any confidence in the units. The provinces have been so tightly chained to the centre that none of them can have the least feeling of freedom. I am afraid that the provinces may on this Constitution coming into force feel that they have been put under a new kind of slavery.

Even though I sincerely compliment and congratulate Dr. Ambedkar for the hard labour he has put in this connection, yet I am afraid I cannot compliment him for this unnatural product of this labour which under constant changes has almost become shapeless and ludicrous. I know fully well and I believe that he is likely to say in reply that it is not entirely his handiwork. He had to frame the Constitution in accordance with the wishes of the majority party in the country. But be it as it may, I can predict that after two or three years a fresh

Constitution will have to be framed again. During the early sittings of the Assembly when the objectives Resolution was placed before the House, the Hon'ble Pandit Jawaharlal Nehru had most spiritedly spoken of our 'Sovereign Independent Republic', but later on a new term 'Democratic Republic' crept in its place. Formerly Pandit Nehru had said that to remain in Commonwealth would be a disgrace to us and that as soon as we were free we would get out of the Commonwealth. But I find that even today we are clinging to the apron strings of the Commonwealth. All this appears to me as if we were seeking to put our ship into motion without lifting its anchor. I may however point out that the ship does not move and shall never move. I fail to see any logic or significance in this course of action. It can not be pretended that it is a policy full of daring. It may be that our hearts have not the courage nor our minds the vision which alone could enable to frame a Constitution suited to our genius and needs. It appears to me that our eyes have been turned towards the West for finding out the ways the world manages its affairs in order that we may copy their methods. Even now Pt. Jawaharlal Nehru often declares that the Constitution we adopt would be such as to make the whole world look to us for Constitutional wisdom, and as would draw the world very near to us. But I often wonder why this should be so and why the world should look to India for guidance. What special appeal after all, does India possess? Besides what does this Constitution as shall compel attention on the part of the world to its provisions ? Even the spinning wheel which stood for the basic ideals of the Indian people and which was the object of such deep care for Mahatma Gandhi has been discarded by you and has been replaced by chakra. Formerly it had been decided that the Constitution would contain some provisions regarding our National anthem-Bande Mataram or Jan Man Gan. But we find that no provision relating to National anthem has been included in it. After all what is there in the Constitution to be proud of ? My honourable Friend Seth Govind Das had suggested that cow slaughter should be abolished. It must be abolished at once. But you have provided for gradual abolition.

The article which states that this work will be done gradually does not state in clear words that cow-slaughter is being prohibited with immediate effect. Why is it not being prohibited ? Are we afraid of anything in this connection ? How can we then give place to any other social order, such as the socialistic order, in this constitution ? On the one hand we give opportunity for private profit and on the other say that the resources of the Government are limited. That is why prohibition is not introduced and the people drink. The people will go on drinking so long as we do not make up our minds regarding our future course of action. So long as were not prepared internally to follow our ideals, how can we make others follow them ? Therefore we should give full thought to these matters. Are we not going to introduce the charkha which is the 'reflection' of India ?]

**Shri H. V. Kamath :** *[Symbol.]

**Shri Lakshminarayan Sahu :** *[Symbol. Yes 'symbol' is the right word. Moreover we have not decided anything in regard to our national song and our national flag. After all what is all this ? Where has everything disappeared ? Regarding Prohibition it is said that it should be introduced gradually. But what about the principles of Mahatma Gandhi? A friend has remarked just now that if he were a dictator even for a day, he would introduce complete prohibition. We say that we should proceed gradually and that we should forsake the habit of drinking too gradually. Green Bars and Blue Bars have been opened in our province of Orissa. When prohibition is going to be introduced, why are these bars opened ? Recently Blue Bars and Green Bars were opened in Cuttack. Moreover, I would like to say that we should again consider whether we should stay in the commonwealth and whether we should not establish a socialistic order. The position at present is that special privileges are being granted to the Anglo Indians. I do not understand why special privileges are granted to people. The Anglo-

Indian community has been enjoying such privileges in the railways and elsewhere as cannot be granted to others even though they may be equally efficient. That is the reason, I would like to point out, why we do not have the necessary facilities in the railways. Our country was first named Bharat. Then it was thought that 'Bharat' would not be understood by other countries of the world and the words 'India that is Bharat' were included. What is this ? There is no mention of the national language. On the contrary it has been written that Hindi would be the official language and English would also continue. The position would be reviewed after five years and then after fifteen years. This is the form which our constitution has assumed. I think that it is altogether useless and worthless. I do not see anything substantial in it. Mr. Kamath has quietly introduced in it God too. Some people hold that there is no God. The people of India do not want 'God'. We should be clear about this that we shall accept the majority decisions. I see that we step forward hesitatingly and that is why this constitution has assumed a shape which does not reflect a clear picture of India. This Constitution could have been corrected and made more explicit. However, this is not the occasion for it and I know that all this will never be done. Just see what has been done in the case of civil liberties. They have been so much fettered that even the civil liberties enjoyed by the people during the British regime would be available to them no more. Many people are confined in Jails for years. We have got such civil liberties.]

**Shri R. K. Sidhva** (C. P. & Berar : General) : *[What civil liberties we had during the British regime ?]

**Shri Lakshminarayan Sahu :** *[Many more. You will see that on the enforcement of this Constitution very few civil liberties will remain. India is a country of villages. In complete disregard of the villages we have turned into citizens and ask for rights of citizenship. I would say that we should have 'village-zen-ship' rights also. I do not see 'village--zen-ship' rights anywhere in this Constitution. What is the step that we should take at the present moment ? We should revive the cottage industries. But the idea never occurs to us. When a few people make a hue and cry about a thing it is said that it may also be included. When we say that we want to shape a new world and that India will be a non-violent country and an ideal for others to follow, why do we say in the same breath that we cannot take up the question of capital punishment. I cannot understand what is in our minds. After all what is the reason for this inaction. We speak fluently but do not bother ourselves about practice at all. We imitate the turns and twists of the other countries of the world. All this has caused me great sorrow. What is after all this Constitution about ? What has become of the proposed elected Governors ? We had decided that we would have elected Governors, the question was reopened and provision was made for appointed Governors. All this is being done in the strength of the so-called majority. We are seeing that our country is becoming as lifeless as stone. There is no talk of decentralisation now. We had set before us the object of decentralising India and of setting everything in order. But there has been so much centralisation that there is only one centre now and the Units have been reduced to the position of Municipalities and District Boards. A weak Unit has no other prospect than of perishing. The powerful Units will receive encouragement from the Centre and make progress. The bigger Units like that of Bombay, Madras and U. P. will get facilities and money too and will make progress. It is no doubt true that there is a provision that every Unit which has deficit will receive capital allotment from the consolidated fund. But who will grant it ? The persons from greater States like Madras and Bombay, who would be in charge of the consolidated fund would consider so many things and then grant it. They will throttle Assam and Utkal. We would become slaves. I have seen for the last two or three years what facilities have been granted to Utkal. That is why I say that this Constitution is not to our liking.]

**Shri K. Hanumanthaiya :** Mr. President, Sir, it is now nearly three years since this

Assembly first met for hammering out a Constitution. We are nearly at the end of our labours. This is a day on which the Assembly in general and the Drafting Committee in particular deserve congratulations on having completed the task entrusted to them under very difficult circumstances.

Today after having had a full picture of the Constitution. I for one feet that I cannot make up my mind wholly to appreciate and welcome this Constitution. There are very good points in it--the principles of liberty, equality and fraternity are embodied in this Constitution no doubt, and that is a matter for congratulation. But, Sir, there are other features of the Constitution that may not come up to the expectation of many people. It resolves itself into a question as to who is responsible for this constitutional set-up.

When I look into the list of members of the Drafting Committee, and see their names, I must say that many of them are very respected names. Many of them are very able men. But only some of them were in sympathy with the freedom movement. Most of them, if I scrutinize the names of members of the Drafting Committee, I find were the people who were not with the freedom movement in the sense in which many of our leaders were. They naturally brought their outlook and knowledge of things into the constitution making. That was not the kind of psychology or the knowledge that the Congress, for instance, or the country needed. I submit with all humility, they were no doubt very learned in the several laws and rules that were framed before we got independence. They were very well versed in case law and code law. But that was not sufficient for the purpose of hammering out a Constitution for a great country like India and its future. It is, something like this: we wanted the music of *Veena or Sitar,* but here we have the music of an English band. That was because our constitution makers were educated that way. I do not blame them rather, I would blame those people, or those of us, who entrusted them with this kind of work.

Look at the way the structure of the Constitution is built up. We were during the days of freedom struggle, wedded to certain principles and ideologies as taught to us and as propounded to us by Mahatma Gandhi. The first and foremost advice which he gave in his picturesque language was that the constitutional structure of this country ought to be broad-based and pyramid-like. It should be built from the bottom and should taper right up to the top. What has been done is just the reverse. The pyramid has been reversed. The initiative from the Provinces and States and from the people has been taken away and all power has been concentrated in the Centre. That is exactly the kind of Constitution Mahatma Gandhi did not want and did not envisage. Whether or not we are, right in having discarded our faith in this kind of democratic constitution, whether or not we are right in having discarded Gandhiji's idea of constitution making, it is too soon for us to judge. The future will judge for itself.

Sir, there are some very interesting contradictions in this Constitution. Here we have a Republic with a King above and Rajpramukhs below. Here is a Constitution which we say is a Federal Constitution but which in essence is almost a unitary Constitution. Here is a Constitution which we call Democratic, but democracy is centered in Delhi and it is not allowed to work in the same sense and spirit in the rest of the country. It is like the famous Hindu view of things that if you are to go to Heaven then you should have to go and have a dip in the river Ganges, especially at Benares. Nowhere else is the country so fit and so sacred as to send people to Heaven. Some thing of the kind has taken place in this Constitution-making. If you are to find democracy congenial to the soil, or if democracy is to be worked, it is in Delhi and nowhere else. That is the spirit with which this Constitution is framed. Again the people who have had a hand in Constitution-framing here have not only looked at the people in the Provinces and States with a certain amount of suspicion but they have also looked at the future with suspicion. They have made all sorts of provisions for preventing, what they

probably think is the misbehaviour on the part of the people for generations to come. That was not the intention with which we started Constitution-making. Anyway, inevitably the tendency has been allowed to develop that way.

There is again this language question on which some of my predecessors have spoken. We no doubt wanted the Constitution to be in our own language but we are compelled to keep the foreign language in use. That is again another interesting contradiction. These contradictions in my view are not of a very serious nature. The King above and the Rajpramukhs below will not be able to harm the Republic that we have set up. They are almost powerless in the set-up we are now adopting.

Though our constitution-makers have not adopted the course of decentralisation, still I have faith in the people of India. They will be able to assert themselves in times to come and make this democracy work equitably from Cape Comorin to the Himalayas. Whatever may be the set of rules, whatever may be the set of articles that we might draw up, human mind and human energy are greater factors in life and I have got full faith that they will be able to rectify matters in times to come.

Some of my friends naturally feel aggrieved that the Constitution has not been drafted in Hindi and that the national language his not been straightaway adopted. That again is due to the limitation of the circumstances and the times that we are living in. If some of us have not been educated in Hindi ever since our childhood, it is not our fault. It is the fault of the situation that existed then. We learnt English, therefore we are fond of English. A day will come when people will learn Hindi and they will be equally fond of Hindi. All that is required is a certain amount of patience, certain amount of charity, a certain amount of tolerance, and I am glad to say that people who are wedded very fanatically to Hindi are prepared to give that amount of tolerance and charity.

I happen to come from a State and I would be doing an injustice to myself If I do not express my innermost thoughts. Whatever may be the reason for including article 371 in the Constitution, I am not very happy about it.

I almost feel that we are treated in a way that is not in keeping with our self respect and I feel that generations to come will wonder why we the people of the States at all accepted or were willing parties to this article 371. It may be, that no doubt certain Governments or certain political leaders in the States have not come up to the expectations of our great leaders, and that has to be taken into consideration as well. But I would far rather stand by the principle that democracy is its own corrective. If democracy goes wrong in any particular area in the country it is not safe or wise that somebody from outside should always have the responsibility to rectify matters. That will not work. It may be that so long as our great leader Sardar Patel is there he may be able to rectify matters. But here we are framing a constitution not for a generation, not even for a century but for centuries unnumbered, and can we guarantee that there will always be at the head of affairs a man of the calibre of Sardar Patel to go on rectifying matters ? And mind, you, it is not the constitutional authority with which Sardar is now endowed that will rectify matters but it is his personal prestige. Personal prestige cannot be given as a gift by constitutional rules or precedents. Therefore, I would have appreciated. I would have thanked this House and those responsible for this article if they had believed in the principle that democracy is its own corrective, and left it to the people of the area to pull up any Ministry or any Legislature or any particular Minister if they misbehaved. Not only is this article 371 against the canons of true democratic principles but ultimately it may be the cause of friction and many constitutional fights as well. There is a relieving feature that its duration is only ten years. But even for those ten years we are under

the shadow of what is called "misbehaviour". That is a matter that has gone into the marrow of our bones. I hope that occasions will not arise when this article has to be exercised. If I may say so, it is also the responsibility of the people of the States to conduct themselves in such a manner that article 371 will ultimately prove a superfluity.

Sir, the Constitution that we have drafted is of a peculiar type. We students of Constitutional history and law were familiar with two types of constitutions; the federal one and the unitary one. Here is a Constitution which cannot be strictly classed under either of these two heads. It is almost of a new type and I may call it instead of a federal Constitution or a unitary constitution, a "Union Constitution". It bids to be a new phraseology that is contributed to constitutional thought by this Assembly. Whether this kind of constitution will prove as much of a success as federal constitutions, it is for the future to judge. But this is a new type of Constitution altogether and we have to work it with that spirit. After all, people say whatever the rules or the articles, the success of them depends not upon themselves but upon the people who work them. It is that faith that is sustaining us, not the faith that is generated by this Constitution. It is my hope that the people of India and their representatives will be able to work this Constitution with all its disadvantages and drawbacks to the best interests of the country.

**Prof. K. T. Shah** (Bihar : General) : Mr. President, Sir, at this stage of the debate on the Constitution. I feel it necessary to point out certain defects of commissions and omissions, on which, at the appropriate stage. I had tried to suggest amendments; but as those amendments, almost every one of them, found no favour in the eyes of the draftsmen, I feel, at this last stage, when we have an opportunity of pointing them out, that I should voice them in appropriate form.

Sir, as the House would recollect, my amendments had not been of the nature of verbal alterations, or suggesting points of mere formal controversies. This is not to say that I do not recognise the beauty of form, or the value of precision in expression. In fact I am bound to say that the labours of Friends, like Mr. Naziruddin Ahmad, who has striven hard to bring out the appropriate, the exact, expression, and proper punctuation; and make in all respects as correct a form as we could present, have not met with the appreciation that they deserved. While saying this I would not like it to be understood that I, on my side, do not appreciate the hard work, the deep learning, and all the careful attention they could possibly give that the Drafting Committee with its Chairman leading and some other members of that Body have rendered in this case. While judged as a piece of art in drafting, I am afraid I cannot regard this draft as a gem of its kind, I am willing to admit that, within the circumstances and under the conditions under which they had to work, the Drafting Committee have shown, and the Chairman particularly of that Committee, an erudition, a knowledge and ability to adapt himself to changing circumstances, and new conditions, and present as good a draft as, under the circumstances they could. For that they deserve every appreciation this House and the Government can show.

Having admitted this, I feel myself at liberty to point out still the defects, both of form and of principle, which, in my opinion, mar this Constitution and do not make it what we had hoped it would be. As already stated, I have tried to make my amendments and suggestions of principle and of root, rather than of mere superficial alterations. Now, confining myself only to those, I would like to point out, for instance, that the promise held out in the Preamble,-- the promise held out in the very first Resolution of this House, has not been fulfilled to the degree and in the manner we had a right to expect. We claim, for instance, to be a sovereign, independent Republic. While, however, we continue to be Members of the British Commonwealth. I am afraid it would be impossible for us to exercise that sovereign

independence which we fancied we were acquiring and enshrining- in this Constitution.

It may be that the Constitution is, in intent and form, democratic. But the ideal of Democracy in the shape of the Government of the *people,* by the *people* and for the *people,* is far from being realised if one scrutinises carefully the various Articles of this Constitution.

Several suggestions had been brought forward at the proper movement regarding, for instance, the right to consult the people by means of a Referendum, or the power of the people to initiate radical legislation to make the Constitution really democratic. But they have been all negatived. The excuse has been given that we are not yet ready for such methods of working democracy in all its fullness. We would need, we were told, greater experience, better education, and more wide-spread consciousness of political power in the masses as well as its responsibilities, to be able to work with success such radical forms of democratic government. I am afraid, Sir, I cannot quite accept and endorse such a view of our people's capacity, or of a working democracy in this country. The ability to work a democracy comes by having the responsibility to do so, and not by paper professions in its name, and practical negation of its forms. Had we agreed to such arguments in the past, had we accepted the suggestion of the British that the people of India were not educated enough and aware enough of their rights and obligations to be able to work a democratic Government of their own, we should never even now have obtained our independence, and the right to self-government which is now our proud possession.

Because you are still unable to trust in full the people; because you arc still unable to realise that it is only by working a democracy that democracy will really be established in this country, you have not accepted those suggestions and those amendments of mine which wanted such weapons, such instruments and devices to be introduced in the Constitution, whereby the right action by the will of the people for the benefit of the people and through the representatives of the people could have been asserted.

It is not only that you are lacking in a proper faith in the people as a whole. It is perhaps even more true to say that you are lacking in faith in your own leadership. For, if your leadership is really popular; if your leadership is really the open expression of the subconscious feeling the hopes And aspirations of the people, then you need not doubt at all that the leaders' guidance in crucial moments will be accepted; and the device I have suggested will be fruitful rather than mischievous.

I hold, therefore, that this Constitution is not, in the fullness of the sense, a real, working, effective democracy that the people of India had been led to expect they have achieved.

Take, again, the instance in which those of us who had entertained ideals of freedom have felt themselves disappointed by the actual wording in this Constitution. I mean the Chapters like those dealing with the Fundamental Rights and Civil Liberties, or the Directives of Social Policy, are not what they well might have been. I am afraid the wording of those articles gives much more verbal promise, than holds out any hope for actual performance. Almost in every case, in every article, in every clause, and in every sentence of each clause, the Right is given conferred or declared either restricted, conditioned, or made dependent upon certain contingencies that may or may not happen. There is nothing to show in the entire Constitution that efforts will be made to see that those Rights and Liberties are not merely paper rights, but that they will be made real, actual, living possession and enjoyment of the people.

Take these illustrations, Sir, The Right to free and compulsory education, the Right to full

employment, or the Right to personal freedom, are in almost every instance made subject to restrictions and conditions that I had hoped will not occur in a Constitution we are claiming to be democratic, claiming to be popular, and claiming to be made by the chosen representatives and trusted leaders of the people of India. It is a pity, Sir, it is a great pity, that even such a simple right as the right to personal freedom has been made, under the Emergency provisions,- wholly illusory. Excuses can also be found for seeking to detain a person without trial for three months. It is therefore, not a right to personal freedom, so much as it is a right to remain under detention without trial, without any proper judicial proceedings for a period of three months.

There may be plenty of excuses. But I hold that those excuses are obstacles to overcome, and not reasons to take shelter under and deny or circumvent or restrict the Fundamental Rights as you call them, or the Civil Liberties of the people. There is in my opinion no Chapter more painful to read, no Chapter more disappointing in this Constitution, than that dealing with the Fundamental Rights and the Civil Liberties of the people.

And, corresponding to that naturally there is no suggestion at all about enunciating any set of Obligations or Duties which might make the people also realise that there is in consideration of the rights they enjoy also certain obligations of democratic citizenship that the citizens can learn to appreciate. You are not giving those rights in full because you have fears of democracy becoming mobocracy. You have, therefore, restricted the Chapter on obligations of the citizens.

Take, again, another instance in which in my opinion the working democracy of this country has yet to be realised, and certainly not in this Constitution. I mean the question of the formation and functions of the various organs of the State. Again and again I had tried to put in amendments suggesting, if not a complete separation of the powers and functions and organisation between the principle organs of the State. There must be at least such a measure of mutual independence, at least such a degree of mutual freedom as would ensure the operation of each within its own sphere to the fullness that such power is given to that body under the Constitution without interference from outside or other organs of the State. I am afraid that, if we scrutinise the chapter relating to the legislatures, to the judiciary and to the executive, we cannot but come to the conclusion that the freedom or independence of these institutions, the real sovereignty of these institutions, is hardly likely to operate in actual practice. Constitutional *pandits* are not wanting in this House who declare that the doctrine of the division of powers stands exploded. I am afraid I am not one of those who can share that opinion. Even those who have found it necessary to keep and maintain close links and mutual influences between the various organs of the State, even they could have wished to introduce those safeguards, those provisions which might have enabled each of these bodies to function with a degree of independence, with a degree of sureness about their own work. But those safeguards have not been provided. I am not going, Sir, to go over in great detail--there is not the time for it--each of the provisions that would in my judgment imply this aspect of the Constitution.

I cannot help pointing out that the attempts, made again and again, to ensure a degree of purity, a degree of selflessness in the rulers of the country, did not meet with the success that I had hoped that such transparent devices to make the administration proof against charges of corruption would have met with in this House. Time and again, Sir, I suggested amendments whereby the Head of the State, the great governing authorities of the State, would be free from party politics and influences, by divesting themselves of interests which might conceivably lead them to misinterpret their duties and abuse their powers. But again and again, Sir the excuse was held out that this was too idealistic to be practicable in a working

word of mere mortals. I am afraid this excuse, without claiming to be nothing more than a mere mortal, does not sound good from those who claim to follow in the footsteps of Mahatma Gandhi who cherish the ideals that he held, and who claim to follow the principles advocated by the Father of the Nation.

These are some of the illustrations. Many more I can give you which would show that the actual doctrine of a working democracy is anything but fulfilled in this Constitution that we are now passing. The mutual relation, for instance, of the several bodies, the formation of the several organs and even the scope for local self-Government I mean, are extremely limited. If you scrutinise the schedules relating to the functions of the Centre--the subjects they are called--and of the local units, you will see that the local units are made utterly powerless. They have neither power nor funds to do their duties effectively. A previous speaker actually mentioned that real self-government, real democracy, can only be in the unit. In the Centre you should have only representatives of the representatives of the representatives; you see there only delegated power from the units. Now that alone would be real responsible popular government. It may be that the overwhelming majority of a single party and the position of its leader may help you at the moment to obscure the actual fact that in the Constitution as it stands there is room rather for the development of Fascism, than for the development of a working, real democracy. And that danger is much greater at the Centre than in the units. The Concentration of powers that you have in the Constitution in the head of the State,--who will really be a nominal figure-head but in whose, name the Prime Minister functions,--is such that, if he was so minded, the Prime Minister for the time being may become an actual dictator; and his colleagues in the Cabinet and the Parliament even as a whole may become nothing but the registry office of such a dictator.

I shudder to think of the possibilities that are inherent. I hope that these possibilities will not be accomplished in the manner I fear that they may be. But even so I cannot but utter this word of disappointment that provisions have found their place in this Constitution which may make of the President or, in his name, of the Prime Minister, a possible, potential, a dangerous dictator.

There are other aspects too, Sir, in this Constitution, which make one think that the hope of a working democracy free from any entanglements, free from any dependency or influence from outside, equal to all and accepting no privileged classes as such, is illusory. We had hoped, Sir, that the sovereignty of the people will be so asserted as to secure at least the absolute ownership by the State of all forms and all sources of primary production. To the attempt by me to introduce such an amendment which would secure to the State the ownership of all minerals, flowing waters and, other primary possessions which can be utilised for the betterment of the lot of man, to that attempt the blank answer was it is not practicable.

These and many more instances, Sir, could be given to show that the Constitution we are passing has failed in material respects, in essential particulars, to carry out the ideals which we had hoped we would carry out. Even so, at this stage I am not prepared to say that this Constitution with all its defects, all its shortcomings, all its weakness should be rejected. I am willing to say that with all its defects, with all its shortcomings, let us work it in the spirit at any rate which we hope and which we think ought to be the guiding spirit, the directing influence of this Constitution. If there are shortcomings, if there are defects, if there are omissions or sins of commission, working experience will reveal them to us. And if we work it with the right spirit, if we are intellectually honest, if we have nothing but the good of the people at heart, then I for one feel sure that, notwithstanding defects, notwithstanding short-comings, this Constitution can be worked in such a manner that real democracy may in a

short time be established, and if not in the immediate future, within five years or ten years, the people of this country may become the real rulers of this country.

**Shri R. K. Sidhva :** Mr. President, with the greatest joy and pleasure, I stand here to second the motion that has been moved by my honourable Friend, Dr. Ambedkar to pass the Third Reading of this Constitution. At the outset, Sir, with your permission let me make a personal reference. You know, Sir, that I was born in Sind; the prime of my life, thirty two years, I spent in the public service to serve my Sind people to the best of my ability and in my humble way. When the British Mission declared that there should be a Constituent Assembly to frame a Constitution, Sind was allotted one seat, and I had a desire to serve in the Constituent Assembly, but my Friend, Mr. Jairamdas Daulatram was nominated. Sir, I am greatly indebted to my leaders, the Honourable Sardar Vallabhbhai Patel and the Honourable Maulana Abdul Kalam Azad who encouraged me to sit in this Constituent Assembly. They found out a Constituency for me and they suggested C.P. and Berar. The Maulana Sahib gave me a letter to my esteemed Friend. Seth Govind Das and he and Pandit Ravi Shankar Shukla included me and got me elected unanimously to this Assembly from C.P. and Berar. I take this opportunity of thanking Seth Govind Das and Pandit Ravi Shankar Shukla and, members of the C. P. Assembly for giving me an opportunity to come here and serve in this Constituent Assembly. Sir, thus, it has given me an opportunity to play my little part in framing this Constitution and thus acquire the citizenship of India which I always cherished and what shall be always proud to retain. There was a little effort made in this House after the partition that I should be unseated because I came from Sind. You, Sir, very rightly interpreted the law and said that I was returned from C. P. despite that I have been residing in Sind, although I am not today so. (Dr. P. S. Deshmukh : I hope that will be the last time). You rightly interpreted the law that I am legally returned and you announced that in this House. I am thankful to you, Sir; it was not a favour but you did the right thing.

Now coming to the Constitution, on the 6th of December 1946 before entering this House, this memorable hall which has been renovated particularly for framing of this Constitution which will be remembered in the history of India, some of us, friends were informally discussing what will be the type of Constitution and how much time would it take. One of the well-known Members of this House, who has subsequently resigned, stated to me, Sir, that the Britishers are not going to leave India and this Constitution will be a second Nehru Report. Another honourable Friend Seth Govind Das told me that it will take six months: I said it will take the least two years. (Shri Mahavir Tyagi : You were right). From experience we have seen that today is exactly three years, or rather to be more accurate 15 days less than three years, when we have completed this Constitution. On the 1st of February 1948 after our deliberations from the 9th December 1946 to 1947 a draft Constitution was presented to us. It included 313 articles in the Constitution. Today we have now presented to this House 395 articles, that is to say 82 new articles were inserted. Then there were nearly 220 old articles which were simply scrapped off and in the case of nearly 120 articles the phraseology is materially changed. Accepting the preamble without a change or single comma or punctuation, several articles have been changed and I am very glad--and the House is also glad that we have by experience thought it desirable that it was not in a hurry that we should prepare a Constitution. We are therefore right in taking this long time and preparing a Constitution for which we shall all be proud. There have been criticisms outside this hall that we have taken a long time and wasted some money. I give no countenance to that. It was also stated that some of us were sending amendments for the purpose of sending amendments and making speeches. We did not countenance or listen to their arguments. We were fighting our battles in this Constitution Hall, to put our views and we have fought our battle very well, and I am glad that the Drafting Committee have taken our battles in the right spirit. We have done our duty. Proceedings in the matter of record are there for future

generations to see and the historians will have to judge whether we have wasted the time or we have done our duty to the people of this country and framed a Constitution, for which all of us are proud and I am very proud too.

Now in this Constitution, the redeeming feature is that of citizenship. It was a very ticklish question after the partition as to how to define the citizenship, and the Drafting Committee and others who have given their attention, they deserve credit. Those displaced persons have been straightaway told that even if their parents are born in India they will be automatically recognized as citizens of India.

Then coming to the Fundamental Rights there have been many criticisms, but ,on the whole I do think, and I have stated it repeatedly, that the freedom of speech or freedom of expression of views does not mean that a person should have license to speak any thing that will be detrimental to our freedom. This is known in all democratic countries. My honourable Friend Prof. Shah was just now criticising 'democracy'. Let me state that democracy does not mean that every person has got his independence to choose and do as he likes. Therefore if there are certain restrictions that have been imposed in certain articles of the Fundamental Rights, it has necessitated us to do so, although we may not like it. I do not like some of them I would like to be an absolutely free man as I like but I have also to work under certain limitations and therefore, the Fundamental Rights are the rights of which we can stand today before anybody and state that these are our rights and if anybody desires at any stage to trample our right, on a mere application to the Supreme Court a man can get his justice there. What more do you want in this Constitution ?

Another redeeming feature is the adult franchise. The adult franchise is the greatest risk which the Constituent Assembly has taken. I may tell the House it is the greatest risk for this reason that 85 per cent. of our population is illiterate and it is even now doubted whether the adult franchise will be successful . Whatever it may be, Sir, successful or not successful, we have taken the risk rightly. We had to take the risk and we have taken the risk. A democracy without adult franchise would have no meaning and, therefore. I am very glad and the House is proud that we have in this Constitution put in 'Adult Franchise'. There have been critics outside this Hall, they have been criticising our work that we have been monopolising and we want to stay here for ever. If that was the desire of this Constituent Assembly we could have framed this franchise in a different manner, but we felt that whatever it may be 'adult franchise' is there as the Congress has been proclaiming for the last fifty years that whenever they attain freedom they shall see that every man and woman of the age of 18 or 21 shall have the right of a vote and that I consider is the greatest right. *(Interruption).* It is 21. I would have personally preferred 18 but it is 21, and this is the thing that the future people have now to rightly exercise. It has to be seen how they exercise their right in returning the members to the various legislatures. It is stated that the illiterate people will dominate the future legislatures. Well, I do not mind if illiterate people come from the remotest parts of the Indian Union. I have seen that sometimes illiterate people have a power of originality and they argue much more ably than some of us, literate persons. Therefore, I am not at all frightened and we have taken the right course and if there is a risk, I know there is a risk and we have taken it in the right direction.

I am really sorry that as far as the local bodies are concerned, this Constitution has been simply silent, silent in the sense that they are not given the due share which we all aspire to see that every village and every villager should become prosperous and self-sufficient. The ideal of our great leader, Mahatma Gandhi was the "Rural Swaraj" that every village should be self-sufficient and self-supporting. I am sorry to state, Sir, that part has not been fulfilled in this Constitution despite the amendments that I have been able to move and which I am sorry

to say the Drafting Committee were unable to accept.

As I said the other day, in the earlier stages, when we were discussing the Objectives Resolution, the House was unanimously of the view that the Centre should be strong and therefore the Drafting Committee had that point in view--I do not say that the provinces are mere skeletons, they have been given many powers--and the Centre has been made strong. I am for it; but that does not mean that the villages should not also be made strong and the villages should not be left to themselves. I am indeed glad that the various provincial Governments have passed Panchayat legislation : the Bombay Government has passed the Bombay Panchayat Act; the Madhya Pradesh Government have passed the Janapada Act; the United Provinces Government has passed the Gaon Panchayat Act and the Bihar Government has enacted the Village Panchayat Raj Act. All these are there. But, if you do not give them the required money, what can they do ? My regret is that the legitimate share of the finances due to the villages is not given to them, for village administration and village self-sufficiency. The provinces do not give the villages their due share. The local bodies today are a sham, I should say, in this country. I hope, whatever the Constitution, the provincial Governments will make efforts to see that the villages are made self-sufficient and unless we have village self-sufficiency, there will not be happiness, and prosperity for the common man in this country, for whom we have the greatest regard.

Sir, the other redeeming feature in this Constitution is that we have abolished communalism. At the earlier stages, frightened by the remark that we would be called ungenerous to the minorities, we enacted in the old Draft Constitution presented to the House on the 1st February 1948, communal representation I come from a minority community. I have held during my whole life that this minority was a canker and a poison in our political life. Subsequently, it has been realised by this House that the various communal representations must go and they have gone. It was the happiest day when, through the efforts of the Chairman of the Minorities Committee, Sardar Patel, we have been able to erase that communal representation which had been introduced into the Constitution. Today, this Constitution which we are presenting to the country and to the world will not show any kind of communalism in any of the articles. As far as the Scheduled Castes and Scheduled Tribes are concerned, I have expressed my views. I do not consider them as a communal body. I consider them as a class of people from the Hindu community to whom our great revered leader Mahatma Gandhi felt, and rightly felt, that a great deal of injustice has been done. Although a Parsi, I have had the privilege and honour of working as the Secretary of the Harijan Sevak Sangh in my province and I can claim to say that really a great injustice has been done to them. It is but right that we have provided for them special privileges. I am confident that within the ten years after the commencement of the Constitution, this class of people will also have come up to the level and standard of the other people and these Scheduled Castes will automatically go away after ten years.

Sir, every effort has been made in this Constitution to see that the Judiciary is put above any kind of influence of the Executive. What more do you want, I ask ? We have taken pains to see that howsoever great influence the Executive have, it should have nothing to do with the Judiciary, so that the rights and privileges of the citizens should be fully secured and protected. I have only to remark that sometimes the Judges are also puffed up. While we have given them all possible supremacy, they must also bear in mind that they should not be puffed up. If any criticisms are made of their judgments, they take action for contempt of court, bring a prosecution and themselves sit in judgment in such matters. I brought forward an amendment; I am sorry to say that it was lost. The Judges have no business, when they say that the Executive and Judiciary should be separated, to order that such and such newspaper or such and such person has committed contempt of court and to order that he should be

prosecuted, and again, himself to sit on the Bench and decide the Issue. This is a very unheard of procedure. I leave it to the good sense of the future, Judges, right from the Supreme Court down to the lower courts, and hope that the Supreme Court will give a lead to the other High Courts that in the matter of contempt of court, they should not behave as they have been behaving in the past.

On the question of language, how proud are we? Some state that we should not have a language and that English should continue. A country without, a language of its own, could never be a democratic country. This was a ticklish question and there were those days when there was a hectic fight going on over this. But, with one voice, the House decided that we should have the Hindi Language and we are proud of it. We have not forgotten, at the same time, that the regional languages should be retained and we have retained them.

History will judge this Constitution. It is certainly not perfect; there may be defects; I know there are defects. I told you that I fought my battles in this hall by moving my amendments and I lost them. But, it is my duty to say to the people that this is the best Constitution and I expect every Member of the Constituent Assembly to say, despite any difference of opinion, that this is a Constitution of which we are proud and we must proclaim to the world and the world will realise that this is a document worthy of Preference by various ,countries in the world. Therefore I feel proud of this Constitution when it becomes law on the 26th day of January 1950, the historic day on which we shall inaugurate the Democratic Sovereign State. The various articles of the Constitution have been given a great deal of publicity, and rightly publicised, and today every man is conscious what is this Constitution and what is this article. Two years ago when we started the work, people were not conscious of what the Constitution was. But, by the prolongation of the sittings and the sessions of the Constituent Assembly, people are taking great interest in discussing the various articles after reading them in the newspapers, although the newspapers give a scanty report--they cannot give a *verbatim* report. People are today taking a great interest in what this Constitution is and what these articles are, which give to the people their rights and their obligations.

Lastly, Sir, I would say, there is an article in the Constitution that the privileges and rights of the members shall be preserved, as those prevalent in the House of Commons. I got up half a dozen times to know from the Drafting Committee what were the privileges in the House of Commons; but none of the Members knew it; nor have they enlightened me. The Honourable Dr. Ambedkar, the Chairman of the Drafting Committee when he was confronted with my question repeatedly, said, "I have got some South African Parliaments privileges; you come to me; I will show you." I have written a letter to him to send me the same; but I have not received a reply, nor have the privileges been shown to me. I do not know whether it is in existence in his office; but I have not been supplied with a copy. I am really anxious to know what those privileges are. It is really vague to put in the Constitution that the members will enjoy the rights and privileges which are prevalent in the House of Commons which the Drafting Committee is ignorant of, of which they have no knowledge. It was not proper to have put such a thing in the Constitution. Whatever it may be, it is there and I hope that in the first session of the Parliament, efforts will be made to see that the members' rights are well protected and secured.

In the end, I will only state that it was under the inspiration of our great leader whose picture hangs over your head, Sir, that we were all the time discussing these articles, and I am quite confident that although his body is not there, his spirit will guide us rightly after this Constitution becomes law and that we shall act faithfully and loyally and follow the teachings that he has all along his life taught us, faithfully and honestly.

**Prof. N. G. Ranga** (Madras : General) : Mr. President, Sir I am very glad to say that this is one of the memorable days that this House has come to witness, during its career of more than two years. There were times when this House was very much inspired by the speeches made by our Prime Minister and Deputy Prime Minister and many, other leaders of our own. This is also, a memorable day in the same sense because today we have begun our mutual fencitations over the great task that we have all performed in fashioning out, a Constitution for the future of this country, for the free India of out dreams, which has now come to be a reality. It is also in another sense a memorable day because with the blessings of this House and with your own personal blessings and the strength, support and inspiration of our two great national leaders--Panditji and Sardarji-- a new province is being brought into existence as a result of the deliberations and the work of this Constituent Assembly. I am fortunate in being an Andhra and in being able to do my own little bit by the side of our two veteran leaders, the Kesari, Mr. Prakasam and our Rashtrapathi Dr. Pattabhi, in trying to bring into existence the Andhra Province, and we have the good news today that the Congress Working Committee as agreed to request our Government to bring into existence this Andhra Province for which the Andhras as well as others have been fighting for the last 35 or 36 years. My only regret is that the founder of this movement, once the Acting President of the Indian National Congress, one of our great martyrs in this country. Desabhakta Konda Venkatapayya, is no longer alive to see this day and to hear this great news. I sincerely hope that the Government as well as yourself as our President, will do their best to take the necessary steps under Section 290 of the Government of India Act and later on under the appropriate section of our own Constitution, for the creation of this province and help it in every possible manner to make its debut in the realm of our own States in this Country and enable it to make its own contribution to the progress of an Independent India.

Coming to the Constitution that is before us, I am glad to say that in several respects this Constituent Assembly has been able to set an example to the rest of the world. We have read only to-day that Mr. Truman, President of America, is trying to persuade his own countrymen to confer civil rights upon the Negro peoples of that country who form 10 per cent of their population. But according to our own Constitution we have sought to confer all those, civic rights upon our own Harijans, other Scheduled Classes and backward peoples and backward Tribes. We have banished untouchability first of all from our minds and from our social matrix. We have agreed that there should be no untouchability at all and anyone who observes it should be taken to task. We have also agreed that our Scheduled Castes should be Protected. My Friend Muniswamy Pillay was rather afraid that it might not be possible for them to make such progress within the next ten years that it would be possible for the whole of the country to say good-bye to these reservations at the end of the ten years, but I am more optimistic and what is more, I am anxious also that our Indian democracy should play its role so well and perform its duty by our Scheduled Castes so satisfactorily that at the end of ten years our own Scheduled Caste friends would be willing to join hands with all others in saying good-bye to these reservations.

Then, Sir this Constitution has set another example to the Imperialist Nations of the World and also to the tribal people especially of Africa, by that Chapter we have included in the Constitution for the protection of tribal peoples of our country. Ours, as everyone knows, is an ancient country and therefore there is such a lot of debris of the past which has got to be cleared. We cannot clear it in a rough-and-ready fashion. We have to take constructive steps and our Constitution seeks to take those constructive steps by agreeing to create autonomous tribal republics in those far distant lands of Assam and providing a chance for the tribal people to live not only their own social and tribal life but political life, in a manner which would be conducive to their rapid progress. We have set an example to all other peoples because, as we all know, the British, the Belgian, the French and other Imperialists who were having their

control over the peoples of Africa are today hard put to it to find a way by which they could possibly help the tribal people in those countries to make the necessary progress and as we all know that the tribal people of those countries themselves are in need of means-political means-by which they can make their own rapid progress, not only towards complete independence as we have achieved, but also towards social progress and I feel that the way for their progress lies in the manner in which we have ourselves prepared this Chapter and shown the way to our own tribal people.

Sir, in order to achieve religious harmony many countries have had to undergo a tortuous history. In Canada, in England and in France where there was conflict between two different denominations of Christianity itself, it took so many years to come to a harmonious solution as to how their various denominations should be allowed to be taught, preached and propagated for their progress as well as for their social life. In our country we had to harmonise the interests as well as the proselytising proclivities of some of our own religions--and we have many more religions I am afraid that many other countries--and yet we have struck upon, a solution which, I am sure, will be considered not only by Constitutionalists but also by Sociologists all over the world to be highly progressive, to be harmonising and to be useful. There is also this difficulty of bilingual areas in regard to which also, the League of Nations of old and the present U. N. O. and several peoples of various countries have had to wrestle with their own minorities, their interests and their conflicts. We too in our country have come to a solution which is progressive, which would bring about harmonious relations between different people speaking different languages, or living within the same area or within particular areas of different provinces. And I am glad, Sir, that power has been given to the Central Government to see to it that the peoples living in these bilingual areas are able to enjoy the privilege of getting their children educated in their own languages, while at the same time, enjoying the privilege of getting into the services, and the legislatures and also the political life of the regions of the Province or the State in which they happen to live.

It is also good, Sir, as you yourself so ably put it, that we have come to take a decision with regard to our common language. It is going to be one of the biggest constructive efforts that this country would be making, in order to weld all our different people into one strong, solid and harmonious nation; and I sincerely hope that it would be possible for our children and their children not only to learn this language, but also to enrich it with all the genius that we have been able to develop, and our ancestors have been able to develop through their ,own languages, in this vast country.

We are very greatful to our Sardarji, whom we all love and respect, for the manner in which he has consolidated our country and integrated province with province, State with State, and all of them together into this great whole, this united India; and for achieving a social revolution of which any country or any nation can be proud of, a revolution achieved in such a non-violent manner and in such a short time a record time, indeed.

Sir, we are laying the foundations for our democracy. I am satisfied for the time being, Sir with these foundations. We have these Fundamental rights. We have not contributed very much to these, beyond what we have been able to gain from the experience of the rest of the world. But at the same time, I am glad to say, we have tried to draw as many lessons as possible, for our own adoption and for our own practice, in the formulation of these Fundamental Rights. In one respect I think we have gone a little forward, and rightly so, and that is in detailing those rights which we can establish in a court of law, if any executive authority were to try to violate any one of them.

I am also glad that we have taken sufficient care to prevent the kind of experience that the

United States of America has had for several number of years, ,over the conflicts that arose between different States on the one side and also States and the Federal Government on the other, and we have taken a lesson from their experience and made sufficient and necessary provisions in our Constitution in order to prevent any conflict between one State and another, and we have also established harmonious relations in the development of their own inter provincial irrigation, flood control and various other subjects, and also to see that in the economic development of our country no one State would be able to prevent the general development of the country or the progress of its neighbouring States.

I am also glad that we have had the courage, the moral courage, to place certain restrictions upon the kind of liberty or kind of license that any one group of people, a few individuals or many, would like to enjoy in this country and exercise. It needed moral courage because so many of us have been to jail and suffered from the detention and all the rest of it, and therefore, We know the pangs of it, and we have been inveighing against this aspect of executive authority for so many years. And therefore, we had to realise its necessity, and it is not easy for erstwhile revolutionaries to realise so soon after the achievement of their immediate objective, namely, independence, that if the country is to grow in strength and in stability, and if we are to have social progress at all in the country, then we must be prepared to restrain such of those groups, parties or individuals as would like to stake their all and sacrifice the good of everybody for the benefit of their own particular isms, their own communalisms, their own ,castes, creed or class or their own politics. Therefore, I do not think that any Member of this House need have to be apologetic to anybody who might come forward and say, "Oh, you have put all these restraints upon such and such fundamental rights, and so on." We have also taken care to fix certain limits to the exercise of executive authority even in this direction.

We have also displayed our moral courage in another direction, and that is, in accepting the need for a strong, stable, loyal and patriotic public service. There were days when I was a young man, in the university, when Mr. Lloyd George began to speak about the "steel frame" in India, and I felt very unhappy. I used to be very angry, and I thought "Why this steel frame" ? But now within the period of three years, we have been able to realise how necessary it is for us, if we are to achieve cooperative progress or Gandhian Socialism, how necessary it is to have a Civil Service, and if we are to have a Civil Service, how necessary it is to trust them, and to be trusted by them, to stand by them and to be served by them in a loyal fashion. So I am in agreement with the provisions made in this Constitution for the protection of the salaries and emoluments of our public servants. But this does not mean that we are giving a *carte blanche* to our public servants. We are providing these privileges to the Civil Service with the hope and with the object of seeing that they do serve the country loyally and efficiently.

Sir, with regard to one aspect of our Constitution I am a little unhappy, and that is, the degree of centralisation that we have provided for in this Constitution. Not that I do not want a strong Central Government. All of us want it. But just contemplate for a moment what is likely to happen if another Hitler were to arise and take charge of the Central Government, or to play the same pranks and tricks that the earlier Hitler had played in Germany, by dismissing socialist provincial governments or one or two liberal provincial governments. We have given certain powers to the Central Government here which would empower them to dismiss certain of our Provincial Governments. Whether this is a good thing, whether it is a progressive thing, that is yet to be seen. But that power we have agreed to give to our Central Government in the hope that our people would see to it that the Central Government of the future would always be democratic, that it would not be allowed to degenerate either into a

Communist totalitarianism or a Fascist totalitarianism.

Sir, with regard to our own Provincial Governments too, and their constitution, we have taken care to provide for them a democratic basis. It is very necessary for our own people to see to it that this basis is respected and strengthened. The success or failure of any constitution depends upon the people who have got to use that Constitution, who have got to help to grow the various conventions, conventions over conventions, growing from precedent to precedent. Are our people going to take their responsibilities seriously? I have every confidence that they will. I have every confidence that people who accepted the leadership of Mahatma Gandhi and followed it over all those troublous years and fought imperialism and achieved freedom for this country would also have the necessary wisdom and statesmanship to help us to grow from this Constitution into a higher and higher conception as well as experience and practice of democracy. I look forward to the day when it would be possible for us to achieve a Cooperative Commonwealth; as Bapu was good enough to call it through the Kisan-Mazdoor-Buddhijeevi-Kalakar raj-that is the Raj of the toilers of the country, not the Raj of the idlers or exploiters, but the Raj of the people who lived by their own toil, who made their contribution to the society in an honest and progressive manner, the Raj of the people who lived, worked and died for democracy and democracy alone and never countenanced dictatorship.

**Mr. Naziruddin Ahmad** (Wes Bengal : Muslim) : Mr. President, Sir, once upon a time a man went on a sea voyage and returned to his village after a long time and people asked him what was the greatest wonder that he had seen. He said the greatest wonder that he had experienced was that he had returned home. So far as this Constitution is concerned, the greatest wonder is that we have finished it. One of the other wonders and possibly a most exclusive wonder in the world was the invention of a "second reading" which we concluded yesterday.

**An Honourable Member :** Second and a half reading.

**Mr. Naziruddin Ahmad :** May be. This kind of reading has never been known in any constitutional or legislative history in any part of the world; and somehow or other, I was an unconscious instrument in creating this mischievous state of affairs. I had suggested at a very early stage the idea of the Drafting Committee revising the work of the second reading. I had a suspicion that the way in which we were proceeding would lead to many mistakes. I therefore suggested a rule that the Constitution as settled at the second reading be sent to the Drafting Committee for revision. It was then strenuously opposed by Dr. Ambedkar, but ultimately he agreed and we can now see the practical value of the rule. The unfortunate result of that procedure was that whatever was intricate or difficult or anomalous began to be made over to the care of the Drafting Committee. There was however a condition that the Drafting Committee should make changes only of a formal nature and further amendments by members should be limited to those amendments. The power given to the Committee was similar to that given to the Secretary in the Legislatures. An unforeseen result of the rule was that a large number of anomalies could not be considered by the House and were shut out at the second reading. This was due to another rule introduced at the instance of Shrimati Durga Bai. Punctuation, grammatical and other formal amendments were passed over as if these were nothing. They have never been considered by the Drafting Committee and the House was absolutely debarred from considering them. This reading may, to my mind, be fittingly described as the fourth reading. It is something of a new precedents for the world.

The rule that formal, grammatical and punctuation amendments should be left over was supposed to be based on the English practice, but in England there are no such drafting

mistakes as we are accustomed to here. Drafting mistakes there are absolutely out of the question, impossible and a thing never to be thought of. But here we have taken considerable liberties with the English grammar including punctuation and the wording of the Constitution. This led to entire ignoring of grammatical and formal errors and this led to errors and anomalies with which the world has never been familiar.

I submit these rules have in practice led to a serious state of affairs. There are a number of errors, anomalies, redundancies and repetitions. I shall refer to only one repetition of a glaring nature. Article 89, clause (1) says: " The Vice-President of India shall be an *ex-officio* Chairman of the Council of States." Exactly the same provision, in the same identical words also occur in article 64 where it says: "The Vice-President of India shall be an *ex-officio* Chairman of the Council of States". One of these provisions should have been deleted. I ventured to attempt it, but I was ruled out on the ground that such glaring repetitions would be looked over by the Drafting Committee. The Drafting Committee have simply ignored it and the repetition remains. (*Interruption*).

**Shri R. K. Sidhva :** What is the mistake?

**Mr. Naziruddin Ahmad :** The same provision in identical words appears in two places in the Constitution. But it has been passed over. It is no use holding a *post mortem* examination of this defect.

**Shri Mahavir Tyagi :** But we want to follow your argument.

**Shri R. K. Sidhva :** Where does the mistake occur?

**Mr. Naziruddin Ahmad :** I have no time to be cross-examined by Members.

**Mr. President :** I would ask honourable Members to let the speaker proceed in his own way.

**Mr. Naziruddin Ahmad :** There are a large number of anomalies and mistakes with which the Constitution abounds. I will not tire the House with a catalogue of them. Some of the amendments moved in the House have not been accepted by the Drafting Committee in the House not because they were not considered necessary, but because of a kind of bashfulness or nervousness that acceptance of those things would imply some amount of inferiority. I should have thought that that was not a correct attitude to take. Many amendments have been quietly accepted at the revision stage without any acknowledgment. I shall cite one or two typical cases. One is, there were in the Constitution expressions like "article such and such of *this Constitution",* "Clause such and such *of this article*". The repetition of the words "of this Constitution", "of this article" in more than one hundred places is against all principles of drafting. I repeatedly pointed out these redundancies. But they were not then accepted. But at the revision stage they have been quietly a without acknowledgement. I do not grudge the Drafting Committee the credit, because it has effected some improvement. Then there was the expression "Notwithstanding anything contained in this Constitution". The word "contained" according to modern principles of drafting is redundant. This word to which I objected has been removed in all places, also without acknowledgment. Then I referred to expressions "date of commencement of this Constitution" and pointed out that the word "date" should be omitted because that is clearly implied. This has also been done by the Drafting Committee, but again without acknowledgment. Then, I said that Judges should be spelt with capital letters. This has been done. Ministers also, I said should be capitalised. This has also

been done. All these have been corrected in hundred places without, acknowledgment.

**An Honourable Member :** It is a great change indeed.

**Mr. Naziruddin Ahmad :** We should be grateful even for these small improvements. But so far as Courts are concerned, they have, on my suggestions used capitals in respect of the Federal Court and High Court, but smaller Courts have been looked down upon by the Drafting Committee and they are in small letters. Their acceptance of this is half-hearted.

**Shri H. J. Khandekar :** May I draw the attention of the honourable Member to the Clock !

**Mr. Naziruddin Ahmad :** Such words are usually capitalized in all our statutes. Such expressions as Magistrates, District Judges, Assistant Magistrates and a large number of similar names have been written with small letters contrary to established practice.

The greatest defect with the Drafting Committee, however, was that their minds were continually changing. In fact these changes were so apparent and so persistent and almost of such daily occurrence, that it does not requite to be mentioned specifically. These have resulted in many anomalies.

Then, Sir, one other defect mentioned in the course of the debates was that the Drafting Committee was increasingly encroaching upon the Provincial sphere and succeeded in denuding the Provinces of all responsibility and power and in concentrating power in the Central sphere. The result of this would be that the Provinces would have responsibility without powers. That would produce irresponsibility. This happened in the case of the Dyarchy which miserably failed.

Another defect is that the word "State" has been grossly misused. "State" means no less than several different kinds of institutions in the Constitution, and a reader will have to take careful note of the special definitions of the word "State" in each Part in order to know what is really meant, and even then he cannot be sure. This is due to the fact that the Drafting Committee failed to use specific names to distinguish between the Central State, the Provinces, the Indian States, the District Boards, the Municipalities, the Local Boards and the Union Boards. They have all been called "States". The anomalous result is that provisions which should apply only to the Centre have been made applicable to Municipalities, District Boards, Local Boards and even Union Boards. There are passages to the effect that "the States shall promote international peace and security" and "maintain just and honourable relations between nations". "foster respect for international law and treaty obligations between nations" "and encourage settlements of international disputes by arbitrations"--as if the Municipalities, District Boards and other local self-governing bodies will try to do this! What is meant is the Centre. Only confusion has resulted from this needlessly comprehensive definition. The reason for this is the passion of the Drafting Committee to use an expression of a sonorous and catching nature. It is this passion for grandiose terminology that has induced them to do so. But the English language was rich enough to have given them different words to express these ideas correctly in the context and expressions like the "self-governing bodies" or "local bodies" might have been used in special contexts only where necessary. I submit this has created considerable confusion.

Then the Drafting Committee has interlocked the word "the" with the "State". The State has been defined as "the State". It is an unheard of procedure and Dr. Ambedkar could only cite an example from Australia in support. Whenever in difficulty, just as Mr. Sidhva has

pointed out, he cites the example of South Africa or Australia. But when asked to show the authority, he declines to accede. I submit, Sir, that these words should not have been interlocked. The word "State", without being well-locked with "the" should have been used for the definition. The word "the" is a definite article but it has to be used in different places with indefinite effect. The result has been that we have always said "the" State, meaning also the Municipalities. District Boards, Local Boards, Union Boards and other similar bodies. Had there been only one State in India the word "the" State would have been proper. It cannot be used in indefinite connotation. There would be, according to the definition of "the State", several lakhs of States including the District Boards, the Municipalities, the Local Boards, the Union Boards, etc. So when we say "the State" at various places, we really mean several lakhs of States! The word "the" is out of the question in the contexts. We should say "this" State, or "that" State, or "a" State, "any" State, or "every" State according to the context. The adjectival adjunct should depend on the context. The result of this inter-locking is to put the draftsman into a straight jacket rendering freedom impossible.

**Shri Mahabir Tyagi :** Have you been a school master?

**Mr. Naziruddin Ahmad :** Then, Sir, there is something like a passion for the use of the expression "Dominion" of India. In fact it is just like a bird which has lived in a cage for all its life when released it wants to go back to the cage. It is a jail bird, who if released, commits a crime again and goes back to jail. Although We have been released from the bondage of a Dominion, we still want to go back into it. Instead of using a very simple expression, the "Constituent Assembly of India", the Drafting Committee has unnecessarily introduced the expression the Constituent Assembly of the "Dominion" of India. This is perfectly unnecessary but Dr. Ambedkar told us that he was unable to find a way out. The way out was simple: it was simply to mention the Constituent Assembly of India--that would have been sufficiently expressive and we have used it so often that it would not have created any anomaly.

As. Mr. Sidhva has pointed out, no one knows what are the privileges of the House. I pointed out during the second reading, that the privileges of the Members of the House of Commons were unknown and scattered in different English rules and in text books. They should have been collected. This work should not have been shirked by a vague reference to the privileges of the Members of the House of Commons. The privileges should have been worked out and incorporated in the Constitution. But the Drafting Committee had neither the time nor the inclination to do so.

Then, Sir, with regard to the pay of High Court and Supreme Court Judges. It has been reduced most unjustly and unnecessarily and in some cases there was an attempt to reduce it with immediate effect even with respect to present Judges. That would have gone against the contract on which they were appointed. On my objection there was a concession that Judges appointed up to 31st October 1948 should get their old pay. But that has again been grudgingly removed and the pay of existing Judges has been retained.

I shall refer to another anomaly as to the transfer of cases--small cases involving an interpretation of this Constitution. Some how or other the question of law involving the interpretation of this Constitution has a fascination for the Drafting Committee. In small cases--petty cases-in the districts, if any question of the interpretation of the Constitution is involved, the result will be that it will be obligatory on the part of the High Court to withdraw the cases and to dispose of these at once or to determine the issue. In fact, I submit that often this question of interpretation of the Constitution will depend upon facts. The High Court will have to be over-flooded with a large number of petty cases and a veteran litigant will take the objection that a question of interpretation of the Constitution is involved: the case will

have to be withdrawn and an expensive litigation will follow in which a poor man will be at a disadvantage. So this will be used to the disadvantage of the people at large making the administration of the law more costly and dilatory.

Then, Sir, I find one individual who has been given a place in the Constitution with out any function, that is the Uprajpramukh in article 366, clause (30). He has been given no functions. The Uprajpramukh is just like Euclid's point which has existence but no magnitude. This Uprajpramukh has been given a status but no one knows what it is. He has been given no function. No indication is given in the Constitution as to whether he should function in addition to the Rajpramukh, or whether he would be merely supplementary functionary. I should submit, as Mr. T. T. Krishnamachari, in a different capacity once said, that the Constitution is so badly drafted that it will be a, lawyer's paradise. Of course on his elevation to that elevated body, the Drafting Committee, he has changed his opinion.

I suppose I must come to a close. I owe some apology to this House for criticising the Drafting Committee in this manner, but thanks are also due to the Drafting Committee for the troubles they have been put to. It must be acknowledged in all fairness that the Drafting Committee did their best; they worked very hard but worked without any definite, settled or fixed plan. They began to change their plans every day and that is why so many anomalies have resulted. They were however in many cases forced by the Party in power. There is another anomalous position. Part VI deals with the Provinces. In order to adapt this to the States, Part VII was introduced with some adapting sentences. These sentences are in a most perfunctory condition and they could and should have been incorporated in Part VI. It would have been very easy to say that wherever there is the word "Governor" the words "or Rajpramukh" be added. That would have been quite simple. I gave notice of an amendment No. 364 to this effect. I did as well as possible and the only thing for the Drafting Committee was to accept the same with modifications if they desired. That would have made the thing sensible and a continuous whole. The provisions relating to the Provinces and the States have been combined in all other places except this. But I believe the Drafting Committee was tired and they must have been absolutely overworked and were unable to go further, though this improvement was desirable. My amendment was ready-made and only a little revision would have done.

In closing my brief remarks which for want of time are of a sketchy nature, I cannot but mention the deep debt of gratitude which we owe to you, Sir, personally. Whatever has been done in the House, you were the guardian of Members who found it their duty to speak against the Drafting Committee and you did your work so wisely, so liberally and so well that the House owes a deep debt of gratitude to you. You have been extremely watchful of the proceedings--not that you did not follow the anomalies which the Drafting Committee was committing, but it was not in your province to interfere on the merits--and you gave the greatest latitude to the Members who found it an unpleasant duty of speaking against the Drafting Committee.

Sir, with all these and many other faults, I submit that the Draft Constitution should be accepted. It is not the drafting that matters. The drafting is very bad, it will lead to innumerable cases, as Mr. T. T. Krishnamachari in a different capacity suggested, on which lawyers will delight, but I believe that the success of the Constitution depends upon the spirit in which it is worked. If it is worked well, this bad Constitution, lame as it may be, will give encouraging results and will make the people of India freer and freer politically and economically with the passage of time.

**Shri B. Das** (Orissa : General): Sir, at the conclusion of the three years' hard work,

however inadequate may be my own contribution in the shaping of this Constitution, I have reached the conclusion that we have done our task well. There must be differences of opinion because if all of us will be of one mind it will be fascism or autocracy, it cannot be democracy. Therefore, there might have been and there may be differences now and hereafter, but the fact stands out foremost that we have got our Constitution, a democratic Constitution.

For that my heart goes to you for your wise guidance in bringing the ship safely to the port. My thanks are also due to the Drafting Committee. However much I might have disagreed or may still disagree with them on certain articles, they have discharged their duties well.

Sir, the feeling that has been left in my mind all the time, though the Drafting Committee worked very hard to bring this Constitution to this finish was that it was a pity that the Constitution did not reflect the spirit of the Congress. How it happened that the Drafting Committee had its majority in non-Congressmen it is not for me to analyse at present, but that feeling persisted in my heart all the time, and I think many of my comrades here will agree with me, that the spirit of Congress is lacking in this Constitution which will be our *Magna Carta* for some time to come.

Before I proceed, I must bow in reverence to the Father of the Nation who fought the battle of freedom and independence of the Indian people, who made us come to this stage and whereby we have framed this Constitution. He is no more with us though he is watching us, but in all humility, in all gratitude I remember him this moment. Whatever we have achieved, in spite of that Commonwealth link which I do not like nor many of us like here, it is an due to the Father of the Nation.

I have heard charges outside by those who profess to call themselves Socialists that this Constitution will be a dead letter. I remember a few months ago the Socialists produced a book, "A Draft Constitution". If the Socialists have the hardihood, if their leader Sjt. Jaiprakash Narayan has the hardihood to speak out that this Constitution would be a dead letter, I challenge them, I challenge him and I challenge the Socialist Party. If they are to inherit the Kingdom of Heaven, the Government of this country, from the Congress.....

**Shri H. V. Kamath :** We want the Kingdom of the Earth.

**Shri B. Das :** Kingdom of the Earth, I apologise, I accept. If they are to inherit this administration from us the Congress Party, they must be realist and practical. The very small minority they are, they should not talk of this Constitution being scrapped. What alternative have they? I have some respect for Sjt. Jaiprakash Narayan but I ask him from the forum of this House to be realistic. If they think they can administer better than the Congress Government, let them produce a Constitution and let us see what fundamental differences there exist between this Constitution and the Constitution that they imagine to produce.

Before I go to the points I wish to comment, I will also thank the Secretariat of the Constituent Assembly and all those who are not with us at present but have gone on work of State outside. I remember Sjt. B. N. Rau who, as our honorary Adviser, rendered us great advice in the light of his wide knowledge and experiences. There are others who have gone on foreign service, to our Embassies and the like. To them all our thanks are due. I hope my colleagues will agree with me in offering our thanks to them for the services they rendered to the Members of this House in giving them proper advice at proper times.

Sir, are we a Republic or are we still suffering from the sin of being associated with the Commonwealth countries? The Preamble says that we should render justice, economic, social and political. Can we render economic justice as long as we are tied down to the apron-strings of the sterling areas? The suffering of the Indian masses on account of the high prices prevailing in India today is all due to our subjection to the Commonwealth and to the foreign country, the United Kingdom. The United Kingdom is responsible today for all our economic distresses. After seven of years of high prices, the index prices in the United Kingdom have gone up only by 60 per cent. while in our poor country the prices have gone up to 400 per cent. In the United States of America the prices have risen only to 220 per cent. And yet we were allies during the war! Sir, I was no ally of the United Kingdom or the United States of America. I was only, a slave with the halter put around my neck. I was exploited. I was bled white. All the wealth and 'the economic resources of India passed into the hands of the United Kingdom. And yet Mr. Churchill and one or two Labour Members of Parliament had the audacity, had the ignominy to say that India must pay for the defence of India during the last war. The perfidy of the politicians and statesmen of the United Kingdom still persists. I have no love for the United Kingdom. On the 26th January 1950, when the Republic of India is declared--I will declare for cutting as under from any association with the Commonwealth countries, particularly the United Kingdom.

Sir, the Drafting Committee has given us a Constitution of 395 articles. It is a Maha Bharata in Constitution and in History. The Constitution which the British Parliament framed had 321 sections while the Constitution we have made has 395 articles. Well, the circumstances over which the Drafting committee bad no controlled them to increase the number of articles in the constitution. Perhaps it was like the soldiers running amuck. Therefore they must stiffen and stiffen and amplify so that the Constitution will be understood by everybody. If I may say so, they have done away with the work of the legal interpreters. This Constitution of 395 articles does not need, any *Bhashyakars* or commentators.

Sir, the machinery that this Constitution envisages places at the top a cabinet with joint responsibility, though it is qualified by certain emergency powers given to the President as the head of the Government, Sir, I never liked these emergency powers, but they have come in. But the administrative machinery that they have introduced by which the Cabinet will rule over the vast masses of the country is controlled by three instruments of Government such as the administration of justice by an impartial judiciary in the shape of the Supreme Court, the Auditor-General who will test and check all expenditure of public moneys and the Federal Public Service Commission whose selection of officers for the services the administration will accept. It is for our Home Minister to see that any advice given by the Commission is respected by the Ministries. This has not been so in the past, not even during the last two and a half years since we attained our independence.

Sir, the Auditor-General must maintain the financial integrity of the country. He must not allow officials to over-spend or to spend without proper sanction of Parliament. No Parliament worth its name should allow the officialdom to exceed the sanctioned amount of grants and play ducks and drakes with public finance. That has been the practice in the days of the foreign rule. Most of our official, however much they have changed their hearts and are working under a democratic system of Government tuning their policies to the policy of the Congress Government and of the Cabinet, still labour under the old-fashioned idea that an auditor should not challenge their financial irregularities. This must be safeguarded.

Sir, the economic distress which this nation is facing, must be remedied by the Cabinet with the help of the Administrative Heads and the people at large including this House. But how can there be economic self-sufficiency when we have got a Cabinet of 20 or 21 Ministers?

Nobody can expect retrenchment or reduction in expenditure in the circumstances. And Ministries will continue to be extravagant. If their number could be reduced, some economy can be effected. The British rulers ruled India with seven secretaries. Today we have got nineteen secretaries. When this is so, retrenchment must come from the top. Attempts are made by our Cabinet to remove the present economic distress by compulsory savings or compulsory cuts in salaries of Cabinet Ministers and by our compulsory acceptance of a reduction in our daily allowance. But these will not solve our economic problem unless we establish a Government suited to our national economy and national genius. We have borrowed a foreign system of Government. We are carrying on with the old-fashioned British system of government and the ex-British officials are now our trusted advisers. That mentality must change. I hope and I pray God that from 26th January 1950 the indigenous spirit of administration, will come into existence in India.

Sir, I wanted to talk a word or two about adult franchise. It is a welcome democratic principle. But it is a western idea. We have borrowed it. I have accepted it. But I wonder if it can be brought into practice here and if our Ministers can devise means to hold elections under adult franchise by January 1951. Borrowed ideas are not suited to Indian genius. So perhaps five or ten years hence we may have to change our ideology when we find that adult franchise is not practicable in India.

Sir, I take this opportunity to congratulate my friends from the Andhra province for finalising the creation of the Andhra province. They are my next door neighbours and I have been intimately associated with that province for years and years, and I do wish that the Constitution should have empowered the Government to bring this province into being on the 26th January 1950, but I believe it will take some time.

If I look at the provisions of the Constitution I do not like some of them. I do not like article 22 on detention. I do not like article 34 on the martial law provision, nor do I like article 128 whereby High Court Judges could be shunted from one part of the country to another, as my honourable Friend Dr. Ambedkar put it yesterday, for the convenience of administration. It has already been remarked this morning that the separation of the judiciary from the ordinary civil administration is not necessary at present. What was a point of serious complaint, a serious difference of opinion, in the days of foreign rule, is not a grievance today. If all officials are honest, there is no necessity to separate the judiciary from the general administration which would otherwise increase the cost of administration of every province. I am glad my honourable Friend. Mr. Bardoloi, is present today. Assam is in very serious economic. distress. Under this Constitution, if it is economic distress today, tomorrow it will be severe distress, and therefore there are certain things in which we must go slow.

Speaking of article, 322, the Federal, Public Service Commission, the advice tendered by them should not be overruled by a Secretary or a Deputy Secretary.

We came to some agreement on article 148 and whatever the difficulties, whatever the desire of the administration, the Auditor-General must be the highest authority in audit control of expenditure. If that is not there, there will be chaos as there has been since 1938-39.

I must conclude by saying that certain omissions must be corrected before the 25th or 26th of this month. The National Anthem must be settled, and if I may be permitted to suggest, we must specify also the national dress. I hate to see official still moving about in ties and collars. Our association with the Commonwealth does not entitle anybody to put on foreign dress. They should be debarred from doing it. Parliament should debar by legislation.

Nobody in the employment of the State should wear foreign dress.

Another point is the financial reallocation between the Centre and the provinces. Dr. Ambedkar twice declared on the floor of this House that an *ad hoc* Committee on Income-tax reallocation will be announced. I hope, Sir, that you will compel the Government of India to come forward and appoint that Committee on income-tax reallocation which may give real relief to my Friend, Mr. Bardoloi from Assam and will certainly bring some relief to Orissa. Sir, I support the motion.

**Mr. President :.** The House will now stand adjourned till ten o'clock tomorrow morning.

The Assembly then adjourned till Ten of the Clock on Friday, the 18th November 1949.

---

*[Translation of Hindustani speech.]*

# CONSTITUENT ASSEMBLY OF INDIA DEBATES (PROCEEDINGS) - VOLUME XI

**Friday, the 18th November, 1949**

**----------**

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

---

**DRAFT CONSTITUTION-** *( Contd.)*

**Shri Ramnarayan Singh** ( Bihar: General): * [Mr. President, Sir, I have got today the first opportunity of speaking on the Constitution. I thank you and consider myself fortunate for getting this opportunity.

Sir, in ancient times there was a king in our country named Bharthari. He has given the description of the work in a shloka of which the last line I remember, He says:

'Na jane samsarah kimmrithamayah kim bishamayah'

No one can say whether the world is full of nectar or full of poison. That is what I want to say. We spent a lot of time, money and energy in framing this constitution and it is nearing completion now. It will now be adopted in full. Some people say that it is very good and have gone to the length of giving Dr. Ambedkar the title of Manu of Kaliyug. A section of the people has this opinion and other says that it is very bad and worthless. When I begin to think on the lines of Bharthari the idea occurs to me that some time back the British were the masters of this country but now they have departed and the Indians are framing a Constitution for the future administration of their country. The idea is very pleasing but when I go deeper into the Constitution I am pained to see all that has been accepted for shaping the future administration of the country I know it is a fact that we were slaves for a long time but there was a time when we too ruled the country and had an empire also. At some places the democratic system of government was also followed. But if you look into this Constitution it would be difficult for you to find anything Indian. I would go so far as to say that those of our future generations who might be unfamiliar with the History of this constitution, would say that it was framed not at Delhi but at London. At least the people will have this suspicion. Some of them would have the suspicion also whether the representatives of the people of India framed this Constitution or whether the British of the While House in London were pleased to frame it. Such a suspicion can arise in regard to this Constitution. Every one can see that it has been framed in English. As I have asked what is Indian in it ? It is a fact Sir, that the British have departed but I regret to say that our countrymen have not forsaken the ways of their former masters and that they are ingrained in their minds. I am of the opinion, and this is shared by other people also, that we would experience much more difficulty in bidding good-bye to the ways of the British than we experienced in bidding good-bye to the British themselves.

Sir, on a perusal of the Constitution it appears that some portions of the British Constitution and some of the American Constitution have been included in it. It is a curious admixture and to use an English expression it appears to be a "fantastic mixture of the various Constitutions obtaining in the world ". It is my humble submission Sir, that we have first to realise that the British have now departed and that we are framing a Constitution for ourselves and we have to decide as to which type of Government we shall include in the Constitution and whether that Government will serve the country or govern it. If it is to govern the country, I would like to say that the time has now come when the world does not want to be governed and needs no government. There is no need of a Government, Mahatma Gandhi, our leader, characterised the previous government, the British Government as a Satanic Government. Sir, I think that there is no government in the world at present which cannot be characterised as Satanic. It appears that at present government means Satan. Therefore our country and our society does not need a government. I move some amendments in this connection in the beginning but they were not accepted. We need in our country Sevak Mandals, Societies of Servants and not a government. They will defend our country in the true sense. The member of the present government also claim that they are public servants but their work, that comes to our notice, has nothing to do with service. It is the work of the masters. I want to say it in plain words that the country does not now need rulers but servants. It does not need government. It needs service. I want to add that this principle has been accepted all the world over that no man has the right to govern another man. Hitler said that no person other than him could rule the world. But he went down with the whole of his society. In the past too there were Rajas and Maharajas who said that they had the divine right of kings. All these ideologies have now met their doom. Even now there are people who say that they are public servants but act as 'public masters'.

I take up one matter more. We have accepted that some of the public servants of this country will be granted salaries of five thousand rupees, six thousand rupees and ten thousand rupees. Sir, you were present in the Karachi Congress as also many of my friends. I was also present there. We accepted there that the highest salary in our country should be five hundred rupees and no more. The British had fixed the salaries here. But they were here not for service but for loot. The people whom they took with them were made co-sharers in the loot. It is a matter of regret that we, the representatives of the people of India, assembled here, violating our principles and decisions and that of the Congress, pass the resolution that one person may be given five thousand rupees another six thousand rupees and yet another ten thousand rupees. It should be remembered that this is no service. This is government. I want to enquire of you Sir, and of all the honourable Members of the House whether they are aware of the conditions obtaining in the country. Has the situation changed since we passed the resolution that no salary should be higher than five hundred rupees ? Has the income of the people increased considerably? It is an accepted law in the world that the salary of a public servant should be in tune with the average standard of living of the people. Ninety per cent. of the people of our country know not what two meals a day are! They somehow manage to pass their lives. Excepting a few people no one gets sufficient food to pull him through. If you provide for salaries of four to five thousand rupees while the people are starving they will ask whether this is the salary of a public servant or of a dacoit of the British brand. I hope I shall be excused for these remarks but I can not help making them as I am deeply pained at what I see all around me. Even after giving full thought I fail to understand, and the people also tell me, how it can be justified that these people are public servants. Does a servant want that he should have more income than his master, that he should have better food and better residence than his master? The people of India, who are the masters of the

country, live in huts but their servants will get salaries of four to five thousand rupees and live in palaces. Is this not a fraud? It should be said in plain words that when the administration of the British ended, we took over the reins and that we now govern the people. The people stand where they were. We are not servants but rulers. We may frame the Constitution as we like and fix whatever salaries we like but it should not be said that we are public servants. It should rather be said that we are 'public masters'. I would like to tell my friends here that such a proposal regarding salaries and so many of our actions mean that we are paving the way for the Communists. It will be no use taking recourse to repression. By putting the members of the Communist party behind the bars we would not uplift our country. We can not stave off a revolution by such means. If you want that there should be peace in the country you should remove these disparities. The first thing that I would like to point out to you is that it is not yet too late to fix the highest salary at five hundred rupees. Otherwise you will have to declare in plain words to the world that a few Indians, who were in the front ranks, got an opportunity and began to rule the country like the British . All this does not mean self-government to India. I appeal to you to consider this matter.

I have heard the bell Sir, but I have to say a few things more. Therefore, I may be given half a minute more.

The parliamentary system of government or the party-system of government has been provided for in this Constitution. I would like to say that it does not suit India. Unfortunately there are already too many parties in our country. There have been parties on the basis of the caste-system for a long time. Now if you introduce a new party-system what will be the outcome? If under the party-system you grant franchise to everyone, the result will be that some scoundrels and capitalists will combine and manage to monopolise all the votes. I know that they would not lack associates. Democracy can not function in such a way. The way affairs are managed in western countries has something of democracy in it but there too there is no real democracy. I hold that the government based on party-system strikes at the very roots of democracy. Under that system only a few persons rule. A few scoundrels and a few capitalists will combine and rule. It is right that in democracy everyone should have a vote and it is also right that an issue should be decided by the vote of the majority. But it should not be necessary that every person should belong to some party or other for arriving at decisions. The party decisions or the directions of a leader should not influence voting. Everyone should be free to vote and should do so honestly. The decision arrived at in this way will be a democratic decision and the country will benefit by it. Otherwise a party leader will give directions and others will vote accordingly. The decision arrived at in this way will not be a democratic decision. It will not be the decision of Panchayat. It is a common saying in our country that Panch is God. He is not a God who has a number of smaller goods under him. It is understood in regard to God that those who sit in His presence are free and dependent to none and that they do not decided any issue and vote on it by looking up to anyone.

Sir, my time is over and therefore I would not say anything more except one thing. As other honourable Members have already said, cow slaughter should be altogether banned by the Constitution of our country. You have only to look at the plight of the cultivators who have to leave cultivation because of lack of oxen.

Regarding Hindi language I want to say that although our South Indian friends

have accepted the resolution in connection with Hindi but they entertain the feeling that we want to impose our language on them. I think that this country is my country and all of its languages are my own languages. If I do not know Tamil and Telugu it means that I lack something. In learning these languages I would not be putting anyone under any obligation to me. I shall only be increasing my knowledge. Therefore we should accept that all the languages of the country are our own languages. We had to select one language as the national language. Since Hindi has been selected as the national language it should be accepted as our own language and introduced in that spirit. Some of us think that they became learned by learning English. As often as they speak in English, we are reminded of our slavery to the British. We learnt English only for the sake of British. Therefore we should give it up as soon as possible and should replace it by our national language. To introduce the national language after fifteen years means evasion of the issue. We should do our best to develop the national language as early as possible so that we may not need the English language at all.

Sir, I want to say only one thing more. In all the Constitutions of the world the right of keeping arms is included among the Fundamental rights. I would like to say that the Constitution which does not provide for this natural right, the divine right of a man to keep as many arms as he likes, is not worth anything. You know that the government has taken upon itself the burden of defence but it cannot defend every person and every home. It can at least allow every person and every family to keep as many arms as may be necessary for its defence. Therefore, I submit that a provision to this effect may be included in the Constitution so as to grant the right of keeping arms to every citizen of India. I am pained at the conditions obtaining in the country at present and I hope the Government will take early steps to improve them.

I have taken a little more time and I beg to be excused for the same. I have already said and I repeat it again that these three or four matters should soon be decided. All the sin and evil that is being committed should end. With these words I conclude.

**Shri Kuladhar Chaliha** (Assam: General): Mr. President, Sir, at the outset it is necessary to appreciate the work of the Drafting Committee and more so of Dr. Ambedkar in producing a wonderful Constitution in spite of the difficulties with which they were faced. We must also appreciate the members of the Drafting Committee and especially Mr. Munshi who, though he was busy in many matters, always tried to bring about compromise formulae and we appreciate his work greatly and all those silent workers and staff who contributed greatly to the success of this Constitution. Sir, it is necessary to say that, though we may not have produced the best Constitution, at the same time we must say that it is one of the best that we can produce under the conditions prevail. They faced facts and produced one that was necessary. It is said that members of the Drafting Committee were not in the forefront of the battle for liberty but I think that is an advantage because they could look into it dispassionately and produce the one that was necessary. At the beginning of the discussion of the Third Reading we heard from Mr. Muniswamy Pillay that 60 million people of Untouchables were satisfied with this Constitution. That is a great contribution really and if we have satisfied those untouchables whom we have neglected I think we have done a wonderful work. Therefore, my appreciation is due entirely to the Drafting Committee and to those members of the staff who worked hard without having any voice in it and produced the book that is before us.

Sir, I submit, therefore that we have produced a Constitution which, in spite of the fact that it does not come up to those standard which some of us wanted, yet, I think under the Directive Principles we have enough of those conditions that should satisfy every one of us. If he is a socialist, there is the Right to Equality to give effect to his ideas. If he is an untouchable, we have the protections to guard his interests. If he is a "Backward" we have also the provisions in respect of his interests. So in whatever way we may look upon it, we find that we could not have produced a better Constitution than the one that we have produced.

Sir, in the definition of citizen, of course it has been conceived in the, best of spirits, but there is a subtle loop-hole where we may run around ourselves. If a man comes six months before the 19th July and is registered by the officers appointed by the Government of India, he can be a citizen. But when you apply this to a province like Assam, you will find great difficulty. You would be heading towards disintegration. Therefore, when this is applied, we have to be very careful and we should see that we are not led away by the high principles which have been laid down in this Constitution. Therefore, in spite of the fact that the definition of citizenship has been very well framed, yet, there is a little danger in its application, if you want to apply it in the way we would have it here. We have been receiving telegrams from Assam that we are heading towards ruin. Probably every member here has received them from Assam, saying that we should apply this principle with a little reservation, that this definition of citizenship should be applied with a little reservation in Assam, and that this Constitution should take note of this.

As regards the Directive Principles, we find that there is a Directive that prevents the concentration of wealth to the detriment of the common man. There is no bar to changing the distribution of wealth, the only bar being that we should, do to it constitutionally. So we have as much as possible in the Constitution and we know that if utilised properly, we can evolve a really democratic government.

Sir, our Constitution is really an amalgam of the American and English Constitutions, with Canada in between. From the American Constitution we have the authority in the President, that he can have the executive to himself, and can appoint his own men to administer the Government. But there is a defect in it as well. And we have the English Constitution in which the leader of the majority party only will be called upon. In the American Constitution the Ministers have nothing to do with the congress. The Ministers are responsible to the President only, and not to the House. But we have it in our Constitution that our Prime Minister must be responsible to the House. There is also a little defect in that. He can nominate about twelve members. He can also choose his cabinet from among them, there is nothing to prevent him from doing that, from choosing the members from nominated members having special knowledge in science, art and literature and social service. The premier can do that. But in these days we need not have such an anachronism as "nominated members". We could have had the different societies representing the arts, literature etc. to elect members from among them. But if you allow the President to thus select his Prime Minister and the Cabinet, then we can have an almost entirely nominated set of Ministers. Of course, with the present leaders, there is no such danger. But we have to make a Constitution which is not only fool-proof, but also knave-proof. Some time latter, there may be some people who may be knaves, and we should see that our Constitution is knave-proof also. We may have to change this within the next ten years. At present there is no such danger and the President, so far as we can see for the next twenty years, will be such that he will not misuse his powers. Therefore we

should keep guard and see that the Constitution is not worked in such a way that the Cabinet contains only nominated members.

Sir, there is another defect in the Constitution and it is this. It has been said that a Minister is to be a member of the House. He can be a nominated member also. It is not necessary that he should be an elected member. That word "elected'' has been, omitted, and if it is intentional, then it is a dangerous thing and a flagrant outrage on democracy. I think we should change it to "elected member" and not "Member of the House" as it is worded now. That Member may be nominated by the President and he may be a Minister of the Cabinet too. So I submit that this lacuna has also in future, to be remedied and we should not allow this to go on for a long time.

Then we find that we have been very excessively anxious about the pay and salary of the judiciary. I do not know why we have been so very anxious, as if we were afraid that their Lordships would be annoyed if we gave them less salary or did not provide them houses and so on. I feel Babu Ramnarayan Singh has spoken properly about this anxiety for higher salaries of officers. Of course, we started with the ideal of Rs. 500, but we have seen that changes have come about now and in the present set- up, probably it is not possible to come down to the level which we had put up before our eyes in the beginning. But still, we find that the salaries fixed are so high that sooner or later we shall have, I think, to revise those scales.

There is also another thing. We have provided for the removal of the judiciary by impeachment. But it, is not a very safe proposition. I think the best course would be to select, say, three Judges of the Supreme Court to decide whether a Judge has been guilty of misbehaviour or misconduct or bribery. Otherwise, if we allow this impeachment of a Judge, the whole country would be rather in a ferment, and people will take sides, and in the long run, the guilty man may escape and the honest man be convicted, because of the prevailing passions and prejudices. So I think we should have a tribunal for judging the guilt or otherwise of a Judge, a tribunal formed by the Chief Justice of the Supreme Court. That would have been a better provision.

Then I find that in the State Legislatures Upper House are provided for in many of the Provinces. This is rather an anachronism, in these days when everyone is trying to abolish such Upper Houses. We need not have been enamoured with such Upper Houses. These superannuated bodies will not be contributing anything to the discussions. And we also find that in the House of Lords there are very few people who are really bringing in any new thing. As such, my submission is that we should, sooner or later, abolish all these Upper Houses. Even the House of Lords, we know, is almost powerless, and I do not know why at this late hour we should be so anxious to establish these Upper Houses. So my submission is that in the next revision of the Constitution, we should take note of this and try to revise this provision.

There is another little relic of the royalty here, in that when a Bill has been passed by both Houses, the President can send it back with his message for reconsideration. This is really a relic of royalty, and I fail to see why the President should be given so much power or that we should presume him to be so wise as to send back Bills even after they have passed both Houses. This power is excessive, and I think it ought to be taken away from the Constitution, sooner or later.

As I have said long before, I have a great grievance about the Sixth Schedule which has been enacted in this Constitution. This has been framed from a wrong

background, that the Tribes think that we are their enemies. The British gave them this idea. They kept the Tribes away and did not let them be assimilated. The British when they left, told them, "The Indians - the Hindus- are your enemies. We are your friends".

They are their friends, because both of them eat beef. They conquered the country from the hill Tribes and as they leave, the sovereignty lapsed back into the hands of the Tribes. The Regional Councils and District Councils have become super-parliaments. That has been a little remedied by Mr. Munshi. But as such I think we are heading to a difficult situation, and if the Tribes cause disturbance to us we have to thank ourselves. But there is one redeeming feature and that is paragraph 21 of the Sixth Schedule which reads :

"(1) Parliament may from time to time by law amend by way of addition, 'variation or repeal any of the provisions of this Schedule and when the Schedule is so amended, any reference to this Schedule this Constitution shall be construed as a reference to such Schedule as so amended.

(2) No such law is mentioned in sub-paragraph (1) of this paragraph shall be deemed to be an amendment of this constitution for the purpose of article 368."

Therefore we should be very careful and it should be amended at the first sitting of the Parliament; otherwise we will be heading towards ruin and there will be so many pockets, so many Ulsters where there will be trouble.

Then, Sir, as regards the name of Assam, I understand from the Honourable the Prime Minister of Assam, Shri Gopinath Bardoloi, that they have agreed to the change of the name and that it was agreed to in the Cabinet. He sent a telegram to the Drafting committee, I think, on the 12th . But it was not received by them. I trust under section 391 the President, after the inauguration of the Constitution, will amend the First Schedule, changing the name of 'Assam'. There is another point which I want to mention and that is about the language. The word used at present is 'Assamese'. Mr. Sahu had given notice of an amendment to the effect that it should be called 'Assamia'. I hope these slight defects will be remedied in due course.

I must again thank the Members who have contributed to the discussion on the framing of the Constitution which is so well conceived. I should however point out that Members who are finding fault now agreed to the provisions at the Party meeting as well as here and to find fault now agreed to the provisos of the Party meeting as well as here and to find fault now does not come in as good grace.

**Shrimati Annie Mascarene**( Tranvancore State): Mr. President, Sir, I deem it a privilege to speak on this occasion when the House is sitting to pass its final judgment over the Constitution. We are, Sir, on the eve of an historic occasion, when this ancient sub-continent of ours, which had been a laboratory of political experiments of nations in the world, which had been a caravanserai, where nation after nation and sultan after sultan came and went their way, is going to solemnly declare by the sovereign will of its people, a Sovereign Democratic Republic, to secure justice, liberty, equality and fraternity for all its citizens. Never in the history of the world, Sir, has a nation of such magnitude and population, with a history and tradition of non-violence, culture and sacrifice, fought and defeated the mightiest Empire in the world, with a galaxy of distinguished leadership that stands before time like beacon lights, has declared its sovereign will to Jay down a democratic constitution. When passion is high

after the end of two world wars in history when reason and common sense are at a discount and principles of liberty, equality and fraternity are resounding such intoxicating music in our ears, it is at this time. Sir, that we, the greatest nation in the world, have decided to frame our Constitution.

Revolutions have come into this world and constitutions have been swept away by the tide of emotions generated by the times, like that in Germany, like that in France, like that in Russia, and like that in China. But we are a singular race that has stood foreign domination and struggled for centuries and survived by dint of soul-stirring sacrifice without subverting the substructure of national solidarity, we have built a beautiful edifice of democratic structure that will stand before the world colossal.

With experience and wisdom of ages behind us, we have consummated a political experiment which can be traced back to ancient Greece and Rome. It is not for me, Sir, to stand before this House and sing the glory of our achievements. Let us leave it to the judgment of posterity and to the verdict of historians. This is the first instance when heterogeneous interests in a continent State like India have united themselves to form a homogeneous unit in order to lay down rules and regulations that should lead us or guide us in future to live a national life. Like other nations of the world we have peculiar characteristics. We have differences of caste, community and creed, there is the question of untouchability, the emancipation of the Depressed Classes, provisions for the Tribes, for religious and linguistic minorities like Muslims, Sikhs and Christians, their safeguards and protection; then there is the existence of princes and zamindars and the question of their safeguards and protection; then the rights of women-these had to be considered and reconciled and incorporated into the Constitution. It must be said to the credit of the Drafting Committee, with its leadership of erudite scholarship in political science and constitutional law, and thanks to the amendment moved by the Honourable Members that an honest attempt has been made successfully to incorporate these rights into the Constitution. Our Constitution is today ushered into the world with a declaration of Fundamental Rights, which can be traced back to the Magna Carta, the Petition of Rights, and the Bill of Rights - rights which have been secured for humanity by the political philosophers of the 18th century and incorporated into constitutions that have come into existence since then. These rights are also incorporated in our Constitution for all the world to see. Thus freedom of the individual, freedom of opinion, freedom of religion and expression, security of life, liberty and property and pursuit of happiness, have been ensured and secured to every individual in the framework of our Constitution. It is a constitution based on democracy with all the experience and wisdom of ages gone by; only I have to pass a few remarks with regard to the peculiarities of our Constitution.

The framework of our Constitution is modelled after the American Constitution, that is a federal constitution in which power is distributed between the Centre and the local governments. It is not new to us. It is based on the Swiss constitution which had been adopted by America, followed by Australia and Canada and today tried and adopted by the greatest democratic nation in the world. But the similarity ends there. Our Constitution that has got the shape of the American constitution differs from it in regard to the executive powers of the President. Unlike the American President we have our own President advised by a Council of Minister with cabinet rank, parliamentary responsibility and ministerial obligations; so much so our Constitution is a composite constitution with the rigidity of a written constitution but with the conventional adjustments of the British Constitution. Side by side with rigidity we have also incorporated the separation of powers which is as rigid as it is in any other

constitution based on democratic principles. Our judiciary with its original and appellate jurisdiction and with the right of interpretation of the constitution differs from that of America, where the judiciary has the right of judicial review of executive and legislative activities.

Many an imperfection has been ascribed to our Constitution by some of my learned friends. They say that it falls short of our ideals and principles. May I invite their attention to the constitutions that had been framed hitherto by democratic countries in the world? Look at the American constitution. Look at the time it took to frame it in its final shape. Had it not to undergo a series of changes and then take its final shape after the Declaration of Independence, eleven years after the Declaration of Independence at the Convention of Philadelphia? Had not the constitution of Canada to go through so many changes, before it was finally settled at the Quebec Convention ? And since then has it not been undergoing changes till today? Look at the Constitution of Australia. Had it not to go through many changes and wait till the Convention at Sydney? It had to be shaped and reshaped, modelled and remodelled in the cauldron of public opinion at Sydney. There was the Constitution of South Africa, a constitution meant only for the White race discriminating against the natives. Even that constitution had to wait till 1943 to take its final shape. If you have a cursory glance at the constitutions of other democratic countries before us, you will find that France started its constitution with the storming of the Bastille and it had to wait for 100 years before it could frame its constitution; meanwhile it swung between dictatorship and republicanism. Is there any other nation in the world today which deliberately elected a Constituent Assembly which sat for three years continuously and framed its constitution? May I invite the attention of my honourable friends to the fact that we have evolved a model constitution based on democracy and that constitution will stand the stress and strain of times like the American constitution till it proves to the world that a continental country like India can have a democratic constitution and work it too to the glory of all the world.

I come now to the next point, that we have too much of centralisation which ignores the powers of the States. We are at the advent of democracy. Democracy has got a tendency to let loose fickle emotions and disruptive forces. In the circumstances without a strong Centre I do not think we can have a successful democracy. We are at the beginning of nation-building. We have to survive as a nation. The question is the survival of a nation in a world of international conflicts. If that is so, we have to decided in favour of a strong Centre. If a party is to have a leader, should not the nation have a strong central government ? America decided to have a strong central government. Canada decided to have a strong central government. Mr. Macdonald, the leader of the constitution, said that all the centrifugal forces should be controlled and therefore a strong centre was necessary. If at the beginning of a state a nation is faced with so many political, economic and social problems there should be a strong Centre, so that power could radiate through all the parts. The Centre should not be so strong as to kill the autonomy of the local governments. But we have not got any such power concentrated in the Centre to kill the autonomy in the States. Therefore, this allegation that the Constitution is more centralised has no foundation. Of course , articles like 365, 371, and 324 look dictatorial, but when you look at the gust of emotions and the centrifugal forces set adrift by the advent of democracy, you will find that for the sake of political welfare and security of law and order, there must be a strong Centre, so that the nation can survive. There are provisions in the Constitution to amend it and if the Centre is too strong we need not fear because when the nation has attained full stature and we can stand on our own legs, we can amend the

Constitution and distribute powers equally.

With these words, I thank my friends for giving me a patient hearing. Let us all wish success to this Constitution and let us go home with a feeling that we have done our duty to our country and to the people.

**Shri Gokulbhai Daulatram Bhatt**( Bombay State): *[Mr. President, if we say, something about the Constitution which has been prepared by us and which is going to be accepted by us, it would mean two things. One is that we are praising our own work. And if we start pointing out the defects in this Constitution we might produce an impression that the Constitution must be worth nothing since even we who had made it were discovering defects in it. We have devoted a very considerable time and spent quite an appreciable amount of our energy and money for the perfection of this Constitution. The learned members of the Drafting Committee laboured hard -and they are men of learning as is clear from the manner my learned Friend Shri Kamath applies to them the epithet 'learned' every time he makes a reference to them, and I may add that I must rely on his judgment since he cannot but be very learned indeed when he starts calling others as his learned friends - and so as I was saying the learned members of the Drafting Committee have laboured hard in the preparation and for the passage of this Constitution. I must also thank you Sir, for the patience and the skill with which you have presided over the deliberations of this House and particularly the patience shown by you in the face of the lack of Quorum in the House. I also congratulate our Constitutional Adviser Shri B. N. Rao for his valuable advice given by him. The members of our Secretariat had also to work under difficulties and strain that were not in significant and they also deserve our thanks. It is as a result of collective labours of all that this Constitution has come before us in the form that it possesses today. It would be unbecoming for us if we now start criticising or condemning it. In a way those who drafted it had no other way but to follow the models that existed elsewhere. They have tried to prepare for us a very attractive cake which has been properly and thoroughly baked. There is in it an admixture of a number of elements -of wheat, of gram, of barley and of other cereals. The cake we have now got we are out to praise and we are engaged in that task at the present time.

**Shri S. Nagappa** ( Madras General) *[We will now begin to eat the cake.]*

**Shri Gokulbhai Daulatram Bhatt:** I am not going to institute any comparison between the cake that we have prepared and the biscuit and the cakes of the other countries that is to say I am not prepared to examine as to how far our Constitution stands a favourable comparison to the Constitutions of other countries. The fact is that no judgment can be passed on this question unless we have begun to eat the cake and digest it. Until that is done we can not definitely say as to what substance this Constitution contains. I therefore submit that it would be much better if we abstain from passing any final opinion about the Constitution until that time and it is precisely for this reason that I would not indulge either in a praise or a criticism of this Constitution in the House today.

When the Draft Constitution was brought before the House for the first time I observed that it was like a bunch of flowers that had been put together after having been brought from different places. I had proceeded to observe that it contained paper flowers and in some parts roses and also a rare jasmine flower. Thus it contained flowers of different kinds and characters. The bunch that is now before us is one which

we had put together ourselves, and I can dare say that some of the flowers that we have put into it have fine and pleasing smell. But we all know that in this world we need all types of things because if it was full of all roses alone and no thorns man would lose his mind because he cannot bear so much good in his life at one time. I therefore believe that to reduce the excess of the smell of the flowers in this bunch other articles have been put into it.

If any friend, however, feels that the Constitution has become too bulky as it contains 395 articles and that it should have been much smaller and should not have contained more than 100 articles, I would say that that may well have been but for the fact that our friends here are scholars and men of learning. On the one side scholars like Pandit Naziruddin as also my friend Pandit Kamath who have been puzzling their heads to improve this Constitution.

**Shri H. V. Kamath** ( C. P. & Berar: General):*[ I am not a pandit ]*

**Shri Gokulbhai Daulatram Bhatt:** That may be. But I as you are very fond of Geeta and worship God, therefore, I am referring you as a Pandit. So, these pandits were seeking to tell us always that the Constitution is full of lacunae. But for their criticism we could have made this Constitution quite flexible so that we could have adapted it to the changed conditions. But no one here was willing to permit us to frame a flexible Constitution because none had a confidence in the framers and everybody was trying to point out that a particular word could also be construed to have some different meanings than what was thought to be its meaning by the Drafting Committee. It was urged that this was a matter for the interpretation by the courts and by the lawyers and the Constitution will be interpreted by those authorities. Therefore we were compelled to frame this Constitution in such details and at such length in order that our people may not have to suffer from lacunae in it.

As I was observing we have framed this Constitution after unrevealing very difficult and intricate problems. There were occasions when all of us were afraid that violent differences may not develop among the members in regard to certain matters that had to be provided for. Thus there was the question of the name of the country, the official language of the Union and the conditions under which the Union or the States can acquire immovable property. These questions as also similar other questions had to be tackled by us and I believe had been wisely tackled problems under the leadership of our leaders. We disposed of all the points of difference by means of following rule of the golden mean and the path of compromise. I precisely use the word disposed of because I know that many of those who had any interest in the language question and who were insistent that a particular policy should be adopted could not have felt fully satisfied by what we decided. I mean such of my friends as Honourable Tandon Ji must have been feeling that all that was desired had not been done. But I would humbly submit that nothing in this world is perfect though all of us are trying to reach perfection. But once we have reached the goal we would ourselves have become so perfect that we would require nothing more for ourselves. Such is the view that Upanishads have advanced. But I do not want to press this point any further. I would however like to repeat and reiterate that it was quite in the fitness of things that we sat together and solved all our questions by means of compromise. If we had failed to solve these questions even after having devoted so much time I am sure the world would have laughed, mocked and jeered at us. If I could I would have certainly liked that the name of Mahatma Gandhi and of the martyrs under whose grace we have been able to achieve what we have actually done should have been included in the

Preamble. But our leader Pt. Jawaharlal Nehru and our elder statesman Sardar Patel advised us not to insist upon this and we quite acted on their advice. But even though the name of Mahatma Gandhi and of the martyrs whose sacrifices have enabled us to see this day and secure our independence does not occur in this Constitution yet I pay my homage to them and praise their services as a result of which we are enjoying the life in this atmosphere of independence and freedom.

When I examine this constitution from the point of view as to how far the ideology of Mahatma Gandhi finds place in it, I begin to feel that it would have been much better if we had provided for our work being done mostly by Panchayats. I give very great importance to this aspect of the problem, and whenever I have in occasion to speak here or elsewhere I have urged the acceptance of the institution of Panchayats. I know that we had tried to secure the right of adult franchise and had struggled to secure it and had demanded that all the elections should be held on this basis. At one time however we had said that our President would be elected on the basis of adult franchise and we had as a matter of fact accepted in principle that proposal. But later on we began to feel that this is not possible because on the one side Prime Minister would be elected by means of adult franchise while on the other the President would also be so elected and if any difference of opinion occurred in these two officials who had been elected by the same body of people it would be difficult to overcome those differences. Therefore, we felt that reality and practical considerations demanded that we should give up our insistence on the direct election of the President and agreed for his being elected in some other way. We agree to this because we felt that our representatives at the Centre and in the Provinces would be elected on the basis of adult franchise. But I have my difference even in regard to this matter for I am not sure as to how far we will be able to put this in practice. Even then I do not mind this being put to experiment once at least, so that we may learn its lessons. We can if we so feel make change after we have once had an experience of adult franchise. But it is my belief that we would have to reach the conclusion after experience that our electorate should consist of the village panchayats and that persons elected by them should be considered to be populate representatives. I do not want however to go into more details with regard to this question because I have to say that I have to in a few minutes that are now at my disposal.

The question of language had been raised here. Seth Govind Das Ji observed that no harm would have been done if this House had passed the Constitution in Hindi even if that meant that this House would have had to sit for a year more. I am just giving the substance of what he had said. It is possible that that may be his belief, and I do not also question that it would have been in the fitness of things if our Constitution had been drafted in Hindi. But I am not prepared to accept that it would have been wise for us to wait for a year more before our Constitution came into operation. It is my belief that the conditions under which we are living today are reflected in this Constitution, and also think that it could not have been better than what it is under these conditions. If we had taken more time we might have given our critics the opportunity to assert that we were simply wasting time and money and delaying the matter in order to pocket as much money of the public as we could. They might have urged that we were simply reducing this Body into a mockery while sitting here in the name of democracy. I believe that we were not ready to invite this criticism and I think it is quite in the fitness of things that we are now passing this Constitution in this quick manner.

I have an observation to make in regard to the language question, in so far as it

involves the question of regional languages. I was not present on the day when the language question had come for consideration before the House. But my elders and my other friends advised me not to raise this question later on in this House. But I cannot refrain from observing that if Gujerati, Marathi and such other languages can all be considered regional languages there is no reason why Rajasthani which is similar to them and is spoken by one and a half crore of people could not be considered as a regional language. I know that it has several dialects. But all the same no one can say that its history begins in recent times. As a matter of fact Rajasthani had been in use of several centuries. I am also aware that the Rulers have been using this language and that when they correspond with their fief holders, they use it as a medium of correspondence. All these reasons favour its being accepted as a language by itself. It is therefore my humble submission that a place also should be provided to Rajasthani as a regional language and I am sure my friends here would consider this question whenever it that this language deserves to be recognized as a language by itself. I do not want to create ascertain because that would mean giving long citations but I do insist that this language should be given a place along with other regional languages.

Several friends have stated here that practically all powers have been surrendered to the Centre. I however, believe that the conditions prevailing today are such that unless we vest almost all the powers in the Centre for at least ten or fifteen years it would not be possible for us to undertake any constructive activities. The reconstruction that we want to put in can be carried on only if we remain under the control and direction of a common Centre. This I submit is a historic necessity and any other course would be to walk in the clouds that would carry us nowhere. We must keep our eyes fixed to the solid earth. We must also examine the nature of the ground and give due consideration whether it has rocks or land in which trees can be planted. We must plan all our activities according to the kind of resources that we have today. That is to say the type of land that we have, the seeds we have to sow and the water that is available to us for irrigation. My submission is that in view of the totality of the conditions that exist today it appears to me very necessary that we must remain under a common Centre. My Friend Mr. Hanumanthaiya had asserted yesterday that it was only during the discussions that the proposal was introduced that the States Union must be under the control of the Centre for a period of at least 10 years. I do not want to go into the history of this proposal. I can say that when the Rajasthan Union had been formed my friends including myself had agreed, during the negotiations that were being conducted between the States Ministry and ourselves, that we shall be remaining under the control of the Centre. The circumstances prevailing in Rajasthan are rather peculiar and in view of these peculiar circumstances we felt it right that the Centre should continue to control us. I believe that the same reasons apply to the other states also and it is on account of that that a provision has been made with regard to the States in the Constitution. It is laid down in that provision that the State and the State Union shall be subject to the control and the supervision of the Centre. The President however has been authorised to abolish this control if he considers that the same is not necessary in the case of any particular State. I therefore submit that there is nothing in this provision to which we can take objection or as a result of which we should lose our nerves. I on the contrary welcome it and I can say that I had been responsible for its formulation and acceptance. Shri K. T. Shah had observed yesterday that there are too many restrictions in regard to the citizen's rights. I would have asked if he had been present today - but there he is - so may I ask him as to the country in which no restrictions have been imposed on popular rights in public interest and for maintaining morality. I would like to know whether there is any country in this world in which there is no restriction whatever on popular rights. So far as I know in every country restrictions of one type or the other

have been considered to be necessary. For Example it is everywhere necessary that one should exercise considerable restraint in the exercise of his freedom of speech in order that public order may not be disturbed. If we examine in this light the provisions in our Constitution relating to popular rights we find that the rights which the people would be interested in using and enjoying can be secured through law courts. So far as I am concerned I believe that the rights granted are quite extensive and general and that every one of us should feel contented with what has been provided. But if we go a little further than this - I would have now to hurry up as I have very little time at my disposal, we would find that a peculiar gift that we have secured is that the rulers of Indian States who had acceded to the Union in regard to three subjects alone have now gradually completely joined us. Credit for all this goes to our elder statesman Sardar Saheb who with his skill succeeded in persuading these rulers to join us and now they are with us. Notwithstanding that we have our is brought again before this House. I submit with all the force at my command own constituent assemblies and our separate States Unions, we have now decided that the Constitution of all the different State unions would be of the same pattern, and it is with this view that we have introduced a number of provisions in part seven which would be applicable to all the Indian States Unions. I would like to say that this is no mean achievement. But I do not think that it is necessary for me to say anything further in regard to this question. I however, know that the whole world will have to accept one day that what could not be brought above within 100 or 200 years that was achieved by our leaders within a very short space of time. The 600 and odd states which had their own separate existence have all become one. I do not know in what words I should express my feeling with regard to Sardar Saheb who has been responsible for all this. All of us of course praise him. He has acted with great foresight and skill in the matter of solving the problem of the States. I may add that he had solved the problem of Rajasthan also with great tact. The problem of Sarohi had been brought before us the day before yesterday and I had placed before the House what the people of Rajasthan and Sarohi demanded. I have constantly reiterated at places that Sarohi should be included in Rajasthan. But I also believe in another course of action and it was that the whole matter should be left to Sardar Patel to be decided by him in his discretion after we have acquainted him with all the circumstances. I think that would be a wiser and a more practicable course as the statesman of ours, our Sardar has solved many a problem which nobody else could have solved. It appears to me to be proper that the problem of Sarohi should also be solved by him, and I believe that all our friends from Rajasthan would put the entire case before Sardar Patel. There had been a time when Sarohi had been merged in Bombay. We felt at the time that we should see Sardar Patel in connection with the portion that was being merged in Bombay and should acquaint him with our feelings, with the feelings of Rajasthan and with the feelings of Sarohi with regard to this matter, and that we should entreat him, to favourably solve this matter. I am confident that his solution would give satisfaction to every person for he had always been able to give complete satisfaction to all concerned and I hope he will be able to do so in regard to this question as well.

I would not like to say anything further in regard to the other aspects of the Constitution because I have no time to do so. This Constitution as I have already stated has been framed in such a way as will permit the President to make adaptations and modifications in it. And we also would be in a position to bring forward its amendments for registering any particular change. Our Constitution thus contains the type of provision I have suggested. It is my fervent hope that our people should very quickly move forward for the reconstruction of the country and for the use of the new Constitution. It is only then that our country would be following the proper course in the matter of reconstruction. Before I conclude I would like to reiterate my thanks to

the Members of the Drafting Committee and to the other Members who have put in such labour.

**Pandit Lakshmi Kanta Maitra** (West Bengal: General): Mr. President, Sir, I must frankly admit that, if I speak today, it is not because I have any contribution to make; for one thing this is not the stage to make any contribution to the debate or to any of the articles; for another, I am not in a mood to do so. But, Sir, I could not but fall an easy victim to the human weakness viz., to join my voice today, one of the most memorable days in the history of modern India. As an humble servant of this country, who has devoted a goodly portion of his life to activities in the parliamentary or legislative sphere, I consider it one of the proudest days of my life to be standing here today and to be able to associate myself with the motion for passing this Constitution of free India. Mr. President, it seldom falls to the lot of any man in any country to have this opportunity in his lifetime. In India at any rate I cannot visualize a thousand years back from now when such an occasion every arose. It is a memorable occasion, a momentous occasion, a solemn occasion. Sir, as I rise to speak today, memories, bitter and poignant, come crowding to my mind. Two generations of men before us fought and bled for the freedom of this country. Many of our illustrious sons in the parliamentary sphere ploughed the barren sands fondly hoping, by tinkering with this measure or that to bring about some from of amelioration from the hands of those who controlled the destinies of this country. They are dead and gone. They could not see the full fruition of the work they began. Their mantle fell on us. Not only in the legislative or the parliamentary sphere but in every other important sphere our men carried on relentless activities for the freedom of the country. Some of us have survived to see the materialisation of our dreams. Others have passed. I believe, not into oblivion, and a grateful nation should always remember on an occasion like this that but for them it would not have been possible for us to have anything to do like the framing of a constitution today *( Hear, hear )* Mr. President, I consider it my first duty today to pay my humble tribute to the memories of the great and patriotic sons.....

**An Honourable Member** : Daughters also.

**Pandit Lakshmi Kanta Maitra:** Sons include daughters - sons, daughters, mothers, fathers, brothers and sisters, all who have contributed their mite to the building up of this independent nation. Today I gladly join the chorus of approbation of the services rendered by the Drafting Committee in which we have some of our most intimate and tried friends. I congratulate them on their achievement. I also want to record my appreciation of the work done by the Joint Secretary, Mr. Mukerji and the other members of the staff who have collaborated with us and made it possible for us to have this Constitution. Let us not in our admiration for the people in the limelight forget them. "They also serve who stand and wait." Above all, Mr. President may I strike a personal note and I believe that the statement that I will make will find a responsive echo in the heart of every honourable Member here, that the whole House if not the whole nation, is beholden to you, Mr. President, for the very admirable way in which you have regulated and guided the proceedings of this August Assembly. Many of us felt, not I, many of us had the feeling that with very little experience in the field in which you were suddenly called upon to serve you were an uncertain entity. I wonder, Mr. President,- it is no flattery to you when I say I wonder- how you could so admirably, with so much tact control the deliberations of this August Assembly. You have given no cause to anybody to grouse; you have never stifled discussion, you have allowed everybody full latitude, free scope to those who had an exuberance of

steam about themselves, to let the steam off; to those who have particular delight in chattering, You gave them chances to their hearts' content. I know and many a Member knows that sitting silently on the seat you have been witness to many things in this House which you perhaps did not like, but yet you held your hand back. We appreciate that and what I as an humble Parliamentarian can appreciate most is that though sitting in the Chair, there have been occasions when you felt yourself called upon to intervene; when you found that the House was taking a wrong an erratic step, you stayed its hands, you asked it not to rush on but to go slow and ponder and I know that on every such occasion real benefit has come out of your advice. This is an aspect which the House will not do to forget. It is perhaps worth mentioning that the Members of the Constituent Assembly also have their share of credit; they also deserve recognition in the country. Members have been called out to Delhi, where they have had to stay for months on and into difficult circumstances in total disregard of their private business. Sir, this is not in deference to an empty convention that I say all this; I sincerely believe that but for this joint enterprise, this collective enterprise of all concerned with you, Sir, at the top, it would not have been possible for us to achieve success in this stupendous undertaking.

I will now refer to one or two points regarding the Constitution. There has been a constant criticism here and elsewhere that this Constitution has been a hotch-potch of all manner of institutions prevailing in other countries. Yes. Speaking theoretically it is correct. There has been an amount of eclecticism there is no doubt about that; we could not help that. Who could have helped that in this country? Who in this country had had the experience, the traditions of a free country or the taste of freedom? We had not breathed, we could not breathe, the free air of freedom. We could not develop our own national and political traditions and for our ancient traditions we had to fall back on our ancient *shastras* and ancient lore. Therefore, we acted properly in my opinion in not rejecting the lessons of history recorded in the Constitutions of other countries. We had to pursue the policy of 'pick and choose' to see which would suit us best, which would suit the genius of the nation best and I am sure we will not have to regret this choice.

Another criticism about this Constitution is that it is a huge document. Enormous amount of extraneous matter, unnecessary matter has been pressed into it. Perhaps there is some truth in it also; but is it realized that you have drawn up a Constitution for 340 millions of people? Look at the magnitude or the size of your State and its people. Has it any parallel in the world? Has any other country, and other State in the world got such a municipality of problems, of such complexity and diversity as we have got. Therefore in the nature of things, this was inevitable and I make no apology for it. I do not say that this Constitution embodies the height of wisdom, political wisdom; I do not say that, I do not claim, you do not claim, nobody claims, neither the Drafting Committee nor any Member of this House, that this Constitution is perfect for the simple reason that it is not for human beings to be perfect and that a human Institution must of necessity be imperfect; but the society is not a static one. We are passing through a dynamic age, dynamics forces are at work. What we have provided today may have to be scrapped a couple of years hence, nobody can say. Hence, let us subject it to the test of time. let us see how this Constitution works. It will be perfectly open to the future legislators, to the future generation, to those who come after us to make any changes that would be justified by the needs of their time.

It has been said that this Constitution has been cumbered with restrictive provisions, that the Fundamental Rights that have been conceded with one hand have

been taken away by the other. In our zeal for criticism of the Constitution, which is our own handiwork is it realized how much we have achieved? Let us ponder over what we have provided in the Constitution as Fundamental rights. Many of them are justiciable. Let us not forget that. We have provided, among others, for liberty of speech, thought, action, association and all that is necessary for intelligent and civilized intercourse in this world. No doubt these have to be hedged round by certain restrictions, otherwise the very liberty would degenerate into licence; it will not be liberty at all. Remember the famous line of the great poet: "To me ( the unfettered ) the unchartered liberty tires". To some others chartered liberty tires. But in the interests of the very security of the State, as also for the greater and fuller enjoyment of liberty, civil liberty, these restrictions are necessary; however paradoxical it might seem, it is true.

Sir, we have completely banished from this land the curse of untouchability. We have by Statutory provisions broken as under the barriers that divided man and man, let me hope for all time. Is it a mean achievement? We have completely destroyed separatism from this country. Separate electorates we have removed. Reservations except for the genuinely backward classes, which is essential at the present stage, we have removed. We have tried to place equal opportunities for development and expansion, for the flowering of man into manhood. We have done all that. Is it a mean achievement? We have secured for the country the right of protection of the language, the script, the culture and everything which a particular part of the community wants to preserve for itself. These are some of our solid achievements. On top of all, the hitherto neglected underdog has been given a dominant voice in the governance of this country by the grant of adult suffrage. I find my honourable Friend Mr. Kamath smiling: I do not know if he is smiling assent or dissent to my observation.

**Shri H. V. Kamath:** I was not smiling at your remark: I agree with you.

**Pandit Lakshmi Kanta Maitra:** I thank you; at least on one occasion, my honourable friend has agreed with me. Mr. President, I was asking the House and through it the whole country to consider what a revolutionary change we have introduced in this country. I ask them to understand the implications of full adult suffrage in this land. These are our solid achievements.

But, our detractors would say, you have destroyed civil liberties. Yes, we have destroyed all chances as far as is humanly speaking possible, for degrading liberty into licence. that is true. These restrictions, at any rate for the period of transition, are necessary in my humble opinion. After the sudden withdrawal of the British power, in this country, his vision should be purblind who does not see the things that are shaping, the mounting violence and lawlessness everywhere. Who is going to use these powers? Not an alien force; but your own chosen representatives, representatives of the people, who would be chosen by the common man. That is a fact well worth considering. Let me fervently hope,- not only hope, it is my firm conviction - that these exceptional reserve powers will not have to be used too often. They will perhaps remain in cold storage. I earnestly hope that the weapons that we have forged for the protection of our hard-won freedom will go rusty and dusty in our armoury and will fall into desuetude, if only we realise our responsibility. I do not understand a democracy which simply means all rights and privileges for the people and no corresponding obligations to the State. I find it commonly believed that for the common man in the street it is only to receive and not to give. This misconception of democracy or, should I say, this prostitution of the sacred phrase, should be guarded

against and unless that is done, unless those who are in charge of putting this democracy in action, could fully make the people understand it and act up to it, this Constitution will be little worse than useless. For, after all, I do not believe that the virtue or merit of a Constitution lies merely in its wonderful draftsmanship or in the provisions that you embody in it. No doubt, they are important in their own way. But the success of democracy in a country depends upon the joint, collective endeavour of all concerned. In the first place, the provisions that you have embodied in the Constitution must be implemented in letter and in spirit, more in spirit than in the letter. No draftsmen in the world can draft a Constitution in so perfect a way that all the social and political ills to which a man is subject, would be abolished in a day. No cobbler in the world can make a pair of shoes which would enable a lame man to walk well and fast. No optician in the world can prepare an eye glass which can make the blind or the purblind see clearly. No tailor can make an ugly person look handsome and beautiful. So, I say the success or failure of this Constitution would lie in the hands of the people who work it, and it is on them that its success or failure in the ultimate analysis depends. Therefore, it is that this is an occasion, which I said was a memorable occasion, an occasion for exultation, perhaps of exaltation but certainly of exhortation This is an occasion for self analysis, for self examination. We have to see that if we want to implement whatever we have provided in this Constitution, if all that we want to achieve is to be achieved, then we must start here and from now to create an atmosphere for it; we must without delay bring about the conditions necessary for the proper evolution of a secular democracy in this country. You have given adult suffrage to your people. If you do not set about with all earnestness to completely remove illiteracy from the people, then, this grant of adult suffrage instead of being a boon would be a boomerang.

All the nation building departments should be attended to immediately and no excuse of shortage of funds or any other cause should be allowed to stand in their way, if the democracy as envisaged in the Constitution is to succeed. If this gigantic experiment is to succeed, I would appeal in particular to the servicemen to take note of the times. In this House when the constitutional guarantees were embodied for a class of the servicemen, there was a considerable section inside the House and outside who grumbled and groused. This has created considerable heart burning among those sections of the services for which no guarantee was provided. I do not object to guarantees being given; I do not regret that the fate of these servicemen has been given some security in the Constitution. The services constitute the back-bone of every Government but we in return must expect that all the servicemen who have been guaranteed a secure tenure should at least give us a moral guarantee that they would rise equal to the occasion, and that they on their part would act in a spirit of service, service to their country, service to their fellow human beings who are their own kith and kin and who are their ultimate masters; and not merely service to self. There should be no jockeying for positions inside the Secretariat or in other spheres. Let us be assured that all services will co-operate in the fulfilment of the great undertaking we are about to enter upon and in this, may I say, Sir, that everyone of us has a responsibility to discharge . The future legislators, the future Parliamentarians, the future Ministers, the people who would be called upon to operate this Constitution, to administer the Government of this land,- they should be the first to set an example to the rest of the country by their selfless devotion, by their hard and earnest endeavour to implement the spirit of the provisions of this Constitution. If that is done, I have every reason to hope that we shall be able to make this country worthy of its great past. We who have been inheritors of ancient renown, could then stand up before the country, before the bar of history and say, we have done our part in our humble way,- with all our faults and failings; the future belongs to those who

come after us.

Mr. President, before I conclude I would like to impress on the House the spirit of the Preamble with which we being our Constitution. I think it is the most solemn and the most magnificent piece of declaration that can be found in any Constitution. Let me draw the attention of the House to it before I close. I will not read the whole of it but I was listening to the critical speeches of my honourable friends, I was reminded of its noble message:-

"We, the people of India, having solemnly resolved to constitute India into a sovereign Democratic Republic and to secure to all its citizens:

Justice, social, economic and political;

Liberty of thought, expression, belief, faith and worship;

Equality of status and of opportunity; and to promote among them all;

Fraternity assuring the dignity of the individual and the unity of the Nation".

Great words these, solemn words these -let us take it as our Manthram and with these two Manthrams , this Preamble and Vande Mataram - go ahead.

**The Honourable Shri N. V. Gadgil** ( Bombay: General): Mr. President, I remember that nearly three years ago we started the deliberations of this Constituent Assembly. In the course of these three years many things have happened and one great thing that may be noted about the Constitution that is now about to be passed is that the experience gained in the course of these three years has been written in the clauses of this Constitution. That will only show that those who were responsible for drafting of the same have not been mere academicians or mere lawyers working in an atmosphere of the cloister. As has been well said that so much has been accomplished and so well in such a short time that compared with the attainments of other nations in Constitution drafting, there is nothing in this of which one can be sorry but there are many things about which we can be reasonably proud. The Third Reading is hardly an occasion to subject the provisions of the Constitution to a critical or constructive analysis. But in as much as the Constitution has been criticised here as well as outside this House by a number of persons and parties, I am rather inclined to review the main provisions which are incorporated in this Constitution.

For this purpose I have singled out two parties in the country-the Socialists and the Hindu Mahasabha. Both the parties have put down in writing their ideas about the Constitution for this great country. One is published under the title- 'Drafting Constitution of Indian Republic' and it is red in colour which is rather the monopoly of the communists with something different by way of an emblem. The other party - the Hindu Mahasabha - has also published a book called the "Constitution of the Hindustan Free State". I went carefully through both these documents and I find that there is agreement on the main features of the Constitution that ought to prevail in this country. Lord Bryce has defined "Constitution as the form of political society organized through and by law, that is to say, one in which law has established permanent institutions with recognized functions and defined rights. It may be mere collection of general principles according to which the powers of the Constitution, the rights of the governed and the relations between the two are adjusted ". It is therefore to be seen what permanent institutions in the sense in which any political institution can be

permanent, are embodied in this Constitution. A modern constitution can be tested from five points of view :

1. The nature of the State for which the Constitution is provided

2. The nature of the Constitution itself;

3. The nature of the Legislature,

4. The nature of the Executive;

5. The nature of the Judiciary.

Now in this Constitution the nature of the State is Federal. I doubt whether there is a single individual either here or outside or a party here or outside which has stood or even stands for a completely Unitary State.

It is impossible to govern a country so big, with so many traditions and with such a variety of cultures with about two hundred and twenty different languages and to bring them in one administrative unit in the sense that there would be one unitary State, one legislature and one executive. After all, Sir, every Constitution represents the accumulated wisdom of the past and also embodies some elements of experiment in the constitutional sphere. It was not possible, as well said by my predecessor just now, to write on a clean slate. In the course of the last hundred and fifty years, and more particularly in the course of the last forty years, this country has been accustomed to certain political institutions, and it was not possible to depart violently or substantially from the political trends and tendencies already prevalent in this country. It was, therefore, clear that the nature of the State would be federal--a point on which there is perfect agreement between all the parties in this country. The difference, only comes here, whether in this Federal State the Centre should be strong or should it be weak. Now, even in this, both the parties, the Socialists as well as the Hindu Mahasabha, are agreed that the Federal State, or the Centre must be strong. I think, therefore, that there is nothing to be ashamed of the provisions- even taking into consideration the latest addition- are such that in the light of experience gained during these three years, it could not be said that the Centre has been made unnecessarily strong. It has been the experience of history that when the unifying influence of nationalism is felt, the emphasis is in the first instance on independence, and secondly on democracy. As I have already stated, in view of the difference in outlook, in culture, in language, and in history, we have yet to go a long way before we can say that the Indian State is a perfect unit in the sense that it is one solid and well integrated State. There are still fissiparous tendencies, there are still tendencies , both individual and provincial, to get out when something unpleasant is done, and the necessary loyalty still lacks that measure of intensity which we find in other Federal States. In fact, when we started three years ago, our greatest problem was how to bring in the several states which suddenly became free and sovereign also. But gradually the unity of this country has been built up and in order to see that it is perfectly consolidated, that it is placed beyond the danger of any fissiparous tendencies or disintegration, I still think the necessity for a strong Centre is there, for at least ten years to come. From that point of view, some provisions which enable the Central Government to supervise or control or direct certain affairs or certain spheres of administration in the provinces are all to the good.

Now, Sir, the second test, as I have said, is the nature of the Constitution itself. Here again, we can not leave much to convention, and hence the approach has all along been to embody, not mereby general principles- a step which has been taken in many other countries- but to incorporate many things and not to leave at the initial stage of our journey towards freedom, important matters to convention. The accusation has been levelled against this Constitution to the effect that it embodies too many details, that much of this could have been avoided. This is a point on which many will agree. But at the same time, the experience gained in the course of the last few years dictated that this was rather a dangerous affair, to leave many things to mere convention, and hence the necessity of the new provisions that have been embodied in the Constitution.

The great objection against written constitutions is that it is very difficult to change them. In this respect I think the provisions that have been finally adopted are neither so elaborate as are in the Australian constitution or the Constitution of the United States of America, nor as easy as those in the English Constitution. There must be some distinction in amending an ordinary law and an organic law. Undoubtedly this law of Constitution as the very name suggests, is an organic law and any change in it must not be done with the same facility or shall I say, the same light heartedness as any change in the ordinary law. Even a prudent owner of a house would think ten times before effecting what the engineer calls structural repairs, but would not mind having current repairs frequently. Similarly, there are certain fundamental of this Constitution which cannot be changed light-heartedly, or as simply as we may effect a change in any ordinary law. Suppose we want to abolish the post of the President, or to make it hereditary. Can we do it by the simple process of moving a Bill and getting it passed by a simple majority? That would be dangerous. Similarly, those provisions or those institutions which constitute the foundations of this Constitution, can not be light-heartedly dealt with. Therefore, the provisions that have been made , as I said, are not too complicated on the one hand and not too easy on the other.

Those who have been criticising the Constitution on the score that it has been framed by one party, and is exactly the instrument fashioned for the purpose of inaugurating Fascism, I would ask them to study those provisions, particularly those relating to the amendability of the Constitution, and they will find that if they want to change it, and if they can carry the public with them, through the representatives of the public to the extent of two- thirds, then they can unmake the whole Constitution, it they so desire. My Friend Prof. K. T. Shah can see that in this Constitution there is sufficient power for him to tax out of existence his old friends and new enemies, namely the industrialists. There is nothing in this Constitution which cannot be equated with a full measure of sovereignty. The nature of the legislature is such that there are restrictions only so far as the procedure is concerned. But in substance there is no restriction, no limitation on the sovereignty of the legislature or Parliament. As was said by the French writer about the English Constitution, "Parliament can do everything except turn a man to a woman". I think the same can be said of this Constitution and I feel that all that the future legislature can not do is to turn an idiot into a genius.

Now, as regards the nature of the Executive, all the parties are agreed that it must be Parliamentary as opposed to presidential. It must be responsible to Parliament. To what extent that experiment will be successful, depends upon certain conditions under which it will normally work. If there are two parties and two parties only, I have not the slightest doubt that this experiment will succeed to a substantial extent. But if

there are more than two parties the life of the Cabinet will become very precarious. As one of my friends said the other day about the Ministry of a certain province, the Minister would not pay the *lorry-wala* because he thought he might require it the next day to take back his luggage from the ministerial bungalow. It may be, as is the experience of the French Cabinets, that the average life of a Cabinet may be even less than six months.

In that case what is required, what is very essential is, as has been referred to by my honourable friend Pandit Lakshmi Kanta Maitra, a strong efficient honest and industrious Civil Service. The Ministers may come and go; the Cabinets may come and go; but the actual Government, the administration will be run by the civil servants. From that point of view it is my personal opinion that although the provisions made in this Constitution are good, yet they are not sufficient. For on the Civil services will depend the good government of this country: on the Cabinet and on the parliamentary leaders will depend whether the Government is popular or otherwise. What the common man in a free country desires and is anxious about is good government, because having secured self government the emphasis has naturally shifted from self-government to good government. The Parliamentary Executive which has been envisaged in this Constitution requires, I shall say men of a very high caliber and under this Constitution the whole burden, the whole responsibility, is virtually thrown not on the President, as has been suggested by some honourable Members, but will devolve on the Prime Minster - on his personality, on his initiative, on his capacity to make statements, on his capacity to respond to public opinion and above all, his capacity to do the right thing against the popular thing- on that quality or moral courage will depend the success or otherwise of this experiment.

As regards the legislature, we have adopted bicameralism and I have no objection to it, and in as much as the electorate is to be based on adult franchise, I think the amount of prestige that each legislature will carry will be considerably greater than what it is today. But with that comes the great responsibility of educating our masters. Unless the electorate is sufficiently educated in a general way, capable of weighing not the details of a big problem, but its broad outlines, unless they have some capacity to distinguish between men and men- the democracy that we are contemplating will not be successful. It has been said by Professor Laski, that in the ultimate analysis, it is not the programme *versus* programme that is put before the electorate, although it is done objectively, but the individual equation of leadership. Who leads that party? Who leads that party? That is what weighs with the common man. Personalities do count--more so in the case of this country where hero worship is normal and where devotion is, so to say, the creed of one's life. The necessity of educating the electorate is therefore the greatest. I should, therefore, like to lay emphasis on this aspect that those who have taken part in framing this constitution should spend the rest of the time from, now till the election in explaining the provisions of this Constitution to their respective electorates.

As regards the Judiciary, Sir, we have secured their independence and I do not think that there is anything in which we have departed from the normal provisions that one finds in the Constitution of other countries. After all the Constitution is merely an instrument, and the main test is whether it is good enough to secure those economic and social ends which we have in view. If it is not then it must be rejected, whether it is drafted by the greatest constitutionalists or greatest lawyers or jurists in this country, whether they have taken part in the struggle or not makes no difference. The main point is whether this is an instrument which is of such a nature as to secure

those social and economic ends which have been very beautifully worded and embodied in the Preamble of this Constitution. In fact, I compare the Preamble of this Constitution with the *nandi* of our ancient drama. It is stated in the ancient book in drama that *nandi* must be such that it must contain some suggestions which will show what the plot is going to be . That is exactly what is done in this Constitution. I remember a certain line of criticism to the effect that no economic equality is guaranteed in this Constitution. I would ask them simply to read the words " justice, social economic and political". I can not contemplate in the context of modern circumstances that social justice is possible with private enterprise left free and unchecked. But things are bound to move if those who are in charge of the Government are anxious to secure social justice and when with that end they will act they will have to socialise means of production. Only social ownership will bring in social justice. There is no escape from it. It may come gradually with certain persons in power; it may come quickly if other persons are in power. But the point that I want to make out is that this Constitution does contemplate that social justice will be secured by organising the community with the ownership, control and regulation of means of production, resting in the hands of the leaders of the society; in other words in the hands of the State.

Sir, the Constitution is an instrument and not an end in itself. In the hands of a good workman, it is a good tool to work with. In the hands of a determined workman it will enable him to get what he wants. In the hands of a reluctant workman there is enough for him to complain. This Constitution is in my humble opinion, in spite of its defects ( defects there are and I am not indiscriminate in my admiration although I do not unlike others, want to repudiate like Vishvamitra), calculated to secure those social and economic aims for which the Preamble stands. With a far-sighted President, with a Prime Minister full of vigour and vision, with genial legislators and a responsible opposition, I think there is nothing to prevent us, under this Constitution, to achieve those aims for which every one of us stands.

**Shri M. Ananthasayanam Ayyangar** (Madras: General): Sir, the Constitution has had its final touches and this is the occasion for a review of our labours. No doubt we started making this Constitution three years ago. The time that has been spent is not a long one and it is time well spent. When we started under the Cabinet Mission Scheme the Centre was expected to embrace and have a Constitution for the whole of the Indian Union including Pakistan. It was envisaged then that the Centre should be weak with powers only over defence, communications and external affairs. If we had accepted the scheme the 565 States in the country would not have come easily into the picture. For no fault of ours the Muslim League did not come in and for one full year we had to wait expecting them to come in from- November or December 1946 to the 15th of August 1947, when the country was partitioned. After 15th August 1947 for a long period we were faced with difficulties like those created by the Partition, the refugees, the murder of Mahatma Gandhi, the Hyderabad tangle, the Kashmir war which all took a lot of our time. We settled down later and calculating the number of days on which we sat we have not spent more than five months during this long period. On account of causes beyond our control we were not able to push these matters through. Considering the various problems and their magnitude and the various interests that have to be reconciled, any other country with a vast population like ours, I am sure, would have taken not three but many more years to frame its constitution. Therefore it is a matter for pride to us that we have ended our labours at last at the end of three years.

Let us see what we did during this period, which is apparently long but is really short in time. We have achieved many wonderful things. We have brought about the unification of India and it is not a mere paper achievement. As we went on during this period framing the various articles of the Constitution, we went on implementing them at the same time. In fact we settled many problems and then embodied them in the Constitution. The integration of the 565 and odd States in the Indian Union could not have been achieved in any other country without a bloody revolution. A bloodless revolution has brought about this achievement and it must be a wonder to our erstwhile British masters that we have brought about this event without shedding a single drop of blood and so easily that people have reconciled themselves to it. The Maharajas and Princes have gladly come into the Union and are prepared to work it.

The next achievements is with regard to the Constitution of the States. First, the States were unwilling to come into line, and when they were also called along with the Provinces they have adopted the model constitution framed for the States. That also has been achieved without much trouble or protest. The persons in charge have managed it successfully and almost every State has come into the Union.

The Minority problem could not have been solved easily but thanks to the integrity of the various religious and other minorities, the separate electorates through which the British Government divided one community from another in this country and ruled it, were given up. They gave up at the outset separate electorates for joint electorates with reservation of seats but laterly they have given up even the reservation. Thanks to their farsightedness it marks one more step in the unification of this country and I am sure this will be worked in the spirit in which the minorities have acceded to it. It is now left to the majority community to show that whatever religion an individual may belong to, it is only his talents and spirit of service that will country and not his community and persons belonging to the minority communities will not be discriminated against merely because they belong to particular minority communities. I am sure the majority community will accept the hand that has been stretched out by the minorities, who have gladly given up their reservations.

Another vexed question was the division of powers between the units and the Centre. A committee was appointed and the premiers of provinces who came before it gladly yielded wherever it was found necessary and thus strengthened the Centre. Even in the field of industry and commerce wherever Parliament found it necessary that in the public interests of India as a whole a particular industry should be regulated by the central legislature it was granted as a concession in the interests of the county as a whole.

The allocation of financial powers as between the Centre and the States and Provinces loomed very large and at one stage it appeared almost insoluble. The sales tax over which a battle royal was fought was ultimately solved harmoniously. Acquisition of property also was no easy matter. Take for instance compensation for the taking over of zamindaris. In other countries the liquidation of feudal tenures would have taken a long time and wars would have been fought on that question. In various provinces zamindari legislation has been set on foot. Regarding compensation though it appeared at one time that this issue would even break up the whole constitution, ultimately the Nation found a solution in this sphere also.

Then there is the question of language, over which we though there will be much controversy at one stage. Three or four times we met outside this House and also

inside and ultimately we have resolved the question harmoniously. Hindi has been accepted as the *lingua franca* or the official language of India. These are all matters each one of which for its solution would have taken many months, if not years. We have resolved them all in the short period of time at our disposal.

I shall try to answer some of the critics who say that we have spent nearly a lakh of rupees every day or something of that kind. It is all wrong. People from the outside who do not assess things in the proper perspective are carried away by the number of days. The fact is we have not spent much. On the other hand, we have been carrying on in spite of hurdles and have now brought the Constitution successfully to its conclusion.

Let us find out exactly what is the kind of Constitution that we have given to ourselves. I claim that this Constitution is an absolutely democratic constitution. It vests the sovereignty in the people and enables them to continue to exercise that sovereignty in full. Besides political sovereignty, there is social justice also given in this Constitution. There is no discrimination between one individual and another. All can exercise equal rights without discrimination, so long as a person is not opposed to morality or public conscience. Untouchability has been removed once and for all. In the economic field also, although we have not said so in so many words, we have ushered in a socialistic democracy, which I would have very much liked to have been stated specifically. Equal opportunities have been given to all persons to acquire property.

One criticism levelled against this Constitution is that this is a mere copy of the 1935 Government of India Act and that it does not reflect the genius of our nation. There is some truth in that remark, but it is not wholly true. There are two ideologies today in the political field, which are working in conflict with one another. One is the capitalistic democracy and the other is the socialist dictatorship. Socialist dictatorship prevails in Russia and Capitalistic democracy in USA and UK. The world is today in need of democracy both in the political and the economic fields. It is no use telling a man that he must satisfy himself with political democracy without equal opportunities for property, the means of production being cornered by a few individuals. In a capitalistic democracy, there is political freedom but there is economic dictatorship. In a socialist dictatorship, there is no political freedom, but there is economic democracy. These two forces are fighting and ere long a war may come about. I thought that we must follow the golden mean and frame a Constitution which will usher in socialistic democracy, both the economic and the political fields being democratic and there being no cornering of power or wealth by a few individuals. One, namely, political democracy has been ushered in. Every man, woman without discrimination of race, colour or creed is entitled to hold the sovereignty of this country and bring into existence the form of government which he or she wants and change it from time to time. Normally speaking, literacy or some kind of education is insisted upon as a qualification, but here we have provided that any human being above the age of 21 years is entitled to take part in the formation of the particular kind of government he likes. But in regard to the economic field, I would have very much liked that we should have started with an enunciation of the principle that we are trying to usher in a Democratic Socialistic Republic. But unfortunately we have not been able to carry the rest of the people with us. Even the word "socialism'' was reprehensible. But later on, by various clauses in the Directive Principles we have remedied the rigours of capitalism. In Parliament in the enunciation of the industrial policy it was said that we shall follow a mixed economy, that is to say, the State will run the enterprises in

certain fields and the others will be left to private enterprise. Though we have not said so in words, there is ample provision in this Constitution which if worked well will ere long usher in a Socialist Democratic Republic in this country.

Then, Sir, it is said that by articles 93 and 371 too much power has been vested in the Centre and that is likely to lead to Fascist tendencies in this country. I say that it might not lead to any such dictatorship at all. More than 14 per cent are not literate in our country and it will take long to make them literate. I have therefore my own doubts as to whether adult suffrage will work in this country. Left to myself, I would have preferred that the village ought to have been made the unit, and panchayats must have been formed on adult suffrage with local councils etc., and elections must have been indirect. But we have chosen, in keeping with the times, adult suffrage for this country. I am sure that with the growth of adult education for which we have provided in the Directive Principles, namely, that education must be free and compulsory upto the 14th year for every boy and girl, the unique experiment that we are making in adult suffrage in this country will succeed ere long. Even on the score, we need not have any apprehensions. Until the time everybody becomes literate, a provision like the one made in article 93 and 371 will be necessary. It is a safeguard which all lovers of freedom in this country must welcome.

Thus, I consider that if these various provisions are worked in the spirit in which they have been framed, peace and harmony will prevail in this country. Members of this House and everyone outside, men and women, should feel that this Constitution is their own. There is no difference made. There is no doubt about it that this is a representative assembly. All communities have taken part in the framing of this Constitution-Hindus, Muslims, Sikhs, Parsis, Scheduled Castes and representatives from the Scheduled Tribes. All political interests have been represented here. Leaders of all schools of thought are here. Even Dr. Ambedkar, who merely came to watch has taken a leading part in the framing of this Constitution and he is one of the architects of the Constitution we are now passing. The very person who came to doubt and to criticise has ultimately taken charge of this Constitution and framed it. I congratulate him and I congratulate ourselves for the goodwill shown to him and the manner in which he has reciprocated it. After all, by closer contact we can easily understand one another's viewpoint. So long as we are at a great distance, we make much of the small angularities we have. If this Constitution is worked in the spirit in which it has been framed, I am sure we will be one of the foremost nations of the world.

There are also amongst us a number of eminent jurists like Mr. Alladi Krishnaswami Ayyar, whom we cannot easily forget. In spite of his weak and poor health both inside the Assembly and outside in the Communities, has been rendering yeoman service. We have amongst us also administrators like our Friend Mr. Gopalaswami Ayyangar. He has had great experience as a civil servant, and then as Dewan in the States and later in the Council of State. Though latterly he has gone out of the picture and has not been much in evidence in the Assembly here in the matter of the Constitution after, Dr. Ambedkar has taken it over, I am sure we will not forget the enormous services that he has rendered. Every section of the Assembly has done its best. Some of our friends who have been very energetic in tabling amendments-Mr. Kamath, Mr. Shibban Lal Saksena, Mr. Sidhva and latterly Dr. Punjabrao Deshmukh who has added himself to this list-have all contributed their mite. Though we have not been able to accept many of the amendments tabled by our Friend, Prof. K. T. Shah, for whose learning, intelligence and capacity I have a good deal of admiration, he has confessed to me outside the House when I talked to him that though we were not

going to accept his amendments, he tabled them because he wanted to lay his point of view before us. He has accepted the defeats in a spirit of good sportsmanship. Therefore I feel that this Constitution has been framed by every one of us doing his bit gladly. If there has been defeats to some, those defeats have been accepted in the spirit of a minority having to submit to the majority view in the hope of converting the majority view in their favour at some future date.

Lately, Sir, we have not tried to make this country greater in extent. We have no territorial ambitions. We do not want the territory of others. In the international as well as in the domestic field we want peace and harmony. With respect to that we have added a clause in the Constitution stating that in setting disputes between nations, arbitration ought to be the rule and not war. I am sure that, to the best of our ability, we will try to avoid war between nations and act as mediators for the settlement of international disputes by peaceful methods.

Sir, I will be doing an injustice to myself if on this occasion I do not pay my humble tribute to the Father of the Nation-Mahatma Gandhi, the embodiment of love and peace in the world. *(Cheers)*. I had tabled an amendment to the Preamble to the effect that we must start with an invocation for his long and continued blessing to our country and our Constitution. I find that there is a similar provision in the Constitution of Eire beginning with the words 'With the grace of the Almighty.....'I thought we should similarly start with the words 'With the grace and benediction of Mahatma Gandhi the Father of the Nation'. But my amendment was not allowed. Now, Sir, whether his name appears in the Preamble in writing or not, nobody can erase the peaceful and solemn voice of Mahatma Gandhi from our hearts. With him as our model, let us march on, work from peace to peace until peace and prosperity reign supreme in the world. May God bless us.

**The Honourable Shri B. G. Kher** (Bombay: General): Mr. President, Sir, I cannot let this occasion pass without expressing my gratification at the completion of a task which, it is very difficult to realise, we began quite three years ago. I remember our first meeting was held on 9th December 1946 and, in these three years were crowded events which would normally have taken possibly three decades for us to accomplish. Our Constitution also has undergone modifications as events outside took place. My first impulse therefore is to congratulate this House on having completed a very difficult, gigantic and monumental task and given a Constitution to free India. Every one will agree that it was a difficult task. Even as the manner in which India attained her independence was unique, so was the Constitution of this very Constituent Assembly. I do not think anywhere else a Constituent Assembly has gone on working as the Constitution making body and as the Parliament of the country for such a long period as nearly three years. After three years labour we have built up a Constitution of which we have every reason to be proud.

As I said, our draft Constitution has undergone many changes on account of events which took place after we first met. Remember, Sir, that it was only in May 1946 that the Cabinet Mission offered to us a very weak Centre-a federation no doubt but with a very weak Centre. With nearly 556 States and fifteen provinces we were to have formed a Union with only Defence, Foreign Relations and Communications as the uniting factor for all the federating Units. Now look at the Federation that we have given our country! The Federation is formed with a view to have powerful uniting factors for a strong Centre.

We have solved a number of problems which, at the start, seemed insoluble. There was the question of the separate electorates, the franchise problem and the question of the minorities. These, by a spirit of goodwill and accommodation, we have now solved in satisfactory way. We have solved all these knotty problems including the very troublesome question of our language and the script. It is not necessary for me to go over the whole ground which has been covered by the 395 odd articles of our Constitution. A number of friends have already referred to many of the points to which I would have liked to refer.

Sir, one feature that distinguishes our Federation is that, unlike the other countries which have a federation, it is not the fear of any aggression or any outside agency that has inspired us to federate. It is not fear that has inspired our federation. Out federation is the natural outcome of our unique struggle for freedom for years and years. In the Indian National Congress we used to pass a resolution that we must have a Constituent Assembly which should frame our Constitution of free India, instead of being dictated to by any outside agency or by any sentiment of fear. Our Constitution has been evolved as the natural outcome of a process unique in its nature, even as our attainment of freedom has been unique. We are now a sovereign, democratic republic completely free to determine our foreign relations as also to mould our destiny in any way we like.

Turning now to the provisions in the Constitution, I do not agree with Professor Shah that we have hemmed in our Fundamental Rights with a number of restrictions which have rendered those rights almost nugatory. A number of speakers have referred to this matter. I believe, Sir, that these are very valuable rights which we have assured to our citizens. We have made them justifiable. They can be made the basis of judicial scrutiny. Article 13 provides that the laws in force in India, in so far as they are inconsistent with the Chapter on Fundamental Rights, will straightaway be void. In future also, any of the laws that offend against those Rights will be considered void. Therefore I believe that this Chapter provides very valuable rights to our citizens. For the first time in history, as a friend observed just now, they have been assured to all our citizens.

We have abolished untouchability, the curse of our public life. We have attempted to ameliorate the condition of the very large number of neglected people-the tribals. We must congratulate ourselves that we have provided Fundamental Rights as also the means of enforcing or attaining perfect equality, social, economic and political both to the untouchables as also to the tribals and the other down-trodden people-equality with the other sections of the public. In part III which deals with these rights, we have an article which deals with the compulsory acquisition of property. I remember very well that it was an article which caused the gravest concern to property holders. It gave rise to a bitter controversy-and at one time if looked as if our disputes were going to cause our ship to founder on the rocks, but ultimately good sense prevailed and negotiations and discussions have given us this article, and I believe, Sir, we have arrived at a solution which need not cause any unnecessary apprehensions but on the contrary should inspire confidence in the minds of property holders. I believe I am not entitled to speak on their behalf-owning no property myself-but it is obvious that State like ours must, professing the principles that it does of attaining equality and social justice, have certain rights, to acquire property in the public interest and so long as we do not expropriate property owners, so long as we give them a remedy for determining whether the compensation that the state gives is fair or not, I do not

think they have any reason to be apprehensive.

Then, Sir, we have the Directive Principles, and I am very glad that one of the Directive Principles is that it is the duty of the State to raise the level of nutrition and endeavour to bring about the prohibition of the consumption, except for medicinal purpose, of intoxicating drinks and drugs which are injurious to health. We all know how it was an article of great concern with Mahatma Gandhi. In my own province I am aware that we are being criticised for being too hasty and for having undertaken reforms which other countries have not been able to succeed in introducing; but, Sir, I am very happy to see that the Directive Principles embody this very important, necessary Directive that in order that the health and happiness of the vast numbers of people in this country may be looked after by the State, it will be their duty to prohibit the consumption of this poison. It is futile to say that we are too hasty and I submit that the pace must be determined by circumstances. Speaking of my own province, we first introduced prohibition in 1938. A part of our province was under prohibition. This time again we have given four years so that the unnecessary criticism which people with vested interests or with bad habits which they are unable to give up, level against us and against this part of the Constitution has really no justification.

Then, Sir, it has been said that we have only adopted the Act of 1935 as our model, for framing this Constitution. While I do not see why it should not have been adopted as a model, I want to point out that it was not a model designated for an independent, sovereign State. That model provided for an association of heterogeneous elements which lacked equality in political, economic, social and cultural status. And instead of 556 States, with a population ranging from one hundred to several crores, thanks to the way in which we have handled the States problem the number of what may be called the vestiges of Indian States is now reduced to nine, and all this has been done within this short period of eighteen months. This First Schedule of our Draft Constitution which is divided into four parts and which is called the States and the Territories of India contains only thirty units as against fifteen provinces and five hundred and fifty six Indian States set out in the Schedule to the Government of India Act of 1935 so that, while it is true that we have adopted it as a guide to see that no important questions, no important problems, no important items are lost sight of in framing such an important document, surely there is no similarity between the 1935 Act and this Constitution of a sovereign Republic that we have been able to build up in the four hundred odd articles that we have framed after such careful scrutiny, deliberation and forethought. We have adopted no doubt three lists as the 1935 Act has got, but we have taken into account the practical needs of the present times. I am aware that there is a good deal of dissatisfaction as to the relative position of the items put in the Lists, but it is a matter for the Union and the Provinces to evolve a way of smooth working whereby the strength of the Centre is not imparted, while the progress of the province is also maintained.

The financial relations between the Centre and the States, Sir, are naturally a matter of great anxiety but I am very glad that good sense has prevailed and we have now evolved formulae which has met with a very generous measure of approval both in the provinces and at the Centre. Let us hope for the best.

Another matter on which we pride ourselves is the way in which we have handled the problem of the minorities. That was a great stumbling block in our way. Part XVI of our Constitution is witness to our constructive genius. We are very thankful to the minorities also for the way in which they have responded to the attempts that we

made to abolish separate electorates and at the same time to inspire them with confidence that their legitimate interests will not be neglected.

The question of a national language which has been referred to here and discussed at great length gave rise to very bitter controversies. I hope, Sir, attempts will be made to evolve a really national language. We need not quarrel about names. We have a script which I believe, is very rich and very scientific and although those who do not know it may find a little difficulty in learning it, once they do learn it. I think they will be able to realise that our decision for adopting that script for the national language is a very wise one.

Then, Sir, I do not propose to say much about the question of the judiciary excepting that we need not be led away by mere slogans. The thought seems to be entertained by a large number of people that the executive is always made up of people who want to crush people's liberties and that the judiciary is there like the knight-errant to rescue the liberties of the public from the clutches of the executive. I think, Sir, that this is a very wrong notion and I am very glad that our Constitution has taken a common-sense view of the affair. We have assured the rights of the judiciary and also provided for powers of the executive. How can you accept this principle that, while the executive is composed of people who are wicked and who are anxious only to crush the liberties of the people, the judiciary consists only of saints who are above all ideas- I will not say-of power but who will not be led away by the same sentiments as those by which the other people are bound to be led away? I know that we have a very difficult task in composing the judiciary. If the members of the bar, when invited to become a Judge, do not consider it as a call to duty which ought not to be disregarded, because a Judge cannot earn on the Bench as much as a practitioner can at the bar, I am afraid we are not likely to secure good judges from the Bar, and the higher posts may have to be filled by promotion from the ranks of the lower judiciary. I am really afraid of the prospect. In my opinion the bench and the bar-I am not speaking in ignorance of the situation, because I have been connected with the legal profession very nearly for 40 years, from 1909-and in my opinion the bench and the bar both are in need of being reminded that they do not cease to be citizens and must be prepared to share the sufferings of the other sections of the people. I agree that it is necessary to have safeguards that the executive does not override the rights of the people. We have agreed to the separation of the executive and the judiciary, but after all the great concern of a young democracy is the security of the State. I am afraid Security is of the very highest value, particularly in a nascent democracy like ours, where new ideas, new principles, notions of new rights and of equality of status are being imbibed by the people none too slowly. So that those people who only raise slogans of civil liberties in danger and the oppression of the executive will do well to remember that they can raise these slogans and they can protect their civil liberties only so long as anarchy is prevented and the executive functions efficiently, justly and properly *(Hear, hear).*

Sir, I must before I conclude congratulate the House-and I have been here through, well, quite a good portion of these three years-on the monumental work which we have been able to achieve. Some of us are nervous as to the effects of introducing Adult Franchise in our elections. We have taken a very bold step. The only safeguard I can think of is accelerating the pace of social education. The other safeguard is the Upper House. A friend said that the Upper House ought to be abolished. I am afraid I do not share his view. The upper House is quite absolutely necessary at least for the first ten years and I am very glad we have taken decisions

which do not make the existence of the Upper House impossible. In our anxiety to achieve our dreams of equality, of liberty and fraternity and social justice it us not lose sight of the fact that even the attainment of these great things is possible if we do not collapse in the beginning of our new life and the whole machine is not wrecked either through ignorance or through wickedness. There are political parties who are anxious to create a chaos in the country because they believe that in that way alone and through violence alone they can achieve the fulfilment of their dreams. The Father of our nation thought otherwise and taught otherwise and we walked in his foot-step and we have achieved very happy results and the very fact that we were able to frame this Constitution so early-I call it "early"-and in this peaceful manner, is due to the fact that we accepted him as our guide and leader. Anyway, Sir, it is a glorious risk that we have taken, trusting our fate to the common man for whose happiness and advancement this Constitution is intended and framed.

I once again congratulate the House and I have no doubt that we have done a piece of work which will ensure for India that social justice, peace, progress and prosperity which it has been our aim to achieve *(Loud cheers).*

**Mr. President:** Before I adjourn the House, I desire to inform Members that the calculation on which I proceeded yesterday has turned out to be wrong. I proceeded on the basis that there will be 72 speakers whose names I had received till yesterday morning. Since then the list has swollen to 125 and probably by Friday week when we propose to close, it may come up to the total number of Members of this House. In that view, it is not possible to sit only three hours a day nor is it possible to give 20 minutes to each Speaker. I, therefore, propose to sit both morning and afternoon, ten to one and three to five, from today onwards and I would expect Speakers to come down to 15 minutes, at any rate, during this week and it may come down to 10 minutes the next week. From today afternoon the time will be 15 minutes for each Speaker and we shall sit from ten to one and three to five every day.

The House stands adjourned till three o'clock.

The Assembly then adjourned for Lunch till 3 P.M.

The Assembly reassembled after Lunch at Three 3 P.M. Mr. President (The Honourable Dr. Rajendra Prasad) in the Chair.

**Mr. President:** We shall take up the discussion now.

**Shri Prabhu Dayal Himatsingka** (West Bengal: General): Mr. President, Sir, various honourable Members have spoken and pointed out the good points and the bad points according to their view in the Draft Constitution. The Honourable Mr. Ananthasayanam Ayyangar and the Honourable Mr. Gadgil have analysed the provisions very thoroughly and shown to the House what have been our achievements in this Constitution during the period that this Constituent Assembly had been working on this Constitution. There may be difference of opinion as to certain provisions. Some may regard certain provisions as salutary while others may regard the same provisions as objectionable. But, Sir, much will depend on how the provisions are worked and also on the vigilance of the people. If we all alert, whatever may be in the provision of the Constitution, things will move all right. There are persons who object to the powers that have been provided for the Centre in provisions like Article 257, 358, 365 and so on. People object to article 371 which gives power to Centre of

supervision and giving directions over States. But those who know the conditions of States will certainly welcome much wider powers to be given to the Centre. What is happening in Rajasthan? People are being kidnapped from their houses and ransom is being realized. Unless the authorities of Rajasthan are able to pull up or take steps, it will certainly be in their own interest that the Centre gives directions and those directions are carried out and if not carried out, the Centre takes over and makes arrangements. In some places it has become impossible for people to move about after 6 P.M. and they prefer to live indoors. If such things happen you cannot imagine what assistance or intervention may be necessary. All the powers, after all, will be exercised only in case of emergency and it will be wrong on our part to assume that the Centre will exercise these powers unless it be absolutely necessary to do so. It is not an irresponsible executive or irremovable executive that will be exercising the powers. If they exercise wrongly, the members of the Assembly will be in a position to remove them and I do not think we can compare things now with what the things were before India became free when the Executive was irremovable and the Assembly had no power to remove them. There are certain provisions about which there are misgivings. Some sections of the people say that this adult suffrage is a welcome thing-it gives 16 annas democracy to everyone and everyone will be able to exercise his or her influence on Government. Others feel that this 100 per cent. democracy with 90 per cent. illiteracy will be dangerous experiment and that we should have proceeded with caution. One shudders to think what might happen if the persons who are illiterate and who do not understand yet the value of votes, if they vote wrongly. But there it is, having advocated adult suffrage, it has become impossible for the leaders to say that they do not like it. I know many do not relish the provisions of adult suffrage but they dare not say so.

The powers of the Centre became necessary also on account of the present position of things in many provinces. Those who are to defend the actions of Provincial Governments and the Centre are the persons who are the greatest calumniators of the Governments. One group of Congressmen is fighting with another group of Congressmen-those who are out of Government trying to detract the Government in power simply because they belong to another group. This is happening in almost all the provinces and if you open the newspapers any day you find this. It is a question of personal jealousy and quarrel. Even when there is nothing to oppose, because we are not in power and because others are in power, we complain and try to find fault where there is none. That is how the Congress Governments are being brought into contempt in the eyes of the general public and that is why the rot must stop if we really want to improve the position of Congress and Congressmen; but I do not see any signs yet and in most of the provinces this sorry tale is being made and witnessed. It is necessary therefore that there should be some sort of provisions which may be utilized when there is a tendency to break off. Even now you find that when Ministers in the Centre say something, some of the provincial Ministers make statements which go just absolutely contrary to the policy of the Centre. The Government at the Centre say "we want cotton to be grown"- a Minister in Bombay says "we will not do that until the Central Government comes forward to assure us of food supplies" as if food is not being supplied by the Centre and without that assurance being given, food will not be supplied. There must be co-operation between the Central Government and the Provincial Governments. Otherwise it will be almost impossible to carry on the administration and the task will become very difficult.

Sir, a lot will depend on how the Constitution is worked and the person who works it. If you put X in charge of a thing he may do it very successfully but if you place another person, in spite of the fact that he has the same resources available to him,

he may make a muddle of the whole thing. A lot will depend on how it works, who works it and the manner in which it is worked. People will always be able to find fault but on the whole it has been a very satisfactory Constitution and if properly worked and supported properly by those who can do it, I think the whole thing should proceed in a satisfactory manner. Some say that some of the Fundamental rights ought to have been wider. I wish along with fundamental rights there were certain fundamental duties also. If we think more of our duties than of our rights, a lot of our difficulties will be over and the rights will take care of themselves and there will be no occasion to feel any difficulty for want of those rights.

**Shri H. V. Pataskar** (Bombay: General): Mr. President, it is at the end of nearly three years that we are coming to the end of our deliberations. Before I go on to discuss some of the aspects of the present Constitution, I would like to survey very briefly in the process through which we have already gone. When we first commenced our task, we were only a Constitution-making body and India has then undivided and was a whole. When we first met here, there was a section of the Members elected to this House who were not co-operating with us. At that time, just on the fifth day of our meeting for the first time, the Objectives Resolution which has been rightly described as India's Charter of Freedom was moved. That Resolution was moved on the 13th December, 1946 and was unanimously passed on the 22nd January, 1947. I would like to draw the attention of the House to three things that that Resolution contained. It first laid down that India shall be an Independent, Sovereign Republic. Secondly, that India was to be constituted into a Union or Federation and that the Federation was to consist of territories with their present boundaries or with such others as may be determined by the Constituent Assembly, and they were to be more or less autonomous units with residuary powers, and those units were to exercise all powers and functions of government and administration, save and except those that are assigned or going to be assigned to the Union. That Sir, clearly shows that what we then intended was clearly a sort of federation of so many territories or parts of territories of India which were going to be constituted into autonomous or semi-autonomous units. After the passing of the Resolution, several committees were formed and one of the most important committees was the Union Powers Committee which published its report on the 4th July 1947. That report was ready in May 1947. In that report, Sir, you will find that the very first clause of it says that the federation shall be one independent republic known as India. That means that the idea still was the same, that India shall be a federation of these units. As I have said already, at that time, the unanimous opinion was that what we wanted to frame was a complete unadulterated federation of several States. But several events happened in the meantime. Power came to be transferred to the people of India on the 15th August, 1947. And at the same time India also came to be divided. This was after we had started our work and passed that Resolution, called the Charter of Indian Freedom. Then, Sir, as we all know, partition was followed by many tragic events and a heavy responsibility was thrown, not only on our leaders, but also on the Constituent Assembly which began to function both as a constitution-making body and also as the Central Parliament under the Indian Independence Act. If these events had not happened probably we would have stuck to our original plan of having a scientific, systematic, complete federation of Units. But these events were combined with the task of framing the Constitution and this largely affected our outlook, which was till then consistent, and also affected many of the aspects of our task. The suddenness of the intervening events blurred, to some extent, our vision. A strong Central Government suddenly became a matter of urgent necessity. I yield to none, including the last speaker in saying that a centrally strong Government certainly is a necessity. But what that means has to be seen. In view of the problem of the States which were

left in an unnatural state by the departing British authorities, our task was still further complicated. And the creation of Pakistan itself created many difficulties. The Frankenstein of Pakistan which arose out of the very body of India, tore it into three pieces, and it was responsible for the pilling of innocent blood, unparalleled in human history and this made us shudder at the very thought that the rest of India should even consist of even any parts. That changed our outlook with respect to the problem with which we were faced. If we look at what we had been thinking all the time, we would see that we were first consistent in trying to frame a federal Constitution, in the true sense of the term. But these intervening events, the tragedy of partition and the events that followed, led us into altering our first Charter of Freedom and diverting ourselves from the goal which we had set before ourselves. And the whole things has been due to the fact that we became obsessed with the idea of having a Centre which was going to be strong. In that connection, I would like here to say that everybody wants that in the context of world events as they are now, we do want a strong government in this country. But what is the meaning of a government being "strong"? power was transferred on the 15th August 1947 to the people who differed among themselves in many respects. At least till the 15th August we thought that the suitable form of administration could only be a federal one, consisting of suitable units formed and caved out of these vast masses of people. But as I said, the events that had happened had brought about a change in our outlook. How are we to construct this new strong structure? We have to form the people into separate homogenous strong units. Or is it possible to suddenly change the central administration in the form in which such a central Government could be imposed by a foreign Government like the British Government? We have to build up these units, and in the building of a strong Centre we must so build the units so that they may themselves be strong. Unless the units are strong, the Federation can never be strong. But it appears that what happened as I said, rather affected the course of events. I find at the time of the first reading, or rather at the stage when the reports of the various committees were considered, the substance of federation was still there. But at the time of the second reading, we developed a fear complex, if I may say so, May be that it was justified by events that happened in our own country and also by events outside. But the fact has to be noted that it did affect the course of events. Adult franchise was differently looked upon, on account of the illiteracy of the people. But this illiteracy is already known to all. It is also known that this illiteracy can not be removed within a short time, though we may want to. Therefore adult franchise came to be looked upon not only with grave suspicion, but as a matter of grave danger. The result was that the autonomy of the States, or their semi-autonomy came to be looked upon as a matter of national danger. We kept the form of the federation, but changed the substance or contents of that federation. It was with the idea of having a federation that we began changing the names of the provinces into States. If the present idea had existed throughout we never would have made that change. But while the name of "State" is there, the power of the State is so curtailed that it is a misnomer to call it a "State" any longer. It would have been much better to have a unitary type of Government, if we so wanted. Then the whole structure would have been differently built.

As the result of a fear of these things, I notice that the following changes have taken place in the framing of the Constitution. The elected Governor came to be replaced by a Governor appointed by the President. Residuary powers which naturally remain with States, if the Constitution was to be really a federal one, have been transferred to the Union. This is wrong in its very conception. I can understand that in a unitary type of Government naturally the residuary powers will be with the Union, because the powers emanate from the Union. But in a federal structure, the powers really emanate from the units and the residuary powers can only remain there. Then,

Sir, a curious thing happened. In the First Reading stage we decided that a simple matter like elections in the States should be controlled by the States themselves. But we have now made a provision that they should be controlled also from the Centre (Article 324). Then power was given to the Centre even to legislate for subjects which were assigned to the States List. Financially also, the States will be more or less at the mercy of the Centre. They will derive most of their income from the Centre and they have been provided with very meagre resources of their own. The Governor is no longer merely a Constitutional Head, but has been given powers to interfere in the work of the Ministries. I would only mention in this connection article 167. With the idea of having a strong centre, as if we were continuing under the old Act, many of the problems that urgently needed to be resolved have been kept back.

I know that there are many difficulties. Ours is a land of regions in various stages of development; ours is a land of many languages. We have also many handicaps as a result of being dependency of the British Empire for over a century. The present conditions in the country are such as to cause grave anxiety and the conditions outside in the world are not less alarming. The East is rising from its slumber and state of suppression. But granting all this we cannot frame a proper democratic constitution which at least in some parts discloses a distrust of the people in general and the common man who alone can be the foundation of a democratic state. That Sir, is my objection to a strong Centre of this type. We can of course give all power to make the Centre strong. But this Centre is not like the centre of the old where the power flowed from outside, from the British. But the power of the Centre must flow from the States, which, in the first place, must be made strong and powerful. Unless the units are strong how can you have a Federation which is going to be strong.

Sir, many things have happened between the starting of our work of framing the Constitution and the completion thereof which has unnecessarily blurred our vision, with the result that we are running away with the idea of a strong centre and launching ourselves probably unconsciously, unknowingly and irresistibly on a line which may not be successful. If we have clearly grasped the implication of our line of thought and action it means that it is our opinion that the people as a whole, the common man, is not capable of exercising properly his rights as a citizen of a democratic federation. In that case, the best course would have been to give up entirely the idea of a Federation, and frame a unitary type of constitution. I could have understood that. We could then have said: "No, we are not in favour of a Federation; we want for this country a unitary type of Government." But that is not what we have done. Again, if we thought that for a few more years our people would be illiterate and that illiteracy which is a curse of democracy would disappear but that time then we could have said: "Well, our people will be ripe for a Federal type of Government after fifteen or twenty years." In that case we should have been content with framing an interim Constitution and left the task of framing the final constitution to those who may come after us. But the present Constitution though called a Union-the word Federation has disappeared, and "Union" has taken its place-is not federal in substance. It is not unitary, for it was never framed as a unitary constitution. The whole things, as a result of circumstances and events, some of which at any rate are beyond our control. I do not want to blame any party or group of persons-is a queer combination of disjointed parts of both Federal and unitary type of constitutions. I want to make it clear that in saying what I do, I do not want to throw any blame on the Drafting Committee. I am just trying to explain the reasons that have led to this result.

Then, Sir, there is another aspect of the Constitution. I know that we were not writing on a clean slate, that there was our former association with the British Empire and that we were a dependency of that Empire for over a hundred years. We were ruled by them and there was the Government of India Act of 1935. Well, what was the Government of India Act! It was merely an adaptation of some of the principles of the unwritten constitution of Great Britain, adapted and made suitable for a dependency as India then was. Naturally that could not form a very proper basis for the Constitution of a free India. Naturally, everything in it was not bad. But what has happened is that our Constitution has become so voluminous because we more or less based our present Constitution on that Act. The Government of India Act contained 328 Sections and eight schedules; the present Constitution consists of 395 articles and eight schedules. We have closely followed the provisions made in the Act of 1935. It is no good trying to conceal the fact that we have based our Constitution on the unwritten constitution of Great Britain adapted to a dependency like India, as it was in 1935. It is not desirable that the constitution should have been so voluminous. We have tried to put into the Constitution what should have formed part of the legislation of the country, present or future. The whole chapter on elections is based on an Act of the Canadian Parliament which does not form part of their constitution. So this should have found its place in the present or future legislation of the country. Unfortunately all this has been tried to be put into the Constitution because we have not been able to keep clear in our mind the distinction between an act of the legislature and the provisions of a constitution.

Our Fundamental Rights are very good exclusive but I am not happy about one change which has been made with respect to personal liberty. So far as I am concerned I have not been able to understand why for one simple phraseology which we wanted to avoid we had to introduce articles 21 and 22. To avoid a well known expression "due process of law" we introduced in article 21 the phraseology "procedure established by law". To get out of that difficulty we introduced article 22. However it will not serve the purpose for which it has been introduced.

The other day Dr. Ambedkar told us that provision has been made in clause (4) by which advisory boards will be appointed before which these matters could be taken. The advisory boards will be more or less the creation of the executive, and taking a long range view, we may or may not be here and others may occupy our seats, the fact remains that the advisory boards will be the creation of the executive of the day and therefore they cannot be expected to be as independent as the judiciary. I learn that we are not probably satisfied with the present judiciary but we can change it but in a constitution which is to last for all time to take away such wide powers from the hands of the judiciary and leave them in the hands of an advisory body to be appointed by the executive is a thing which might recoil upon ourselves in future and I shall not be surprised if it happens.

In spite of the shortcomings we have made a very good provision in the 'Constitution, namely, the article by which it can be amended when occasion arises. A constitution is a living growth and I hope in course of time this provision will be made use of by those who come after us and according to changed circumstances change the constitution in any manner they like.

**Shri B. A. Mandloi** (C. P. & Berar: General): Mr. President, Sir, we are reaching the end of our journey and within a few days this Assembly would be finishing its task

and presenting to the Nation a Constitution for a free and independent India.

Last time the Constituent Assembly laid down certain principles and entrusted the task of framing a constitution to the Drafting Committee and the Drafting Committee presented a draft Constitution of India. We have to see whether we have effected in the Constitution any improvements and what modifications we have made in the Constitution and whether those modifications are really in the best interests of the country.

Most important of all is that the princely order in India has completely disappeared and the 560 and odd Indian States have either merged in the neighbouring provinces, or formed themselves into unions or are put under the administration of the Central Government. The people of princely India who had not even the elementary right of working municipalities and district boards are now free and would be as of right entitled to undertake the administration of their States and the States are put on a par with other provinces of the Indian Union.

According to the Cabinet Mission plan the States had to accede with the Centre only for limited subjects, namely with respect to Defence, Foreign Affairs and Communications. But we now find that the Constitution for these Indian States is going to be identical with that of the provinces. Only a period of five years has been provided to bring the States into line with the provinces.

After the Draft Constitution was presented to this Assembly the safeguards which this Constituent Assembly had provided for the so-called minorities have been voluntarily surrendered by them. These provisions, viz., joint elections and no reservation, could have been imposed on the minorities at the very beginning but we found that after the partition of India the minorities were satisfied that our government is going to be a secular one, that there would be no differential treatment on account of religion or other causes, the minorities being fully satisfied came forward and their leaders frankly and openly proclaimed that they did not want any safeguards. This change of heart is a great achievement and we are going to have joint electorates hereafter. Of course provision has been made with respect to the scheduled castes, that for a particular number of years they would enjoy reservation of seats but after that this safeguard also would disappear. This means that the minorities feel confident that in the Indian Union they will have equal rights, equal privileges and equal opportunities as provided in the Constitution. So it is not an imposition by the majority on the minorities but it is voluntary surrender on account ,of the confidence which the minorities feel.

The other important thing which the Constituent Assembly has achieved is the provision of one official language *viz*., Hindi in the Devanagri script for the whole of the Union. If we look to the past history of our country we find that at no time there was any common language in India spoken and written throughout the length and breadth of the country. The Constituent Assembly has laid the foundation of one common language and script for the entire country and it has been achieved with the unanimous consent of all the Members hailing from different provinces and speaking different languages. There was no heart burning over the selection of Hindi as the official language although there was some initial tussle over minor details but in the end we came to a happy decision that for a great country like India we should have one common language and that common language should be Hindi written in the

Devanagri Script.

While providing one common language for the whole country, we have been careful to see that the provincial languages are not harmed in any way. There is full scope for the development of provincial languages which possess their own rich literature.

Taking into account our ancient civilisation, culture and traditions, we have adopted a suitable name for our country, namely, Bharat. That has also been done with the common consent of all.

The other achievement is the provision of uniform system of administration of justice in the whole of the Union. We have provided for a Supreme Court in the Centre and High Courts in the different States. The High Courts would be under the control of the Centre. Thus, both in the advanced and in the backward States, there would be a uniform system of justice. We have also provided in the Directive Principles that within a few years we shall have separation of the judiciary from the executive.

Successful attempt has been made to make the Centre strong. Although it was urged by some advocates of provincial autonomy, that their should not be any encroachment on the autonomy of provinces, it was realised by us that we have to develop the backward areas and also make the Indian Union strong and powerful and therefore we conceded that the Centre should have adequate powers. At the same time, care has been taken not to weaken the provincial administrations. Sufficient scope has been given to the provinces for the development of provincial affairs and the administration of the subjects which have been entrusted to the provinces, so that the real work may be done in the provinces with the help of the Centre.

The last thing, which was also a thing of a very controversial nature, was the formula that we have adopted for acquisition of property for purposes of the State and the Union. A common formula was evolved, whether it be for abolition of zamindaris or for taking over industrial concerns or for nationalising industry. According to that formula, we find that the legislatures have been given plenary powers to make the laws for the acquisition of property for public purposes. This is a great achievement indeed.

These are some of the important things which have been incorporated in the present Draft which has been submitted to the House for its final acceptance.

We find two very important things in our Constitution. One of them is the Preamble which is an enunciation of Objectives of the Constitution. We have indicated in the Objective Principles; the nature and scope of our Constitution based on Justice, Liberty, Equality and Fraternity. Not only that, we have provided a chapter on Fundamental Rights. In the articles on Fundamental Rights we have provided the liberty of speech, of association, liberty to follow one's own religion etc. Then there is a chapter about the Directive Principles in which we have laid down the fundamental principles which should guide the States or the Units, what should the State do, to achieve the objects laid down in the Preamble. Thus, if the Objectives Resolution, the Fundamental Rights and the Directive Principles are kept in mind by the persons who are responsible for running the administration at the Centre and in the States, I have no doubt that our country will in course of time become happy, prosperous, strong and powerful.

Some criticisms were made about the Constitution, one of which was that the Administration is top-heavy. The Congress before achieving Swaraj has been telling people, proclaiming to the world that in a poverty-stricken country like ours where the majority of the people do not even have two square meals no person should receive pay running to four and five digits, still we have in our Constitution provided big salaries for some important offices. There is some truth in this criticism. The people expected and would have liked that the Constituent Assembly could have fulfilled those pledges given to the people by the Congress from time to time, and reduced the big salaries taking into consideration the tax-paying capacity of the people. Unfortunately, we have not done so. But there is still a ray of hope. Provision has been made that during the transitory period, and so long as Parliament does not take the matter in hand and by legislation fix salaries for the high offices, the salaries provided in the various schedules of the Constitution would be paid to the respective personages. I hope that our future Parliament which would be constituted on adult franchise would realise this responsibility and radically revise the scales of pay, so that the burden would be proportionate to the paying capacity of the poor people of this country.

The second criticism that has been made is that the Centre has been made too strong at the cost of units. My submission is that this criticism has no force. The strength of the Centre is the strength of the units and the strength of the units is the strength of the Centre. The units are part and parcel of the body corporated *viz*., the Centre. We have to take into consideration, the great responsibilities of the Centre, nature and composition of the various units. It is therefore necessary that the Centre should be made strong.

In conclusion, I would be failing in my duty, Sir, if I do not say a word about the Drafting Committee. It is well known that the Committee had an arduous and very important task. The Members of the Committee under the chairmanship of Dr. Ambedkar did their job willingly and splendidly and presented us with a draft Constitution. I know that during many controversial debates in this House the Chairman of the Drafting Committee put forward his point of view very ably and succeeded in bringing the controversy to a satisfactory conclusion. This House appreciates the services of the Drafting Committee and I congratulate Dr. Ambedkar, Chairman of the Committee for successfully piloting the Constitution of free and independent India. This Constitution has been prepared within a record period of three years -in fact we should eliminate from these three years the period during which we had troubles of unprevented matters and unsettled conditions. This is a great achievement. Sir, it is not enough to have a good Constitution on paper but it is the willingness of the people the sincerity of the people and the earnest desire of the people to work it that is important. If the Constitution is worked in that spirit I feel sure that our country will have a bright future. We visualise a bright future for our country and we wish her to be one of the foremost countries in the world. If we work the Constitution in the spirit in which we have made it, I feel sure there is a bright future for the country. With these words I support the motion.

**Shri Krishna Chandra Sharma** (United Provinces: General): Mr. President, Sir, it is a great day that we are passing the Constitution for a free country in a free atmosphere.

Thirty years ago, when I was just a young man, I was made to sing, 'Long Live the King.' Later on, an insignia of that King caused me many an uneasy night. I dreamt, I

cherished and I struggled and suffered for this day. I feel happy that this day has come. Centuries ago a man kin his enthusiasm in the United States of America, when they framed their free Constitution, cried 'Oh, God, by your grace, we are become a nation'..... So with God's grace, we are become a nation, a nation with the power to think good, a nation with the power to will, a nation with the power to execute; to make its dream a reality and realise the possibilities of her growth. It is up to you to fulfil the cherished desire of those who have gone away, the desire of those who are striving along with us and for the good of those who come after us.

Sir, a Constitution, like any other thing resulting from human striving, is a child of its age and so is this Constitution. It will be a good Constitution or a bad Constitution in relation to the circumstances that have brought it about. Years ago, in the Nehru Report of 1928, certain objectives were laid down and a certain structure was given to the Constitution. Though this Constitution does not reflect the Nehru Report in so many words and phrases, in so many clauses and articles, the spirit of that Report is introduced. Then we had the Sapru Report and the various resolutions on the objectives of the Congress and we had also the Government of India Act of 1935. For the ideas that you find embodied in this Constitution you have to go back to the various documents that were available such as the conclusions of the Round Table Conferences. Most important of all the factors we have the economic pressure, the social forces, the political developments and our relations and connections and associations with the world outside to give shape to our Constitution. No written Constitution in the world can have an isolated existence and can fail to be influenced by the economic pressure, by the connections with foreign powers or the foreign policy of the country. If you look at the American Constitution, you will find that it bears the imprint of the eighteenth Century working and development of British Constitution; and the French Constitution of the days of Bonaparte, has to a very large extent influenced the European Constitutions of nineteenth Century. No Constitution can have an isolated existence. It is but right that we should gain from the experience of others and from the British Constitution and the American Constitution. Those nations have long experience of working democratic and representative institutions. We have benefited by the experience of other parts of the world. Taking that view, we have to analyse a Constitution, as Marshal put it in 1816, and see if it provides for three great departments the executive, the legislature and the judiciary. The function of the legislature is to pass two laws subject to the maintenance of the sovereignty of the people. Our Constitution, like all democratic Constitutions, upholds the sovereignty of the people. Like the American Constitution, our Constitution in its Preamble begins with the expressive words : "We , the people of India, having ..... ". We have universal suffrage. We can be sure that every man who can think will have the right to vote and contribute his share in the building of this great country. A broad-based legislature elected on adult franchise can express the will of the people and carry it out. Such legislature would make law in the real sense of the term because through the long evolution of the judicial process, we have come to the conclusion that law means the will of the people. In the olden days law meant the will of one man, later it came to be meant the will of the few, but now law really means the will of the people. Because we have adult suffrage, our legislature will express the will of the nation as a whole.

Then comes the executive. The executive that we have got is a strong executive with the President and the Prime Minister to aid and advise the President. Now, if you look at the American picture, the judiciary there has supreme power, and so is the position of the legislature in the British Constitution. Now, what happens in the British Constitution is that the legislature may pass any law for socialising property, but the

services writ not carry it out. There is a split therefore between the legislature and the services. The legislature may pass any law, but it is open to the services to refuse to carry them out, and the legislature cannot dismiss the services. So the mere power to pass laws does not mean power to carry them out. In the American Constitution, the Congress may pass any law, but the Supreme Court will nullify it. There has been a rift there between the legislature and the judiciary and between the President and the Congress. The result was that from 1933 to 1936 there was a bitter struggle between the President and the Supreme Court, and between the President and the Congress and the President began appointing judges of his choice. There has been a conflict even over the removal of a Governor. There have been many cases for impeachment and removal of Supreme Court judges. Our Constitution has taken note of all these difficulties. We have got an executive with the President and the Prime Minister and that executive is responsible through the Prime Minister to the legislature. Then we have got a judiciary more efficient than the American Constitution provides for. In the American Constitution, what happens is that the President appoints judges and the complaint is that some of the judges are moral wrecks and absolutely worthless people have been appointed as District Judges. Some of the Supreme Court judges are not lawyer judges. They have not been appointed from the bar. They know not much of the law. Many of the appointments have been from the political viewpoint. As I said, inefficiency breeds arrogance and arrogance results in irresponsibility and irresponsibility gives rise to corruption and bribery. Our Constitution is really an improvement over the British and the American Constitutions because in all the three fundamental departments, *i.e.*, in the legislature which makes the law we have provided for the expression of the will of the people. We have provided for a strong executive with responsibility to the people. In the judiciary we have provided for independent, honest and efficient judges, and while the Supreme Court of America can nullify the will of the people, no such thing is possible in our Constitution. At the same time, no irresponsible action is possible by the executive or the legislature because in the Fundamental Rights, article 19, we have put in "Reasonable restrictions." If ever the executive or the legislature go beyond the reasonable sphere, then it is open to the Supreme Court to question the validity of the law. Much has been said that in the fundamental rights there have been too many restrictions put and that very little freedom left to the individual. I beg to submit, as I said in the beginning, that a Constitution is a child of the age. If you look to modern Constitutions, every modern Constitution has the impose of the economic and social conditions and the foreign policy of the land and of the thinkers and writers of modern age. The writers and thinkers that have moulded the modern age: The influence of Law and controversialists, of Rousseau and the idea of general will, of Bentham and the principle of utility, of Hegel, Owen and Marx. We have had for our guidance our own background, political, social and economic. Ours is not so much a case of freedom as a case of building up a State. The necessity of the present is to build a strong and united and prosperous nation. So taking that viewpoint, I find that there is only one thing lacking in our Constitution. We have got Fundamental Rights, a good number of them, but we have not got corresponding obligations of the citizens. Take the case of Norway, take the case of Russia, in all these Constitutions you find along with the Fundamental Rights, the fundamental obligations of the citizens. I wish very much that there had been a chapter in our Constitution on the fundamental obligations of the citizens. But all the same, I think that if we work and work hard, we can make our land strong and prosperous.

**Shri Khandubhai K. Desai** (Bombay: General): Sir, we are the Third Reading state of our Constitution and within the next few days we would have adopted this Constitution and presented it to ourselves and to the country. Naturally this is an

occasion for mutual thanks giving and mutual gratification at the picture that we have been able to evolve after three years.

I must very frankly state before this House that quite a large number of us who have been returned to this Constitution Assembly to frame the Constitution had only got a few hazy notions about constitutions and we have got certain slogans, certain ideas, certain theoretical conceptions of what a constitution should be for a free Republic and, therefore, as far as I am concerned- I cannot say for others-this House has been a sort of school for me. I have learnt how constitutions can be framed so as to take into consideration the realistic situation. I am no constitutional lawyer and neither am I a technical lawyer and so I do not know whether the Constitution that we are presenting to ourselves will carry out the intentions with which we begin framing the Constitution but, Sir, there is one hope and it is this-that we have nearly, taken three years and when we have taken three years they were not the years of a static society. The society, the Indian community had been dynamic; changes were taken place and we have to incorporate those changes also in our Constitution and we were advised at the top by two of our greatest leaders who were really gifts to us by Mahatma Gandhi. They have learnt their lessons of both practical working and idealism at the feet of their great master and so during the last three years we have always got their guidance, their advice and invariably I should say we accepted their advice, when we were in difficulties. It has been stated on the floor of this House during the last two days by some that this Constitution is unitary and some say federal. I think it is none of the kind; it is neither unitary nor federal. It is something which suits our requirements. Why should we go by theories? It is something that suits our requirements. What are our requirements? Our requirements are to have a political structure which while keeping sufficient powers for the Centre in order to see that there is on economic or political collapse, at the same time it leaves initiative to the units. As to whether that intention has been carried out, I Sir, humbly feel that that intention has really been carried out. Somebody would ask me: "Why do you assert that? To that I would say: I do not assert that, but we have got fortunately in the making of this Constitution the Prime Ministers from the different Provinces who have taken full share in forging this Constitution. They at times quarrel with the Centre and the Centre sometimes quarrels with them and ultimately those people who were for centralization and those people who were for de-centralization came to some happy conclusions and we, as I said in the beginning, most of us do not claim to be either administrative experts or constitutional experts, and therefore, when these people have come to the conclusion that what they have agreed upon do suit their needs, we must accept that it is quite true. Moreover we have also to consider that we have gathered together here to frame a Constitution for one of the biggest Republics in the world and that also after the achievement of Independence through a unique process of non-violent democratic revolution. It is really a matter of gratification that we have been enabled to frame this Constitution in a peaceful and democratic atmosphere.

I was saying that we have been called upon to frame this Constitution as a result of one of the most unique incidents in the history of the world, that is the result of a democratic non-violent revolution and, as I said, we are really grateful that we have been permitted to frame our Constitution in the last three years without any obstacles, without any difficulties which faced other countries when they framed their Constitutions. We are therefore proud, Sir, that we have been able to frame a Constitution in a democratic and peaceful way so as to give to this country a Constitution which will bring democracy and an evolution through democracy which will suit the requirements of our country. This Constitution has to be pledged whether it will achieve our purpose or it will not achieve our purpose from this point of view.

After all what is this Constitution? This Constitution is a mechanism suited to our needs which we created to suit us and to implement whatever we have said in the Preamble, the Fundamental Rights and the Directives given to the Legislature. It has been stated that those things would not be achieved because some among us unfortunately still feel that adult franchise is a very big experiment. I do not understand why it is an experiment. If you do not want to give adult franchise then you would have to bring in all sorts of representations, you would have to bring the representation of labour, you would have to bring the representation of commerce, you would have to bring the representation of women, the representation of industry and also the representation of land-holding classes and what not. You cannot go in the old way of having different compartments, an adult franchise which is not something which is a sort of an experiments and in my opinion it is an essential part of the Constitution. Take away the adult franchise and you will have a Constitution which will be something which you would not like to look at. It is generally stated that there should not be adult franchise because there is no literacy. May I say, as one who is associated with the so-called illiterate people for the last generation, that the so-called illiterates have got a far better common sense of judging things than the so-called literates. That has been my experience throughout. Let us forget for all time now that those of us who have been fortunate enough to get our University education or secondary education are any way better than those who have not been able to get any literary education.

**Dr. P. S. Deshmukh** (C. P. & Berar: Genral): If anything, it has spoiled us.

**Shri Khandubhai K. Desai**: Then, Sir, what is literacy after all? Literacy is nothing but a little mechanism; common sense is there; the development is there; the literature is there. The experiment that has been tried in the province of Bombay in the matter of adult education is really succeeding. If you want to give them literacy, you can do so within three or four months. You need not teach them history; you need not teach them geography; you need not teach them the so-called moral and spiritual codes, because they know these things much better than you and I. After all, for whom are we working this democracy? Are we working this democracy for the two or three per cent. of the people who have been fortunate to get English education? We are really working this democracy for the remaining 97 per cent. and we must work this democracy according to their needs and requirements and not according to what you and I may have studied in the books. As I said when I came to this Constituent Assembly, I had very hazy notions of constitution making; but then who has framed this Constitution, I think it is not the constitutional lawyers though I must say that they have given us some education as good professors and teachers. How can we forget the almost teacherly attitude which Shri Alladi Krishnaswami Ayyar took while teaching us what is good and what is bad? How can we forget the most learned speeches which Dr. Ambedkar made before us? However, ultimately what has happened? After they have placed before us their brilliant exposition of their knowledge, it is the realists who came in the field, the administrators in the provinces, the administrators in the Centre, and forged our Constitution. The realists ultimately framed our articles. Therefore, what I say is that the Constitution which we have been able to frame today is really a good and workable constitution. There is nothing eternal. You have in the Constitution a clause making provision for amending the Constitution. If the future generations feel that there is some flaw, some shortcoming in the Constitution, there is a need felt for a change, they can surely change it. What is wrong there?

Sir, after I have said all these things about the good side of the Constitution, there is one thing about which I must say a word. Though according to my humble view this Constitution has more or less been framed on a realistic approach of the problems in our country, there is one matter in which all of us have failed to discharge our duty to the country. We have taken every realistic aspect of the country into consideration; but we have forgotten one realistic aspect, and that is the national wealth of our country. We have provided in the Constitution certain salaries and they have been guaranteed by the Constitution. I think the high salaries which have been guaranteed under the Constitution are unrealistic as compared to the national wealth of our country. The salaries and emoluments of the Government servants and the high national dignitaries should have some bearing to the national wealth of the country, because it is these salaries and emoluments which are going to set the standards for us, during the transition period, for the earnings and salaries or private persons and industry. I think we have lost this opportunity of setting down a proper standard. There is, as you know, nothing sacrosanct about the Rs. 4,000 or Rs.5,000 or 10,000 or 15,000. If a standard is laid down by the Constitution, and if we as the sovereign Body give a Constitution to the country laying down a standard, that in this country nobody shall get more than Rs.1,500 or Rs.1,000 then, everybody will be satisfied. The industrial magnates have to bring down their earnings; the commercial people would have to bring down their earnings and there will be no bickerings, no jealousy and no envy. If my Friend Shri Kanhyalal Munshi earns Rs. 40,000 or 50,000 or even a lakh of Rupees, he does not consume the whole of it. He wants a lakh of Rupees because there are some merchants who earn two or three lakhs. If once for all it is said that nobody would get more than Rs. 1,200 or 1,500, then these personal envy and jealously will go. Because, after all, you must understand that if you give Rs. 10,000 to your President, or Rs. 5,500 to your Governor or Rs. 5,000 to your Chief Justice of the Supreme Court, where is that money to come from? It is a sort of a cheque drawn on the national wealth and to that extent if it is not available from the national funds, somebody is to be deprived of that portion. Therefore, as I said, so far as this schedule of salaries in our Constitution is concerned, I think we have failed in our duty, But, the question may be asked, it could be changed by the future generations, it could be changed by the new legislature. Sir, it is very difficult particularly in the matter of these personal emoluments and other things which affect the high dignitaries who will be practically the fountain head of our State. Even the future generations, even the future legislature, if they want to change, they would have to think; not only would they have to think, but the President may feel awkward. Therefore, we have lost this opportunity. I want to express my resentment against this. The question was raised at another place; it was discussed, but we adhered to old set-up. This sort of mentality one cannot understand. We want to give away everything English; everything which we have inherited from the English was taboo; but one thing we must have; that is, the English standard of our salaries must be maintained. I think we would have done better to our constituents if we had left the things without deciding them. Future Parliament should have been left free to decide according to requirements.

Then, Sir, there is only one point and I would have done. Much has been said about civil liberty. Of course, our friend Professor Shah has his usual grouse against anything which theoretically does not suit this own mental makeup But when the question of civil liberty comes in, people talk of the individual civil liberty of those who want to take away the civil liberties of all men. Is it proper to allow somebody, as it is happening in Calcutta, or in some of the places in Andhra, in the sacred name of civil liberty, to exercise their individual civil liberty in order to take away the Civil liberties

of millions of people and create fear among them? I think that is not civil liberty.

**An Honourable Member:** Criminal liberty.

**Shri Khandubhai K. Desai:** Under these circumstances, I feel that the provision that has been made in this Constitution for safeguarding the civil liberties of a substantial number of the people in this country is the proper direction in which our State should function.

With these words, I support the Third Reading.

**Pandit Thakur Das Bhargava:** (East Punjab: General): *[Mr. President, my heart is still with surpassing joy today when we have after centuries of slavery, this opportunity of giving the Third Reading to our Draft Constitution. I render thanks, Sir, to the Almighty God on this day loaded with destiny for having granted to us in His infinite mercy this opportunity of completing our work of giving a Constitution to our people. Next to the Almighty I feel, Sir, I must render thanks unto you for the inimitable manner in which you have conducted the proceedings of this House with dignity, impartiality, gravity and firmness. I feel, Sir, that this could have been done only by you and you alone. I do not doubt, in any case it is my ardent desire-that the day would come when the prophecy of the Pandit who had been called by your parents for performing the sacred ceremony of giving a name to you would be completely fulfilled. It is my hope, Sir, that the time is soon to come when the position, that your name suggests you should have, would be occupied by you. You are Rajendra that is to say the Lord of the Rulers, and you shall be, I hope, the President of the Republic for that office alone would make you the Lord of the Rulers and the Governors. I have no doubt in mind that this desire of us all shall be fulfilled soon. You will be Sir, in future the President of our country just as you have been the President of this Assembly, charged with the duty of giving a Constitution to this country, and I hope that you will be presiding over the enforcement and implementation of this Constitution with the same grace with which you have presided over its passage in this Assembly.

I would like, Sir, on this occasion to thank the other friends also who have helped us in drafting this Constitution. I would like particularly to mention Dr. H. C. Mukerjee who had presided over the proceedings of this House with great ability and tact at the time when you were lying sick and I offer my thanks to him. I do not know, Sir, the terms in which I should thank the Drafting Committee, particularly words fail to convey the gratitude that all of us feel for the legal acumen, the untiring industry, the consummate skill and the firmness, tempered with moderation, with which the chairman of the Drafting Committee has piloted this Constitution through this House and has solved all the knotty questions arising in connection with it. In view of the great public spirit manifested by him, I would appeal to Dr. Ambedkar-I regret he is not in the House today-who has so far considered himself the leader of the Scheduled Castes alone to join the Congress. He has made for himself a high position in our hearts and I do hope that he shall thereby be able to enter the circle of Congress High Command-a position which is much more significant and important than the narrow one he is occupying today, I must also render thanks to Shri Gopalaswami Ayyangar who is his own silent way came to our rescue and solved the knottiest problems which we have had to face from time to time in this House. The fact is that there are no adequate words in which I can express the debt we owe to him for the great work he has done on the Drafting Committee. I offer my thanks to Shri Munshi whose unique

learning and comprehensive imagination has been our refuge on such knotty problems as the language question. Sri Alladi Krishnaswami Ayyar who is a distinguished jurist of our country has laid us under a debt beyond description by his learned contributions on points of law, and I can say that his complete mastery of constitutional law of all countries has proved a great asset to us all. I find no terms in which to praise the work done by our Constitutional Advisory Sir B. N. Rau, who is today in the U. N. O. but who even there is anxiously watching the progress of our work, in putting this Constitution into a proper shape. Again I do not know how I can fully thank our Friend Shri T. T. Krishnamachari, whose manners are so charming and who has, like Dr. Ambedkar laboured hard to give a proper shape to the Constitution, and who has exhibited a legal acumen which even lawyers which he himself is not, may envy. We have a feeling of deep gratitude for all the other members of the Drafting Committee who have made this Constitution whether small or great in the shaping of this Constitution.

I also express my thanks to the gentlemen who are occupying the chairs just below the dais, for the great pains that they have always taken in rendering every help to us. Mr. Mukherjee, who always came to us smiling, deserves our thanks for his sincerity, labour and learning with which he always helped us in framing the most complicated drafts that came before the Drafting Committee. Similarly we owe thanks to Mr. Jugal Kishore Khanna and others whom I do not know by name.

The Draft Constitution, for the Third Reading of which we have assembled here, is not, like other Bills, an ordinary document. It is a very important document. This document is not prepared by a country many a time and God forbid we may not have to draft it afresh in the near future. I would also like to extend my thanks, on behalf of the House, to the Press Reporters and the members of the staff who have in any way contributed in framing this Constitution. There are many honourable Members in the House whose untiring zeal and labour come to my mind on this occasion and I cannot pass on without expressing my thanks to them. In this connection, my friends Shri Kamath and Shri Shibban Lal Saksena deserve particular mention. The amendments that were so often moved by my Friend Shri Brajeshwar Prasad for unitary system, exhibited a perseverance and strength of conviction for which we shall ever remember him. We are grateful to our Socialist Philosopher Shri K. T. Shah who with his deep learning and with his exposition of a number of Philosophies has immensely enriched our knowledge. I must express my thanks also to Shri Sidhva, the famous advocate of the public causes, and the veteran grammarian Shri Naziruddin Ahmad, and Dr. Deshmukh who took great parts in the task of framing the Constitution.

It is quite possible the Exchequer had to incur a bigger expenditure on account of these Members. But, but for the labour they put in, our Constitution could not have been what it is today. One fails to understand why newspapers have adversely commented about them. But despite all they have said, it must be admitted that all these Members did their duties well so far as the work of Constitution making was concerned.

Now I would like, with your permission, Sir, to pay my homage to one of our senior-most statesmen, I have no words to express my devotion to him. From the speeches made by me in support of various amendments, the House as well you, Sir, must have become sure of the fact that I am not one who loves flattery. But what I am going to say is the truth and I express it because the feelings surging in my heart demand an outlet. It is impossible for me not to render my thanks publicly to Sardar

Vallabhbhai Patel. He has not sent in a single amendment but the fact remains that he has been the architect of our country all the same. He has solved all the problems so beautifully and skillfully that I think it will not be wrong to call him the architect of India. The House has, on occasions eulogised him for what he has done with regard to the problems of States. But I may be permitted to submit, Sir that there was another question equally important if not more, as the States questions, is with which the country was faced and Sardar Patel, the superb magician, solved with an ingenuity which would have appeared to us a fantasy but for it being a hard fact I am referring to the question of minorities. The British had left many cancers within our Polity. One of this was the cancer of minorities and separate electorates. It ultimately led to creation of Pakistan. The depressed classes complained that the Caste Hindus were depriving them of their right and demanded separate representation. All these problems relating to minorities have been solved by Sardar Patel with great skill, sagacity and ability. This is an achievement which, in my opinion, has no parallel in history. At the time when the Minorities Sub-Committee was formed, I could not even dimly see how we would be able to solve the numerous and complicated problems connected with minorities. But Sardar Patel filled the Minorities Committee with the persons belonging to minorities. You cannot but feel amazed as to how it was that the minorities Committee which was composed of a very large number of the representatives of the minorities and this would be evident even by a cursory glance at the long list of its members- could arrive at the unanimous decision that no separate electorate or reservation was needed by the minorities. There the Sikhs declared that they did not require separate electorates and reservations. The Members of the depressed classes also said that they wanted reservation only for ten years.

I may be permitted to submit, Sir, that it is only because of the work of Sardar Patel that we are able to hold our heads high and say that in our land of three hundred million people we will have adult franchise with one electorate. This is in itself a great achievement and great blessing for us. I must take the opportunity to offer congratulations not only personal but on behalf of the House to Sardar Patel who has achieved all this for us.

Sir, I am afraid, much of my time is over. I would now like to invite your attention to the most important matter that is to the Preamble of the Constitution. The Preamble is the most precious part of the Constitution. It is the soul of the Constitution. It is a key to the Constitution. It is a proper yardstick with which one can measure the worth of the Constitution. All the 395 articles of the Constitution have to be measured with the yardstick of the Preamble and such provisions as stand the test of the Preamble are good and others should be taken as worthless. The fact is, Sir, that our Jawaharlal is to us, what this name, suggests, a precious jewel. It is no surprise therefore that the Preamble which was drafted by him is also a jewel set in the Constitution. It is a superb prose poem, nay, it is perfection in itself. It is why my honourable Friend Kamath failed to introduce his God into it, for in a perfect thing there is no scope for addition or alteration.

Sir, I would like that we examine all the provisions of the Constitution by this touchstone of the Preamble and thus decide whether the Constitution is good or not. I submit, Sir, that the Constitution that we have been able to produce after the labours spread over three years, is certainly one of which we can well I be proud, which can claim to be quite a good one. I do not deny that the Constitution has certain lacuna to remove which we have all along been struggling, but I have no hesitation in saying that the Constitution as a whole is quite good and that it can be ranked among the

best Constitutions of the world. It is true, as has been observed by an Englishman, that a people get the type of government they deserve. This saying applies also to the Constitution we have given to ourselves. The Constitution provides us free scope for progress. This Constitution, however, cannot be taken as an ideal one and we would most certainly have occasions to improve it.

Now, Sir, before I bring to your notice the defects of the Constitution, I would like to draw your attention to one thing. The English people had put in our minds the idea that we should have purely a federal type of government for our country. At the time of the Round Table Conference the question arose as to the type of the government we should have for our country and the conference decided to have the federal system. I remember the day in 1927 when during the sitting of the All Parties Conference our respected old leader Shri Vijay Raghavacharya insisted that we should have a unitary system of government for India. He is no more with us but his vivid figure is still fresh in my memory and I am glad that this Constitution would have given him immense pleasure if he could have seen it. This unitary-cum-federal system of government provided in the Constitution, must have satisfied him. I admit it is not purely a unitary Constitution. We have, no doubt, taken in it many of the provisions of the Government of India Act. We did so far we have to work on the lines of various provisions of the Government of India Act. We did so far we have to work on the lines of various provisions of the Government of India Act in our present circumstances. But the Constitution that we have prepared as a solution to out problems cannot be said to be based on the Government of India Act. Our Constitution is unitary-cum-federal and the country needed this type of Constitution. I am really very glad that we have been able to prepare such a splendid Constitution with unanimity. It has given the Centre very wide powers- powers that were in fact needed by it. Though we have made the centre strong and overstrong but yet I may be permitted to submit Sir, that the logical conclusion of this course has not been given any application in other provisions of the Constitution. It is so, because we have had the experience of the conditions obtaining in the previous Government and their memory is still haunting our minds. No doubt there are provisions in the Constitution under which the Centre may, if it so likes, suppress the provinces in various ways. I consider that a merit of this Constitution. Some of my friends have said that fundamental rights imply corresponding duties. Applying the same reason if they argue the duties of the Centre would also be as numerous as its powers, I have no doubt that it would be the duty of the Centre under this Constitution to prevent external aggression and internal disturbances. But in exercising its powers under article 356 it would not by itself be sufficient for the Centre to issue directions to the Provinces. It would also have to see that the arrangement proposed in the directions is one which is to the liking of the government or the Legislature of the provinces concerned, In my opinion there should be a Minister in the Centre who is charged with the exclusive duty of watching over the government and the administration of the provinces. In my opinion this would may be assigned to the Prime Minister, but if it is not possible to do so a Ministery without Portfolio maybe appointed for that. And then we should have at Centre an exclusive Minister to look after the work of social reforms also. Many other similar arrangement have to be made to provide for all these requirements.

Now I would like to draw your attention, Sir, to a few minor things embodied in the Constitution. India has, no doubt, recovered herself; we have got our ancient India now. As regards the name of the country the term India that is Bharat" has been laid down in the Constitution and some of my friends objected to this term. As for me, I have no serious objection to it. It is a fact that we cannot live in isolation from the rest of the world; We have centuries old connections with England and the rest of the

world. The world will always know us by the name of India. But so far as we are concerned, in our hearts and souls our country shall always remain as Bharat. So the term India and Bharat have been bracketed in order to meet the need of our countrymen as well as of the outsiders. The world will call us as India and we ourselves will call us as Bharat. Thus there will be blending of the East and the West.

Our provisions relating to citizenship are very generous and they extend citizenship not only to persons having domicile in India but also to five or six millions of persons who having been uprooted from Pakistan have migrated to India. Even the persons who had migrated to Pakistan but have again returned back to India under a permit for resettlement, have been made citizens of India. No doubt in their case, legally we should have waited for five years but In think it matters little that they had left India, and if they want to resettle here we can given them the citizenship of our State, for originally they had their domicile in India. As far as the Fundamental Rights are concerned, the House knows it well that I have always been fighting for them. The House, by accepting my amendment regarding the addition of the word "reasonable" in article 19 has made it justifiable. The Fundamental Rights and the Directive Principles-both these are the soul of the Constitution. We can no doubt establish the Ramraj advocated by Mahatmaji unless we make the Fundamental Rights and Directive Principles our guiding State and work according to them. The decision, that the House has adopted them is certainly a milestone to our progress. We have achieved our ideals to an extent through Fundamental Rights and the rest is to be achieved through Directive Principles. We have not got the Fundamental Rights in full. Though the Constitution has accepted the right to equality and has also abolished untouchability but still it has not conferred on us the Fundamental Rights in full.

With reference to the Preamble again, I may submit, Sir, that the most important thing that it contains is the ideal of "the dignity of the Individual and Unity of the Nation." In this high ideal, Sir, there is no room for narrow provincialism and communalism. Right to equality before law , has been embodied in Fundamental Rights and our Preamble contains the lesson that the dignity of the individual and the unity of Nation must be held high. No difference, whatsoever, on grounds of religion, caste and region has been recognised in the Constitution. The Fundamental Rights are general rights and every citizen is equally entitled to them. No discrimination can be made in respect of these rights. We shall expand these rights further in due course. I fought had for it in the party. I know these are not as comprehensive as they ought to have been. However, I need not be sad on that account. The words "reasonable restrictions" are there in article 19 and they imply that these can only be curtailed by due process of law. Neither the Government nor the legislature can with hold the rights granted under article 19 and the rights of the people are safe under this article. I am really thankful to the Chairman of the Drafting Committee, Hon'ble Dr.Ambedkar, that he agreed to my amendment regarding the insertion of the word "reasonable" in article 19. So also we have gone a long way in regard to the rights granted under article 21 and 22. There is no doubt that sufficient rights have been given to the people under Fundamental Rights but at the same time this also cannot be denied that we could not have as many rights as we wanted to have. No such rights were given under the Government of India Act. In England Fundamental Rights have not been incorporated in the Constitution and this only can be possible here. only when the people develop the mentality that is found in other free countries. But with Fundamental rights we have certain duties also as citizens. I hope we know, our India and our culture and there is no doubt in my mind that we are going to make progress in future and nothing but progress; I hope, Sir, that our sacred country will never fall again. Our country is going to make rapid progress in future and every citizen is sure

to have his full rights.

I may now make a brief reference to the Directive Principles. I would like to submit, Sir, that they are a source of immense pleasure to me. My friend Hon'ble Shri Lakshminarayan while criticising the Directive Principles for their restricted sense, stated yesterday that there is no provision for charkha for cottage industry and for prohibition in them. May I suggest to my friend Mr. Sahu to read article 36 to 51 of the Directive Principles? He will find that provision for all that he wants is there. Provision for prohibition is there, provision of cottage industry is there. I may submit Sir, that the Directive Principles contain all that is needed to raise the dignity of the individual and bring about the unity of the Nation. The amendment relating to cow protection that came in the last session was an agreed amendment and the whole country was in favour of that and shall always stand for that. This is not the only question underlying that amendment that the Hindus and the Muslims both regard the cow to be very useful and that they have always been of that view it contains mainly the view-point of the Drafting Committee and I am glad that the House ultimately removed the lacuna that was in the original article.

Now I may be permitted, Sir, to come to the other salient feature of the Constitution. Our Constitution has given to the Supreme Court not only such rights as our former High Courts enjoyed but I claim that the Supreme Court has been given wider powers. The Supreme Court would have more unrestricted powers with regard to the safeguarding of the public rights than any former court had. I would submit that under the Constitution the Supreme Court has been given the same criminal jurisdiction that the Privy Council has at present. The Supreme Court has been granted full powers and it may widen them daily by case law. There is no doubt in my mind that the civil liberties that have been given under the Constitution are in no way less than what other countries have. Sir Alladi Krishnaswamy wanted that the principle of due process should not be applied in this sphere. But I am glad that more than 75 per cent. of the principles has already been accepted. Our Constitution provides for the institution of an independent Comptroller and Auditor General and therefore the accounts of the Union will be audited and examined in a more independent manner and no money will be allowed to be spent without due authority. Similarly provision has been made in the Constitution for the establishment of Public Service Commission and various States Commission, that will work under the supervision of the Public Service Commission. I am glad that all these institutions have been given more independence under the Constitution than what they formerly enjoyed. In respect of every matter we have provided for a Central body and have also provided for a corresponding body in provinces. The Constitution has provided for Legislatures and a responsible government in States. So far as the Governors are concerned they will be nominated once, for in unitary system elected Governors do do not fit in. So we find that the mistakes we had made in providing for elected Governors in the original Draft has been rectified in the Constitution as it stands today.

No doubt the time of three years taken by Assembly in preparing the Constitution is a long one but we have made great achievements during this period which I am afraid are not properly assessed by many people. If we had passed the Constitution soon after the Assembly sat in 1946, most of the ills that we had inherited from the British Government as legacy-for example, separate electorate, the existence of 562 independent States-would have remained embodied in the Constitution.

I do not agree with those who subscribe to the view that our standard has fallen

down. Rather I feel that our standard of living is much more higher than what it was formerly. Today we are able to witness this glorious occasion. What I mean to convey is this that our Constitution embodies every such provision as it needed by us. While we have embodied in the Constitution provisions for taxation, we have also provided for the appointment of a Fiscal Commission in future to examine the finances of our Union and I hope the Fiscal Commission is going to be appointed shortly. In fact I do not find anything for which no proper provision has been made in the Constitution.

I do not want to take much time of the House, Sir, therefore I am now going to conclude my observations with the remark that Constitutions are only a piece of paper and they by themselves cannot enable us to achieve our ideals. It is the spirit with which the Constitutions are framed and with which they are worked that enables a nation to achieve the objective underlying its constitution. Therefore, on this occasion, Sir, when we are going to pass our Constitution, I would like to impress upon the minds the Members who will be appending their signatures to this document on the 26th of January, 1950, that their task is not over by simply preparing the constitution- but their real task is ahead. It is for them to work the Constitution in such a manner as may enable the people to have real freedom, happiness and prosperity.

Now, with your permission, Sir I would like to refer to only one more matter. It is very dear to me. We have given much to Scheduled Castes. We have provided reservation for them. We have embodied in the Constitution article 335 wherein assurance has been given to them in regard to services; we have provided facility for reservation for them in services under article 16. But I hope we will have not to see the day when the Government reserves posts for them. If we really want to establish here the classless society of Mahatma Gandhi, every one of us who signs the document of the Constitution must do so with the determination rather the pledge, that he must bring the depressed classes at par with him within ten years. He will be false to himself who signs the Constitution but does not work according to its principles.

I offer my thanks to you, Sir, and to the members of the staff of this Secretariat who have contributed in the preparation of this Constitution as also to the Members of the Assembly. May God grant us the sense and courage to serve our country on the lines the Father of the Nation and our other respected leaders have laid down.

**Mr. President:** Before we adjourn I want to draw the attention of honourable Members to something which happened a little while ago when an honourable Member wanted to draw my attention to a certain fact. I wish honourable Members will take note of that fact. I expect that Members are interested in the speeches of others more than in their own. They should at least sympathise with me who has to listen only to other speeches and never to his own and if for nothing else at least I hope they will be able to be here throughout the session, so that we may not have any such complaint again.

The Assembly then adjourned till Ten of the Clock on Saturday, the 19th November, 1949.

---

*[Translation of Hindustani speech.]*

# CONSTITUENT ASSEMBLY OF INDIA DEBATES (PROCEEDINGS) - VOLUME XI

**Saturday, the 19th November 1949**

**----------**

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

---

**DRAFT CONSTITUTION-***(Contd.)*

**Mr. President:** We shall now continue the discussion. Mr. Kamath.

**Shri H. V. Kamath:** (C. P. & Berar: General); Mr. President, I rise to extend my limited and qualified support to the motion moved by Dr. Ambedkar. We, Sir, the people of India have come to the end of a long journey which is, however, the beginning of a longer, a more arduous and a more hazardous one. Through several decades of struggle we have reached the goal of freedom. During those decades we passed through many vicissitudes of fortune and were guided by leaders many of whom are not among us today. True to the Indian genius our struggle, our awakening, began with a spiritual renaissance which was pioneered by Ramakrishna Paramahansa, Swami Vivekananda and Swami Diyananda. In the wake of those spiritual leaders came the political renaissance and the cultural renaissance of which the torchbearers, the leaders, the guides were Lokamanya Tilak, Aurobindo and Mahatma Gandhi and, last but not the last, Netaji Subhash Chandra Bose. Thanks to Providence, leaders of those days, leaders like you, Sir, and Pandit Nehru and Sardar Patel, are still with us to lead us to the goal which Mahatma Gandhi had in view. The goal that Mahatma Gandhi had in view has not been reached and to lead India to that goal is the mission, is the task of this Assembly and of the people of India today.

The whole of India took part in that glorious struggle for freedom. In the extreme North, in Kashmir, my honourable Friend, Sheikh Abdullah took part, and a valiant part, in that conflict. In the North-West of India, which unfortunately has been severed from us today, Khan Abdul Ghaffar Khan and his brother Dr. Khan Sahib were in the forefront of the national struggle. That part of India is no longer with us, but our hope and our faith is that whatever the differences between the part that has gone from us and the part that still remains to us, those differences will be removed, will be smoothened and our relations will become happier day by day, and Pakistan and India will live on the most cordial terms as years roll by.

It is unfortunate that this Assembly is still not a complete Assembly. Two of the units of our country, Vindhya Pradesh and Hyderabad, are still unrepresented in this Assembly. I hope that the Members from those two units, Hyderabad and Vindhya Pradesh, will take their seats in our midst before this Assembly winds itself up in January.

The Constitution that has been settled by the Assembly, I may describe as a

centralised federation with a facade of parliamentary democracy. We have drawn up a very elaborate Preamble, but without the invocation of God, to me, Sir, it is like sounding brass and tinkling cymbal. We have proclaimed the immutable principles of justice, liberty, equality and fraternity in the Preamble but if we turn inside, if we go through the Constitution we will find to our chagrin, to our sorrow that these principles have been watered down to a considerable extent. Many of my friends here tried to improve the Constitution according to their best lights and some of us did succeed in some degree. God did ultimately find a place in the Constitution though only in the form of the oath to be taken by the various dignitaries of State. My friends whom I would like to particularly mention today, Prof. Shibban Lal Saksena, Dr. P. S. Deshmukh, Shri R. K. Sidhva, Shri Mahavir Tyagi, Pandit Thakur Das Bhargava, Mr. Naziruddin Ahmad, Prof. K. T. Shah, Pandit Hirday Nath Kunzru and Shri Brajeshwar Prasad and lastly, my humble self, all tried in our own way to make the Constitution conform to the Preamble; but I found that the horoscope of the Drafting Committee was strong. I found, Sir, besides the nine planets and also the tenth Dasamagraha there were two in one which obviated the malefic influences of the other planets and those planets were Pandit Nehru and Sardar Patel. There is an astrological sutra which runs Kim Kurvanti grahah sarve yasya kendre Brihaspati. On account of the presence of Brihaspati in the 'Kendra', the effect of the other planets came to very little, It did not amount to much.

**Pandit Balkrishna Sharma** (United Provinces: General): Who were the Rahu and the Ketu?

**Shri H. V. Kamath:** I leave it to Pandit Balkrishna Sharma to decide who they were.

I was saying that this Constitution is a Federal Constitution with a facade of Parliamentary democracy. Mahatma Gandhi wanted India to be a decentralised democracy. He told Louis Fischer, the eminent American publicist some years ago that "there are seven hundred thousand villages in India each of which would be organised according to the will of the citizens, all of them voting. Then there would be seven hundred thousand votes and not four hundred million votes. Each village in other words, would have one vote. The villages would elect the district administration; the district administrations would elect the provincial administration and these in turn would elect the President who is the head of the executive. Louis Fischer. to whom he propounded this plan, interjected": 'That is very much like the Soviet system'. And Gandhiji replied: ' I did not know that. I do not mind.'

Sir, for good or for ill,-I hope for good-we have deviated from his plan and we have evolved a different plan, partly because we are passing through a difficult transition period. A time will arrive when India is stabilized and strong, and I hope we will then go back to the old plan of the Panchayat Raj or decentralised democracy, with village units self-sufficient in food, clothing and shelter and interdependent as regards other matters. I hope we will later go back to that Panchayat Raj Sir, to my mind the only system that will save India and the world is what I may call spiritual communism; I have in mind not the communism of the materialist brand. I have in mind spiritual communism. That is what Gandhiji had in mind when he based his conception of the future form of Government on the spirit of Divinity controlling human affairs. This meant spiritual communism. That alone will save the world. Today, in the conflict between the atom bomb and the *atman* it is only *atmashakti*" that will prevail.

Now to go back to the preamble and the Constitution, I find that so far as justice is concerned, the Constitution amply provides for those who adorn the seats of justice. They are better provided for than those who will resort to the Temples of justice. The Drafting Committee had a soft corner for those eminent dignitaries who will preside in those Temples of justice and not to the humble votaries in the temple. As the Constitution was drafted by lawyers, perhaps it was inevitable that it should be so, as in the Sanskrit sloka Nalikagatamapi kutilam na bhavati saralam shunah prichham. The lawyers' bias could not be avoided and therefore it is that in the Constitution the judges have been unduly pampered.

Again we and the emergency provisions and article 22-I do not know how the latter found a place in the Fundamental Rights,-the right of a person to be detained without trial for three months or more. These provisions water down the principle embodied in the Preamble regarding individual liberty. They have fettered individual liberty. Let me make it clear that I am not a champion of absolute individual liberty. I want individual liberty only in so far as it does not jeopardise the security of the State. With that end in view I moved several amendments. They were not accepted. Then as regards equality, we find that there are some provisions which confer the same equality as we find between a cat and a mouse, of a horse and an ass. As regards fraternity, I feet that we have shown fraternal love and regard for the permanent services, especially the higher services as well as the high dignitaries of State to whom I have ,already referred. I do not think I am exaggerating when I say that we set out with good intentions to make a vinayaka, but it turned out to be a vanara as in the Sanskrit proverb:

Vinayakam prakurvano rachayamasa vanaram. The Vinayaka that we have made resembles the image of a monkey more than the image of God Ganesh.

With all that, there are some very good features in the Constitution. That is why I welcome it partially.

The provisions regarding the integration of States for which the credit goes entirely to Sardar Patel, and the provisions regarding minorities which are there mainly due to his efforts are all very welcome. Then there is the provision regarding property. We have not made it absolutely justiciable. That is again another good feature of the Constitution. We have guaranteed religious freedom. This is another important thing. We have settled the language question satisfactorily. Then, as referred to by me already, there is the question of the oath. God has been invoked in the oath to be taken by the dignitaries of the State. Then there is provision for village panchayats in the directives of State policy. Though Dr. Ambedkar at first stigmatised the villages as senks of superstition and ignorance or something like that, it is good that we embodied in the Directive Principles the salutary provision for village panchayats. These are all good features and I welcome them wholeheartedly. Then we have abolished titles,-those vulgar distinctions. Untouchability which has been a canker on Hindu society has been abolished. But other features are there which mar the harmony and the beauty of the Constitution. As I said, we are going to have parliamentary democracy in this country. I hope it will work. Unfortunately we have several handicaps in our country; our fissiparous social system with divisions based on caste and sub-caste, creed and religion and notions of superiority and inferiority and strong antipathies and jealousies which form an integral part of our psychological set-up. These impede the cultivation of a democratic outlook, and permeate the very air we breath. These factors operate sub-consciously rather than consciously. Again, Sir,

of the innumerable points of contact between the citizen and the State, each a battle-ground of democracy, only a microscopic proportion will fall within the jurisdiction of the courts, though vastly extended in the Draft Constitution. They, to my mind do not furnish the complete mechanics of democracy. They do not solve the problem of taming power, I hope, Sir, that the democratic spirit of the people who work the Constitution will be adequate to the task. The Constitution itself is only dry bones. After all, it is we, the people of India, who will have to infuse life into these dry bones of the Constitution. I hope it will be worked in a spirit of co-operation, in the spirit of making India, a great nation, making it great beacon light to the whole world, under which will gather all the nations of the world to learn the ancient yet ever new gospel of India, the gospel of peace, harmony and love, bathed in the refulgent light of a Himalayan dawn. I would like to make a suggestion about the ceremony we are going to have on the 26th January 1950. I would suggest, Sir, that the Republic should be proclaimed not at midnight as was done in August 1947, but just before sunrise as is the custom in our Indian tradition, sometime during the first prahar before sunrise which is called Brahm Muhurta. Between three and six that morning we should proclaim the Republic and inaugurate the Constitution. If we do it just before sunrise, I think it will augur well for the future of our country.

I would only say one thing more, Sir and that is this: that we the people of India, will not forget our spiritual genius and our ancient traditions. It was Swami Vivekananda who said that the day India forgets God, the day she discards spirituality, that day she will die, that day she will cease to be a force in tee world. I hope we will keep alive our traditions in spite of the fact that we lightheartedly forgot to invoke the name of God in the Preamble. Yea, let us work this Constitution in the spirit of divine guidance, under divine grace and blessing. It was Mahatma Gandhi who all in his prayers prayed.-

'Sabko sanmati de Bhagawan'

Swami Vivekananda exhorted India to rise and chanted the Vedantic Mantram.

Uttishthata jagrata prapya varanmibodhata

Awake, Arise and Stop Not Till the Goal is Reached

We have reached our goal. Yet we have got to reach a higher goal, and let us address ourselves to that task and bend our energies to the attainment of that goal, so that in this ancient land of ours the common man-after all a Constitution is only for the good of the common man that is its touch stone,-the ordinary man may have his life and have it more abundantly. It does not matter how many Ministers you have, how many Governors you have, who you win have as President. These do not matter ultimately. A Constitution will live or die in so far as it caters to or hinders the happiness, the life and the liberty of the ordinary man, the common man. It is in his name that we have framed this Constitution; it is in his name that we have struggled for freedom, achieved it and assembled here. Let us work this Constitution in his name,. let us go ahead in his name under the blessings of the Almighty and under His guidance, and with the full cooperation of the people of India. Let us strive to reach the goal envisaged by Mahatma Gandhi and all our prophets, sages and seers, the goal .I would not call it, of Sadhunam-Rajyam or the Kingdom of God on earth; I would simply call it Panchayat Raj. We who are assembled here, let us resolve that we shall not rest till we have achieved that goal which has animated the whole nation for

the last sixty years or more, and which I hope will continue to inspire us during the difficult days to come. Jai Hind.

**Maulana Hasrat Mohani** (United Provinces: Muslim): Sir, May I know if there is any chance of any of the points raised in the speeches of different honourable Members being accepted and introduced into the Constitution now? if there is no chance, then the whole thing is a farce and I do not find any use, at all of this general discussion.

**Mr. President:** I may inform the Maulana that under the rules there is no room for any further amendments at this stage. I shall have to put the motion at the end to the vote.

**Shri Mohan Lal Gautam** (United Provinces: General): May I know whether the Maulana is a party to this farce or not?

**Maulana Hasrat Mohani:** I am not. I have not given notice of any amendment on this occasion. I shall simply oppose the whole thing.

**Mr. President:** I thought you were not going to speak.

**Dr. P. S. Deshmukh** (C. P. & Berar: General): May I draw your attention to the word used by the hohourable Member and request you to ask him to withdraw the word he has used.

**Mr. President:** He said he was not moving any amendment. Did he say anything else?

**Shri S. Nagappa** (Madras: General) : The word "farce" that he used is objectionable.

**Mr. President:** Maulana, that word is objectionable, Members object to it. This is not a farce anyway.

**Maulana Hasrat Mohani:** Very well, I withdraw the word.

**Seth Damodar Swarup** (United Provinces: General): *[Mr. President, the Second Reading of the Drift Constitution has ended and the Third Reading is going on which will also conclude in three or four days. After that the inauguration of this Constitution will be held over till the historic day of the 26th January. All this is good and for that the Honourable Dr. Ambedkar and his other colleagues of the Drafting Committee deserve the congratulations of the whole House, because they have drafted this Constitution with great skin and labour.

Sir, ordinarily it would be expected of me who is a Member of this House that I should have a feeling of satisfaction for the successful completion of our labours. But Sir, permit me to say that at this moment when I am speaking on this Constitution in this House, far from having any sense of satisfaction I am feeling extremely depressed. The fact is that it appears to me as if my heart were sinking at this moment and a slow palsy is overtaking me. This is due to my realisation that in spite of the fact that the British rule ended more than two years ago, the misfortune of the

country and its people is that they have not yet perceived in the least any improvement in their conditions as a result of this change. I am afraid that the masses instead of finding any improvement in their lot are beginning to suspect that their lot is becoming worse as a result of this political change. They are unable to perceive as to where all this will end. The fact is that the general public, in whose name this Constitution has been framed and would be passed, sees only despair and darkness around them.

Mr. President, some of our friends thought that so far no change has been apparent in the condition of the general masses, because so far the Constitution and the laws framed by the British Government are in force. They believed that when our Indian constitution is ready, the masses would definitely feel that they are on the way to progress.

But, Mr. President, I wish to be excused for placing the hard reality before you. The people of this country would not at all be satisfied or happy even after this Constitution is completed and enforced. Because what is there for them, in this Constitution, as it has evolved now, and is soon going to be enforced? You may go through it from the beginning to the end, you will not find anywhere in it any provision for bread for the poor, starving, naked and oppressed people of India. What attempt has been made in this constitution for solving their day to day problems ? Besides this, it does not contain any guarantee of work, or employment for them. Far from ensuring to them wages according to their work, there is no guarantee in it even for a living wage even for a minimum wage and payment for subsistence.

In these circumstances, Mr. President, even though this Constitution may be the biggest and bulkiest constitution in the world, may even be the most detailed one, it may be heaven for the lawyers, and may even be the *Magna Charta* for the capitalists of India, but so far as the poor and the tens of millions of toiling,, starving and naked masses of India are concerned, there is nothing in it for them. For them it is a bulky volume, nothing more than waste paper. It is a different matter whether we accept this fact Or not, but we would have to admit that even if we ignore the views of the public, we would have to pay attention to the opinion of the great people.

I wish to invite your attention to the opinion of the honourable the Speaker of our Indian Parliament. He says that constitution that has been framed does not at all contain any shade of Indian genius, and is quite contrary to that. If I am not mistaken the General Secretary of the Congress, Shri Shankarrao Deo has also expressed his views about this Constitution in this House. He says that this Constitution is bound to be rejected if a referendum is taken. So even he leaving aside the views of the general public about this Constitution and only taking into consideration the views of such respectable people how can we claim, that the public will be satisfied with it?

Mr. President the reason is clear. This Constitution has been framed by the people who are not the true representatives of the general masses. I have stated previously that the framers of this Constitution at best represent 14 per cent. of the Indian masses. This is a bitter fact. We, who are here in this House as the representatives of the public have failed to fulfill our duty for which we had assembled here due to various reasons and causes such as party politics. It is for this reason that the people of India are particularly faced with disappointment again, as they had seen after the change of Government. Then, we have to consider, what is in store for us? There is no doubt that the Indian masses will never accept this Constitution in the words of

respected Shri Shankarrao Deo. This Constitution cannot work permanently in this country.

We have seen that there are some good things too in this Constitution and some nice principles have been enunciated in this, e.g. there is a mention of general franchise and joint electorate, abolition of untouchability. But so far as the principles are concerned, they may be, quite all right. But how far they would be enforced in practice, will be seen when they are put into practice. We see that the mention of Fundamental Rights in the Constitution is a significant matter. But Mr. President, have we really got some Fundamental Rights through this Constitution? I can say emphatically that the grant of Fundamental Rights is a mere farce. They have been given by one hand and taken away by the other. We have been told in plain words that this guarantee about the fundamental rights will not apply in the case of the Acts at present in force, and in respect of libel slander, or contempt of court and the Government is authorised to enact such laws even in future. Besides this, so far as the right of association or the right to go from one place to another is concerned, the Government will have the right to enact any law to take away these rights in the name of public interest so the grant of Fundamental Rights is a farce.

Then, Mr. President, we see that the law regarding property is identical with that contained in the Government of India Act of 1935. The result would be that it would be impossible to nationalise property and there would be many obstacles in effecting such economic reforms as may be in the interest of the public.

Mr. President, it is a matter of surprise, of pain indeed, that while speaking on the Objective Resolution our Prime Minister had said emphatically that he was a socialist. He had also expressed the hope that the Constitution would be of a socialist republic. We listened to all his speech, but when the amendment seeking to add the word 'socialist' with the word 'republic' was moved in the House, it was rejected.

Mr. President, on the one hand we desire that today's social structure should be maintained without any alteration, and on the other hand we also wish that poverty and unemployment should vanish from this country. Both these things cannot go hand in hand. While in America our Prime Minister said that socialism and capitalism cannot go hand in hand; it is surprising as to how it can be expected to maintain *status quo*, to maintain capitalism and also to remove the poverty and unemployment of the masses. Both these things are quite incompatible. It is felt therefore that starving, naked and oppressed people of India would perhaps continue to be in the same misery as they are today. Besides this even viewing this from other points of view too we do not arrive at any happy conclusion. Nowadays there is a lot of talk about co-operative commonwealth in our country. But what is the actual fact? It is no direction to say in the Directive Principles that the Governments would establish any such thing. To give directives in round about words is different from giving clear directive for establishing such a order. Still the Congress President wants us to cherish the hope that a classless society will be established in this country within five years. A layman like me is however unable to understand as to how to reconcile the two statements, the one that we hate socialism and want to maintain the *status quo* the other that we wish to establish a classless society in our country while preserving the exploiting group. I cannot see how these two objects which are mutually opposite can be realised. Besides this there are several minor things which could be accomplished but have not been done.

The demand for the separation of the executive and the judiciary is a very old one- perhaps as old as the Indian National Congress is believed to be. But this Constitution does not contain any definite plan, any adequate provision to separate the executive and the judiciary as soon as possible.

Looking at States, I can say that no decision has yet been taken to end the Jagirdari system. The result would be that millions of peasants of the States would continue to be slaves of the Jagirdars. Besides this, the farm labourers would continue to be the slaves of the money lenders. Along with this we see that this Constitution contains so many things which are far more reactionary and backward than the provisions of the Government of India Act of 1935. It was provided in the first draft of this Constitution that the Governor would be elected direct by the voters. Later on another proposal was made saying that the Government would be appointed by a panel. But now the President has been given the right to select the Governors and also to fix their tenure of office himself. It is right that the President will as far as possible use his right properly, but this may lead to a tug of war between the provincial government and the Governor. It is just possible that the provincial Government may have a different ideology from that the Central Government and that conflict in ideologies may lead to conflict between the provincial government and the Governor. Besides this the discretionary powers of the Governor are even more reactionary than those contained in the 1935 Act. The Act of 1935 gave the powers of individual judgment to the Governor but it was essential for him to consult the cabinet. But now the Governor need not consult the cabinet regarding the discretionary powers. So, we see that in respect of Governors and three powers too we have gone backward instead of advancing forward.

Again the President has been given greater powers than necessary in the name of emergency powers, and the centre too has been given greater powers to interfere in the provincial affairs more than necessary. Our Constitutional structure is federal in name, but so far as the administrative sphere is concerned , it has become completely unitary structure. We do realise that centralisation is to some extent essential, but over-centralisation means more corruption in the country. Mahatma Gandhi advocated decentralisation throughout his life. It is surprising that we have forgotten that lesson as soon after his departure, and are now giving undue powers to the President and the Central Government .

Mr. President, the structure of a modern State is generally based on division of powers, between two compartments- Provinces and the Centre. This system is already over-centralised. If we wish to end corruption, bribery and nepotism, the system of two compartments does not seem to be appropriate. For this we needed a four - compartment system. As I had once proposed, there should have been separate village republics, separate city republics and separate provincial republics and they should be federated into a central republic, that would have given us a really democratic federal structure. But as I have just said we have framed a unitary constitution in the name of a federation. This would essentially result in over centralisation , and our Government which ought to have been the Government of the people, would become a fascist Government. So from this point of view as well, Mr.Persident, we arrive at the conclusion that the Constitution framed for our country will neither lead to the welfare of our country nor to the protection of those principles on the basis of which we have ostensibly proceeded. This seems to be the reason why the socialist party of India has declared that if and when they happen to capture power, the first things they would do will be to set up a new Constitution Assembly on

the basis of general franchise and that constituent Assembly either change this whole constitution totally or would make necessary amendments in it. Mr. President, I would therefore not take any more time of the House and would only say that from the point of view of the interest of the people, high constitutional principles, this Constitution does not deserve to be passed. We should reject this Constitution. But Mr. President we may do it or not, I would submit, and fully believe in what my respected Friend Shri Shankarrao Deo has said, that even though we may accept this Constitution, the people of the country will never accept this. For them this Constitution would not for of greater value than other ordinary law books. The hopes of the people for the Constitution would remain unfulfilled just as they had remained fulfilled by the change of Government. If, therefore, we wish to retain the confidence of the people, there is still a change to do so, but if we do not succeed in this task, I am sure, Mr. President, the masses of India and the posterity too will not remember us by any good or respectable name.]*

**Shri T. Prakasam** ( Madras: General) : Mr. president, Sir, this is not the Constitution which I expected for the people of our country, the Constitution which I was expecting along with many others who have been labouring for attaining the freedom of this country, the constitution planned out by Mahatma Gandhi, not only planned out, but also endeavoured to be put into practice Panchayat Raj was the one which he planned out and recommended to the nation. Before his advent and before his programme was placed before the country nobody ever dreamt that the people, divided as they were in every respect, would come together under our leadership, under one banner, and carry out the orders given by him and the Congress. He was the one man who should have been framing constitution, a simple Constitution for the people of this country that would give relief to all, to the millions. His plan was to educate the millions and to make the fight carried on by them to attain freedom ever since he set his foot on this country after coming from South Africa. You know more about Mahatma Gandhi than myself or than anybody else in this country and you, Sir, were good enough to send a reply while the drafting of the Constitution was in progress, to a letter written to you by one ardent constructive worker, an advocate, an educated man who has spent his time in the villages for a good time. In that letter he suggested about this Panchayat organisation of Mahatma Gandhi and you replied to him in detail and you were impressed by that because you were one of the foremost followers of Mahatma Gandhi and a copy of that letter was given to me by that friend and that letter was referred by you to Shri B. N. Rau, the Constitutional Adviser. I raised that point elsewhere when we were discussing and everybody was impressed there, but I myself found it difficult to introduce the Panchayat Constitution-the framework of that-into the Constitution that had made considerable progress. So, we dropped it and the leadership then suggested that there would be the directive principles introduced into the Constitution. We have got that here now. Therefore, the Constitution which I was longing to have was that Constitution. It is only that Constitution that would give really food and cloth and all the necessaries of life to the millions. The millions were ignored during the British Raj and they were ignored in our country even after the British left and we also ignored them and we are proceeding with this Constitution.

The Constitution is a great document and the friends who have been in charge of this framing of this --Dr. Ambedkar is a great lawyer, is a very able man. He has shown by the work he has done here, how he would be competent to be a King's Counsel of Great Britain, to be perhaps competent to sit on the Woolsack only; but this is not a Constitution that we, the people of this country wanted. Mahatma Gandhi when he took up the organization of this country in the name of the Congress at once

saw how this country could be helped and how the millions could be helped. Therefore he decided that the whole country should be divided on linguistic basis so that the people of each area would be competent to develop themselves. He not only laid that down as a rule for preaching purposes but he put it into force, carved out the whole country into 21 linguistic areas and he made the people work under that Constitution. As a matter of fact after he had been taken away from us and after we have been enabled to send away the English people from our country to their own country, we should not have discarded the basis on which this country had been educated by him, not only educated but the people of each area had been enabled to carry out the work. What about the Congress work which had been carried out under his direction and under the direction of the Congress and under your leadership and other leadership? The whole thing, how to make their own cloth, their own food and carry out all the items of constructive programme- that had been carried out for 26 years - it is nowhere now. Therefore, I have been sitting here with a painful thought that we had been drifting, avoiding the soul of it as it were.

The Constitution is very carefully drawn up. I have been a student of Constitutional law for a very long time, for over 40 years or 45 years. I have understood the principles of the Constitutions of the various countries of this world. The legal expert here and the Chairman of the Drafting Committee were referring us so often to the American Constitution. What is there in the American Constitution? We can see the essence of it-how 13 different colonies or units came together and were determined to carry on the war against the British, carried on the war and after completing the war, evolved their own Constitution. When such was the case, what was the fear in the minds of the Chairman of the Drafting Committee and also of the legal expert-who has been a learned man and who has been on the top of the legal profession? Their mind was not there as they were not in it. Therefore, this Constitution started on the basis of the English Constitution. The Act of 1935 became the basis of this Constitution. We embodied many provisions bodily as it were. They are not of a very extraordinary character, they are not new inventions for the first time by Great Britain. Why should we have been ready to say that we adopt this Constitution of Great Britain of 1935?

Therefore, Sir, I am submitting to the honourable Members of this House who are all persons who have made great sacrifices to achieve the freedom of our country, that whenever it was pointed out that Mahatma Gandhi's scheme was the proper scheme, the whole House rose in one voice as it were, and they demanded Panchayat Raj system. But because it was too late it could not be introduced into this Constitution that we were making; but every one was of that, and every one is referring to the same thing in heir speeches during the last two days also, just as they have been doing in that past. Therefore, the Constitution that I was expecting, and the organisation that I was expecting for this country was the division on the linguistic basis, which was chalked out by Mahatma Gandhi, which was not only chalked out, for the mere adoption as a principle or any such thing, but actually worked out, for the past 26 years, now 30 years. Even now that system is continuing. Why should we have abandoned that and come to this ?

I may say Sir, one word in this connection. People like myself, Dr. Pattabhi Sitaramayya, Prof. Ranga and others who have come from our province, and who have been agitating for separation of Andhra Province, and have been fighting for it for over 36 years could not succeed until now. At last the Congress Working Committee has been good enough to adopt Andhra separation. I thank the Working Committee Dr. Pattabhi Sitaramayya, the Honourable Pandit Jawaharlal Nehru, the Prime Minister and

also Honourable Sardar Vallabhbhai Patel and the other members of the Working Committee for having accepted this. They have accepted it so that it might be started immediately and the whole thing might be worked out. There was a dispute over the city of Madras which could not be solved. There was the Dhar Commission appointed by you, Sir, and that Commission went into the whole question and toured the whole country and arrived at certain conclusions in their report. Relying upon those findings, we demanded Andhra Province, Sir, without claiming the city of Madras, although there was a demand for a separation and for a division and for constituting it into a separate province. This is a question upon which the Working Committee was not able to arrive at any decision. But they were good enough to put it in such a form that that question was left open. And a boundary commission also has to be appointed. I therefore, thank the Government and all those who were responsible for doing this much.

I also feel that what has been done with regard to Andhra should also have been done with regard to others also who have been agitating for being constituted into linguistic areas. This would not have taken a long time. But there seems to be some fear in the minds of the leadership which prevented them from thinking of separation on linguistic basis. It is not an impossible thing. It is that work and it is that united feeling of all the people, it is that division that has brought this freedom, and the country together. Why we should try to avoid it, I have not been able to understand. But the two leaders were too strongly opposed to division on a linguistic basis, at this juncture, and there is no one in this House or even outside who has been taking an opposite view to these leaders, particularly so, when we see how these two leaders had been struggling here ever since they took charge of the administration of this country, under the most difficult circumstances. Take for instance Sardar Vallabhbhai Patel who has brought together all the States into one Union, as it were, who has made the whole of India into one United Union. There was only one man in the history of the world, similarly great man, and that was Bismarck. But Vallabhbhai Patel has out-Bismarcked or out-distanced Bismarck, out-shone him. I am not given to flattery or saying good words at the proper time. But you know Sardar Vallabhabhai Patel was described in the British press, in one of the most conservative presses, as super-Bismarck. Therefore, we are all proud of Sardar Vallabhbhai Patel's work and the labours and the troubles which he has been facing, troubles not only from outside and from inside regarding the constitution of the country, but also physical troubles. We know he has been fighting these physical troubles as he has been fighting other troubles involving or relating to the country.

Take again, Sir, Honourable Shri Jawaharlal Nehru. He has just now returned from America. What has he done now ? There in his tour he has carried the message of peace, not to our villages or to our districts or to our provinces, but to the whole country and to the whole of America and all the other nations, as it were. And he brought back an answer, as it were, that they were all inclined towards peace today and not towards war. Even the representative of Russia showed this by his recent proposal before the United Nations Organisation. Of course, he was very much distrusted by others, they would not take his words at their face value. But I believe he was quite sincere in asking for peace, and when it comes from Stalin's country, one should accept it and make it a complete success.

And so, India following Mahatma Gandhi's principles and with this Prime Minister of India - with whom I would be quarrelling sometimes for not doing things as I wanted - this Prime Minister carried this message of peace to them, and brought back a reply as

it were, I mean the principle of peace to the whole world, and lie has justified himself as the disciple of Mahatma Gandhi as far as non-violence, truth and peace are concerned.

Therefore, when these two leaders have been striving here, people could not resist them and press them to understand that the division of this country on a linguistic basis would bring unity and not disunity. It would not create trouble. On the other hand it would give strength and create the power to resist those forces that are raging themselves against our government or any government in this country. Take for instance the American States. Thirteen States united together and carried on a war, and after the war they made their constitution, but not in the manner in which we are doing it, Sir.

I feel very strongly that we have constituted the Constituent Assembly and carried on the work of framing our Constitution, under the direction of the Secretary of State for India and the Cabinet in Britain. Look at the Independence of India Act of 1947. It is under that Act that we do all this. Of course they had to pass that Act. I do not dispute it, because they wanted to declare publicity through their Parliament that they had severed their connection with India, that they would not be responsible under those sections in the latter part of that Act-(the Act consists of only 20 sections)-they declared. "We have handed over India to the Indians and we shall not be responsible from this date for anything that may be done by the Indian Government, by the Indians, who take our place. They must also take these responsibilities". If that be the case, they should have asked us to frame our own Constitution after forming our own Constituent Assembly. But instead of that, they wanted to keep it to the very last minute, as it were, under Parliament and so got it under the name of Indian Independence Act. What is it that they have done ? Previously they appointed a Governor-General. The Governor-General would be vacating his place when the president is appointed here, and when we pass this Constitution. But he is the Governor General of King George, and not the Governor-General appointed by us. He has been put there to watch the interests of Britain. Of course, I do not.....

**An Honourable Member :** Nothing of the kind.

**Shri T. Prakasam:** No use saying, " Nothing of the kind." I am talking of the Constitution. What has been done here? He has been there carrying on whatever he has to do, as any other Governor-General was carrying on before the British left. So, I say, Sir, I am pointing out the weakness in this Constitution which is being drafted under the auspices of Britain in pursuance of the provisions of the Indian Independence Act. I am pointing out how Britain was interested in keeping a hold over this country even until the day the Indian Independence Act was passed. In section 17 of that Act they say that the Secretary of State should not be made liable for anything that had been done while the English People were carrying on the Government. It was also stated there that the British Exchequer should not be made liable for anything that might have been done by them when they were in office. I have been at this point for the last two or three years. I have been anxious to point out that Britain had done the greatest wrong to the people of this country when it contracted certain loans under Section 315 of Government of India Act, 1935 and these loans were contracted by the issue of currency notes without any metallic backing. The total amount in circulation before the war started was Rs. 714 crores or so. By the time the war ended when we came to 1948, the total amount came to Rs. 1, 214 crores of currency notes. I say, I have been saying, and I said in my budget speech in Parliament the other day that

these currency notes that were issued by them during the period of war without having any metallic security, are not worth the paper upon which the currency notes were printed, and the people of this country who accepted the currency notes and paid the cash into the hands of the British Government should not be made liable. That is my point and it is a point which I wanted to raise. I am not taking you by surprise. Dr. Ambedkar, is the Chairman of the Drafting Committee and the legal adviser of this Constitution -making body, - I wrote to him and gave him notice of a resolution two years back. In that note I pointed out the whole of this business and asked them to have that resolution tabled and placed before the House. I got no notice of it and I could not attend for some time. Afterwards a note issued from Shri Satyanarayan Sinha saying that those who were sitting there should not come here. I have come here on a special /requisition made to Pandit Jawaharlal Nehru. This is the notice of the resolution given by me on 14th August 1949.

"I beg to give notice to move the following resolution on an urgent matter of public interest for consideration and decision before the sovereign body of the Constituent Assembly can proceed to further consideration and further drafting of the Union Constitution".

The Resolution reads :

"This Assembly hereby declares that the huge unconscionable burden thrown upon the people of India by Great Britain by its currency law and currency policy and the resultant so called public debt and liability of crores of rupees created by the issue and expansion of paper currency without any metallic security to be *ultra vires* and further that all such currency notes, so issued are of no value whatever as against the people of India in view of long and protracted struggle by the people of India for their political and economic freedom".

Well, sir, when this notice was given, can the President of the Drafting Committee, or can the Legal Adviser, or can anybody say that this matter was not before them? I brought it to their notice: I also said that this matter must be considered before the Constitution Act of this Constituent Assembly was proceeded with. Therefore, I am submitting that in drafting this Constitution we have been drifting, drifting and drifting, without knowing exactly where we were going. This Rs. 1,214 crores of currency notes were printed by Britain just before they went out of this country, making a provision in the Indian Independence Act that they should not be made liable for all that they have done. Would that be *intra vires*? I have been considering that it is *ultra vires*. If they had contracted it on the eve of their departure they are liable for it. Even after this Constitution is passed they will stand liable for this. What has been the effect of this? I am requesting you and the Honourable Members of this House to consider a while. This printing of Rs.1,214 crores of currency notes without metallic security, making the people of this country liable has brought about inflation and has been responsible for the increase of prices in this country. Experts have been saying that they will decrease the prices and that they will do this and that, without touching upon this point- without cutting away this Rs. 1,244 crores of liability cast upon the people. It is a matter of life and death for the people. That is what happened.

I would like to point out in what a difficult position we have been while we have been going through the completion of this Constitution and we have come to the last stages. Now, I have been waiting here to tell the House and to tell you, Sir, how we have been omitting to do certain things which will seriously effect ourselves. What is the good of framing a Constitution which will not take a matter of this importance into account and do something to relieve all this burden? Who else can relieve the curse of inflation that has brought this increase of prices, which in turn has brought about all kinds of troubles? This Government has been taking ever so many other steps to get rid of this inflation. How can they get rid of this inflation if they do not touch the

bottom rock of that Rs. 1,.214 crores. All these English people, while they were ruling they introduced these currency policies. They introduced this inflation and also devaluation. So many currency commissions have been held and at the end of each Commission they have invariably passed orders to suit the convenience of the British people.

When currency notes to the tune of one thousand two hundred and fourteen crores of rupees were printed unauthorisedly, there should be some arrangement for their withdrawal. In fact, this has been done in some countries. But nothing to that end has been done here and that is why I am apprehensive that we are in for trouble. How has this devaluation come upon us, Sir?

**Mr. President:** I do not wish to interrupt the honourable Member. But I am afraid that he is speaking on points which are not germane to the Constitution we are discussing today. These are points which could very well be raised, for Government to take up (and Government) might be blamed, or whatever else the House would like to do it could do to the Government) in another place, but not here.

**Shri T. Prakasam:** Sir, I do not want to wander about and want to confine myself to the scope of the discussion on the Constitution. the point which I was referring to just now arises in this way. The Constitution which we have drawn up ought to have removed the anomaly of continuing the exchange ratio of the rupee at Is. 6d., adopted by the Indian Government a long time back. That has, unfortunately, not been done. 'that is how the point I was making is germane to the discussion.

Now, Sir, I come to another point regarding the provision on freedom of person that we have adopted. We made a provision after such consideration and discussion that for three months a person could be detained without trial. It shocked me and it shocks me now that we should have made such a provision. We cannot justify our position in the face of the world. It is strange that we who had been trained and disciplined for over thirty years by one person, the great leader who had given peace not only to this country but also to the rest of the world, should make such a provision. Why should it be, Sir, that for three months a person could be detained without trial? I am sorry that we have adopted it.

One great service that this Constitution has done is by way of removing untouchability and making Harijans and Scheduled Castes feel that they are brought on an equal footing with the rest of the population. For that we do deserve some credit.

I am also glad about the introduction of the village panchayat system in the directive principles. The execution or the fulfilment of it depends upon you and others who would be in charge of this country and the Government. I understood that in the United Provinces, Pandit Govind Ballabh Pant's administration has set up panchayats and Assam had established them even before that. If this example is followed by the provinces of India the day of redemption of the millions of India would not be very far off.

Then another matter, Sir, about which I should like to say a few words is about adult franchise. I am glad that out of any fear or suspicion adult franchise has not been modified in any way. When we started framing this Constitution, it was the idea that the Governor would be elected. I felt glad about it. But unfortunately this

provision has undergone a thorough modification. People may agree with me or may not agree with me. Unless you trust your own people and take them into your confidence they will not be able to deliver the goods. In fact, our country has stood firm now for three years since the work of drafting this Constitution began and even before that they have been honest, straight and loyal to the Government. We would not, therefore, do anything which would lead them to think that we are not trusting them.

I should then like to refer to the introduction of the new article 365 by the Chairman of the Drafting Committee. According to that article if any province is not ready to obey and carry out the orders of the Government here that province may be declared as not fit to be within the Constitution. This is only an adaptation of section 93 of the Government of India Act under which the administration of a province could be taken over by the Governor. This is no good for us. This is not a provision that we should introduce after we have fought for the freedom of this country in the clearest possible manner. This is not the way in which we should develop democracy in this country. Whatever defects there may be in provinces, you must allow them to be corrected by themselves.

You must not interfere for this and that and fall upon them and ask them finally to get out because they are not willing to obey. That is not the way in which democratic constitutions can be built up or worked nor the people's position sustained in the country. If we wish to carry the people with us, give them freedom. I am one of the sufferers with regard to this provincial autonomy also, but I do not complain that for the sake of that you must take away the right of carrying on the administration in their own way. It is a retrograde step which we should have avoided altogether.

Another point which I should not fail to point out on this occasion is centralisation. Government was anxious, and this Constitution-making body was also anxious to make everything central, to give every power to the Centre. What happens to the units? What happened to the units in the United States? Fifty three or fifty-four units were separate and they declared themselves sovereign powers and carried on the war; they established their own constitutions. Similarly in Switzerland you have got 22 cantons. Switzerland is one of the most model countries in the world. During the last two world economic distresses Switzerland was the only country which had not been affected. It was a country which was divided into 22 units each one having sovereign power, carrying on the administration in a perfect manner, in a most admirable manner for the defence of the country and for the betterment of that country. It is a flawless country today. Similarly is the United States for which our Prime Minister had so much to say. He gave a warning to us that America is a perfect country, that it can defend itself against anything. At the same time he said that you must not go on merely repeating the slogans about America but must adapt yourself. In the same sentence he pointed out,as a contract to it, the Gandhian technique. He is a person who could take the Gandhian principles, who could take the other principles, combine them, go to America and give them the peace message and to the other countries also, and do his best to give them the peace message and to the other countries also, and do his best to bring about peace. But he has not been able to give attention to the Gandhian technique of the constructive programme and of the Organisation of the country or a division of the whole country on a linguistic basis.

Thank you, Sir.

**Prof. Shibban Lal Saksena** (United Provinces: General): Mr. President, Sir, this is an historic occasion in India's history when this August Assembly is about to conclude its labours. Free India will now have its first free constitution after unknown centuries. India is an ancient land and its history goes back to time immemorial. There is much ancient literature extent. But I do not know of any written constitution framed in ancient India providing for the governance of the whole country available today. We know of the codes of Mannu and all other great law givers of ancient India, still no elaborate democratic constitution providing for the governance of the entire sub-continent from Cape Commorin in the South to Gilgit in the North and from Ledo in the east to Peshawar in the West was probably ever made. There were great Emperors of India whose empire comprised the entire sub-continent as, for example, Asoka. We have details of certain departments of his Government, but we do not possess the written constitution of the country in those days. So after, a lapse of innumerable centuries and probably for the first time in known history, chosen representatives from every part of the country have assembled together in a Constituent Assembly and given themselves a Constitution.

But we cannot forget that this Constitution is a constitution for the partitioned India which comprises only about 4/5th of territories comprised in our motherland known as Bharat about which Gurudev Rabindra Nath Tagore sang:

*Jan-gana mana-adhinayaka, jaya he Bharat-bhagya-vidhata*
*Punjaba-sindhu-Gujrata-Maratha-Dravida-Utkala-Vanga*
*Vindhya-Himachala-Yamuna-Ganga uchchala-jaladhi-taranga*

The partition of the country is the greatest tragedy that has occurred in India in recent times. It was the price that we had to pay for our freedom. The British did not leave our country because of any sudden love that they had developed for us by a change of heart; they were compelled to leave by the force of circumstances by world forces combined with the strength of the national movement and its marvellous leadership under Mahatma Gandhi. What followed is well known. That most unnatural division was forced upon the country.

I am convinced that so long as this division lasts, neither India nor Pakistan can be at peace. In the re-union of the two parts of Bharat into one single Sovereign Democratic Republic lies the ultimate salvation of both the parts. The dream of free India which I dreamt during the last 30 years will only be realised when this Constitution becomes the constitution, not only of partitioned India but of the whole of India prior to partition. That I believe, is the natural destiny of our motherland.

My thoughts go today to the millions of my countrymen, those unknown heroes and martyrs in our freedom struggle during the last 92 years since the first war of India's independence was fought in 1857. It is because of the sacrifices of these millions of our countrymen that this day has dawned. Among those heroes and martyrs, we cannot forget those great patriots who have been now left in areas known as Pakistan. My heart is heavy when I remember the figure of Khan Abdul Ghaffar Khan and his thousands of Khudai Khidmatgars who spilled their blood for India's freedom and who are today languishing in the jails of Pakistan. I was one of the staunchest opponents of partition and I feel we are guilty of betrayal of the Khan Brothers and millions of Khudai Khidmatgars, whom we left in the lurch by agreeing to partition. We cannot also forget the millions of our countrymen in Eastern Bengal, the home of Bengal revolutionaries who first lit the fire of freedom in our country. India

shall not be truly free until those parts which have been cut as under are reunited. Here also we must not forget the millions of refugees, who either died or lost their all and became destitute as a result of the partition which we accepted as the price of our liberty. They are certainly martyrs of our freedom. Above all, we cannot forget on this occasion the Father of our Nation. Mahatma Gandhi, who lighted in most of us the torch of freedom and who did not live to see the fruition of his labours. I cannot also forget today other great leaders like Lokmanya Tilak, Lala Lajpat Rai, Deshbandhu Chittranjan Das, Pt. Madan Mohan Malviya, Hakim Ajmal Khan, Pandit Motilal Nehru and others who lighted our path. I particularly wish to remember Netaji Subhash Chandra Bose who fondly hope is still alive somewhere and whose Indian National Army and its glorious exploits in South East Asia fired the Indian Army and the Indian Navy and the Indian Air Force with patriotic and national sentiments and drew the day of freedom nearer. I wish to pay my homage to to all these patriots, heroes and martyrs of the nation on this momentous and historic occasion.

I am very sorry that the House did not agree to accept my amendment by which I had wished to pay homage to the heroes and martyrs of our freedom struggle and to the Father of the Nation in the preamble at the very commencement of this Constitution. I feel that the House was not wise in doing so.

Coming now to the Constitution, I just say at the outset that it is a compromise and has all the defects of a compromise. It is a compromise between men of various views, both conservative and radical, inside the Congress Party. In the transitional period from slavery of a thousand years into newly won freedom, it was probably natural that we should go through this present stage which is reflected in this Constitution. I cannot call it the constitution of the free India of my dreams. I can, therefore, support the motion of Dr. Ambedkar for its adoption only in this spirit. I am convinced that very soon when the period of transition is over, representatives of the Indian people, elected by a conscious electorate on the basis of adult suffrage, will recast this Constitution and frame a constitution which will realise our dreams. I would have wished that my amendment for an automatic revision of the Constitution by simple majority once at the end of ten years from the commencement of the Constitution had been accepted by the House under the limitation of the prevailing circumstances, I am sure, that a better Constitution could not have been made. For this achievement, therefore, I congratulate all those responsible for it, particularly the members of those committees, who under the chairmanship of our leaders evolved the principles of the Constitution in the reports submitted by them of the union Powers Committee, the Provincial Constitution Committee, the Minorities Committee and numerous other Committees. The principles enunciated by these committees were accepted by the Assembly during the First Reading and the Drafting Committee then put them into legal shape. I would have very much wished that this Draft Constitution had been discussed by the House by going into the Committee stage, so that all amendments could have been discussed threadbare and decision could have been taken by a majority of the whole House and not only by the majority of the Congress Party.

Under the procedure adopted, the Drafting Committee could not get the advantage of the free opinion of the whole House and decisions of the Congress Party alone became binding upon it. I personally feel that the constitution has very much suffered on this account. Out of about 10,000 amendments which appeared on the order paper from time to time during the course of the last one year, I think this House had opportunity for discussing hardly a few hundreds. The rest were all guillotined inside

the Congress Party and were not moved in this House because the Party did not accept them. Congress Party meetings became meetings of the real Constituent Assembly, and this real Assembly became the mock Assembly where decisions arrived at the Congress Party meetings were registered. But by their very nature these Congress Party meetings could never be a substitute for meetings of this whole House going into the committee stage and coming to free conclusions on the various amendments tabled.

There has been some criticism of the length of time taken by this Assembly to prepare the Constitution. I think the criticism is most unfair and unjustified. So far this Assembly had only 11 sessions, the duration of all of which was about 200 days. During these sessions, the Assembly usually sat only five days in the week. So the working days shad been only about 120 in all. The expenses incurred on the Constitution during the last three years are less than a crore of rupees. I do not think either that this time is too long or this expense is too great for framing the Constitution of Free India. I personally feel that parts of the constitution have been hustled through and due attention could not be paid to them. If, in spite of this, we have been able to produce a tolerably good constitution, I think the credit must go to the wisdom, the ability and the untiring efforts of the Drafting Committee and its learned Chairman. Credit is no less due to Shri S. N. Mukherjee and his able staff. I think India must be proud of the able draftsmanship and the capacity for infinite labour of Mr. S. N. Mukherjee. We have really discovered him during the framing of this Constitution.

Coming now to the provisions of the Constitution, I regard the provision of adult suffrage to be its greatest merit. The common man in India will now be the maker of his own destiny. I cannot understand the apprehensions of those who fear adult suffrage. We must have confidence in the common man. Adult suffrage has been one of the main demands of the Congress throughout the period of its struggle. We must, therefore, be proud at the dawn of this day when that dream has been realised. After adult suffrage I give importance to the Fundamental Rights. In the Fundamental Rights, equality between man and man has certainly been ensured in our Constitution. There shall now be no untouchability recognised by law. The abolition of untouchability has been compared to the abolition of slavery in America, but I think untouchability is a greater curse than slavery. Equality before the law of every man has also been guaranteed. But liberty has been a casualty in our Constitution. I think Sections 21 and 22 are the darkest blot on this Constitution. I could never have conceived that in the Constitution of free India, detention without trial will be permitted under the fundamental rights of the people. Having been convicted to total penal servitude for some 31 years in six trials on six different occasions during the Freedom struggle and having passed 10 years of my young life in prison dungeons and condemned cells in the days of our slavery under the British rule, both as a detenue and as a convict, I know the tortures which detention without trial means and I can never reconcile myself to it. An equally great blot on the Constitution are sections 358 and 359 which provide for the suspension of the Fundamental Rights and the methods of their enforcement during an emergency. This is, I think, a mockery of Fundamental Rights. I also regard Article 31 about property as the charter of capitalism in this country. I am sure, the representatives of the people elected on the basis of adult suffrage will change this Article which makes all socialisation of the means of production for the community impossible. The Directive Principles of State policy which have been so beautifully described in Part IV cannot be realised so long as Article 31 forms part of this Constitution. I would have wished that these Directive Principles had been incorporated as Fundamental Rights in the Constitution. I know it was not possible to

give effect to them from today but we could have said that at the end of 10 years the Directive Principles would automatically become Fundamental Rights. I had sought to achieve this by my amendment No. 559 in Volume I of the List of Amendments, with regard to the four rights of Economic freedom which are guaranteed to citizens in the Soviet Union. I wish within 10 years India should be in a position to guarantee these same fundamental rights to its citizens. By my amendment no.773, I had wished to provide for obligations of citizens. These obligations are contained in the Soviet Constitution. At present our constitution does not provide any such obligation and I think, this is one of its weaknesses.

Another Article on Fundamental Rights which I consider to be most unfair to the people is Article 28, where it has been said that no religious instruction shall be provided in any educational institution wholly maintained out of State Funds. I consider religious instruction, by which I mean instruction in true religion and its eternal principles, to be the most important part of a child's education. Ban on religious instructions in State schools may result in the Prohibition even of the teaching of books like the Gita and Ramayana in schools. I am sure peoples' representatives will not tolerate this ban and the article will soon have to be amended. This is an instance where secularity has gone too far.

The chapter on Directive Principles is, I think, the most hopeful chapter in the Constitution. I fondly hope that the principles enunciated in it as the ideals to be striven for in free India will be given effect to, and incorporated in the laws of the country at no distant date. Prohibition of cow slaughter throughout the country can by itself fire the imagination of the common man in India. I wish the ban on the slaughter of cow, which is the Kama Dhenu the mother of plenty, had been made absolute, and given a place in the Fundamental Rights.

With regard to the machinery of administration, I would have very much preferred the President of the Republic to be directly elected. I would have also liked single chamber legislatures. I have also opposed throughout every interference with the powers and the independence of the Supreme Court and the Auditor-General. I regard the Supreme Court as the guardian of the liberties of the people and the Auditor-General as the watchdog of the finances of the State, I have also opposed through the arbitrary powers of the President which means the Executive and I would have desired ultimate authority in such matters to vest in Parliament. I also do not like the powers given to the President to issue Ordinances. I only hope that when the Constitution is recast all these undemocratic features of the Constitution will be removed.

My criticism of the Constitution does not mean that I am blind to the achievements which we have made during these three years. I consider, this framing of the Constitution has by itself been the greatest single achievement of ours during the last three years. The barriers to the dawn of freedom which the British Government had erected by the artificial creation of the problem of minorities, the problem of Princes in the Indian States and the Heaven-born Civil Service, have all been wiped of as if by magic in the short space of the last 2 years. The delay in the framing of the constitution has enabled us to incorporate in this Constitution similar provisions for the administration of the 566 Indian States which have now been transformed and integrated into nine provinces and put on a par with the other units of the Union. This single achievement will be regarded as the greatest task ever accomplished in any country. Our beloved leader, Sardar Vallabhbhai Patel has earned the gratitude of the future generations by this momentous achievement through a bloodless revolution.

Here I cannot hide my disappointment at the attitude of Kashmir Government which has insisted on a separate constitution under Article 370. But Kashmir is not Sardar Patel's responsibility. Sardar Patel's second greatest achievement has been his solution of the problem of minorities in his capacity as Chairman of the Minorities Committee. I cannot here forget to mention the name of Shri H. C. Mookerjee, the great Indian Christian leader, who can be regarded as mainly responsible for the happy solution of the minorities problem. He infected all the minorities with his sturdy spirit of nationalism and the nation shall never forget the debt it owes to him. Another great achievement of the Constitution is the solution of the language problem. I am not at all happy at the compromise arrived at and I consider the period of 15 years fixed for the full fledged adoption of the Hindi language as the national language of the country far too long, but I do hope that in actual practice, the people will force the pace and the present love of English and everything English will soon become a thing of the past.

I am also sorry that the authorised version of the Constitution should not have been passed in the national language. I would have very much wished that the Hindi translation which you will send out under your authority as the certified translation were passed by this Assembly as the authoritative version of the Constitution. I am afraid when the supremacy of English from this country is gone, our countrymen will be put to difficulty in interpreting this English original of our Constitution. I am almost certain that very soon the newly elected representatives of the people will insist on passing the authoritative version of the Constitution in the national language.

Lastly Sir, I cannot forget to voice my bitter disappointment at our decision to maintain our link with the British Commonwealth of Nations. This I consider to be derogatory to our Sovereignty. I do not believe that the leopard can change its spots over-night, and I feel our association with the British Commonwealth can never be of any real use to us. Disastrous devaluation of our currency is the first dividend we have reaped from it. I hope very soon we shall have shaken off our slave mentality and this infatuation of everything British will then be a thing of the past, and we shall stand in the world as a completely independent nation holding our head high and ranking amongst the greatest nations of the world.

In the end, Sir, I wish to join in the tribute that many speakers have paid to your patience, skill and independence in guiding the deliberations of this august and historic Assembly. We have all felt that you have given us the fullest liberty to express our view-point on every aspect of the Constitution. We have also appreciated your sturdy independence in our rulings on the various points which arose during the discussions, from time to time. I cannot forget your ruling when you permitted me to move my amendment to the resolution for joining the Commonwealth. This was vehemently objected to by no less a person than the Prime Minister. But in a very serene and unconcerned manner, you gave the Ruling. "The Rules of the House allow it." To posterity and future generations, the example set by you will remain a beacon light for guidance and emulation. Sir, I thank you for the opportunity you have given me to express my views on this momentous occasion.

**The Honourable Rev. J. J. M. Nichols Roy** (Assam: General): Mr. President, Sir, I am very glad to come here to give my hearty support to the motion moved by Dr. Ambedkar that the Constitution as settled by the Assembly be passed. I consider that this Constitution is the best that could be produced in the present circumstances in India and in the world. Though there are defects no doubt, though we would have

liked to have had some provisions in another form, yet, Sir, I believe that this is the best that could be done under the present circumstances. I am glad, Sir, that I have had a part in the framing of this Constitution, though it may be in a very small way. The whole country has had a part in the framing of this Constitution either by way of criticism or by way of suggestions. The Draft Constitution was placed before the country over two years ago, and everyone of us had a chance either to criticise or to send suggestions, and everyone of us here in this Constitution Assembly has had a part in the framing of this Constitution. Therefore we can say that this is a Constitution for the whole country and by the whole country. While I am speaking about this Constitution to be a satisfactory constitution under the present circumstances of India, I cannot forget the conditions that existed at the time when we first assembled here about three years ago. At that time we were under the shadow of the British Cabinet Mission. We were given the award by the Cabinet Mission that India would form into Groups. There were three Groups to be formed. Assam was to be grouped with Bengal, the North West Frontier Province, the Punjab and Sind were to form into one group, and the other provinces of India were to be formed into another group. At that time we members from Assam were afraid that this group system would be forced upon us, but everybody else there seemed to be willing to come under that group system though in spite of their wish. We were laughed at for being against the group system. We felt that it would affect the very life of the people of Assam if we were grouped with Bengal. Our reasons were known to the members of this Assembly. We were afraid that we were going to lose. In reality our fight was for life and death. We felt that we could in no circumstances be grouped with Bengal. We were in such great difficulty at that time that the Premier of Assam, Mr. Gopinath Bardoloi, had to approach the Working Committee which practically declined to listen to Assam request, and he had to appeal to Mahatma Gandhi and ask him to save us from this calamity, and it was Mahatma Gandhi who saved us from that situation. We must not forget those days and the members of Assam were almost ridiculed by some people that we were only thinking of Assam, and that we were not thinking of the whole of India. We had to fight for our very life. I am glad to say that it was Mahatma Gandhi who saved us from that situation, when he said to Mr. Bardoloi thus, "if you do not want to be under this group, nobody on earth can force you to be in it." Think of what would have been the condition of India today, what would have been the Constitution we would be having today, if we had accepted that group system. India would have been a different country altogether. The powers that we possess now would have been different. My friend, Mr. Brajeshwar Prasad, has always pleaded for centralisation, but we would not have had the Constitution that we have now with quite an amount of centralisation but for the fact that we fought against that group system.. Whether our fight was good or bad, we had to fight in order to save ourselves from what we considered to be a bad way for the people of Assam and for the whole country. Sir, Assam is a frontier province. If that province had not been saved, if that province had gone into the hands of somebody who is not in favour of the whole of India, if Assam were in the hands of an adverse power, the whole of India would have gone too.

Now, Sir, we are very glad for the Constitution that we have today, a Constitution which will unify the whole of India. Though we have suffered a loss of a portion of the country, though by partition we have suffered a great deal, especially the border areas round Pakistan, yet though unwillingly we have had to choose the lesser evil. I consider that what we have today is the lesser evil than what we would have had if we had not fought against the Cabinet Mission plan. I was one of those who spoke in this House and also in the Party meetings that the Cabinet Mission plan was only a recommendation of a friendly Labour Government, and that we could go contrary to that recommendation, that we could pursue our own course and that we could declare

ourselves as the sovereign Constituent Assembly of India that could frame our own Constitution. I am glad that we have done that, that we have had the privilege of framing our own Constitution in our own way. Sir, that opposition has resulted in the division of India, has brought Assam especially under very great distress. Some parts of our province have had to suffer on account of the attitude of the Pakistan friends towards our areas. They are taking a very strong attitude in regard to commerce and trade between the border areas. We have had to suffer on account of that. We look to the Government of India to help these border areas which are today in great distress in view of the fact that the Pakistan people will not purchase the agricultural produce which come from the borders of Assam, which are hill districts, and also some parts of the plains districts, and this has caused a great deal of trouble to our people in these border areas. We are hoping that the Government of India would do something to relieve the people of this distress.

Now, Sir, I want to speak regarding the financial position, the relation between the States and the Central Government. We were of the opinion that there should be a definite percentage mentioned in the Constitution for the allotment of finance to the States especially the Producing States, from the revenues derived from the excise and export duties on tea on petrol and on jute by the Central Government, but we were not successful in our attempt in this direction. The States have been placed in the position that they are at the mercy of the Centre. The Centre shall now have to help the States, at least some of the States which are financially deficit, especially the provinces of Assam and Orissa. On account of this financial distribution, we in Assam shall be in great difficulty indeed. When the 26th of January comes, India will be declared a Sovereign Democratic Republic but what will be the condition of our poor province Assam? Unless the Central Government comes to our rescue it will be impossible for Assam to carry on. Even now, Sir, Assam is in deficit. By over 2 crores of rupees we shall be in deficit and unless the Central Government comes to our help and utilise the power which has been given to them by this Constitution, to come to the help of our Province which is in financial difficulty, it will be impossible for Assam to carry on and there is going to be a financial collapse altogether. It is very important, therefore, that the Government of India should attend to this immediately. I know that I am speaking to this Constituent Assembly which is making the Constitution, but not to the Parliament, but, Sir, there are many here who are Members of Parliament, who will no doubt be interested in the Province of Assam and in those provinces which are in financial distress. When we have made the Venture strong, we have made the President powerful to act in an emergency, it will not be to the credit of the Central Government or to India to leave this one Province to collapse. I trust, Sir, that Parliament as well as the Central Government will attend to this immediately; otherwise Assam will collapse financially. There must be some way by which our Province should be helped in these difficult times. I am speaking of this here because I feel distressed on account of this. Had it not been for the fight Assam had had at the commencement of this Assembly we would have not been able to get the Constitution as we have got today. After Assam had been the cause to turning the course of events in India, and this Constituent Assembly has had the freedom of making this Constitution as it is today, I believe this country will not leave Assam in a state of financial collapse. India must come to our rescue immediately.

The next point I wish to speak about, Sir, is regarding citizenship. In the matter of citizenship we have made man and woman equal. A man who marries an alien still holds the citizenship and a woman who may marry an alien also must have her own citizenship kept. There should be no difference at all. If there is no difference between man and woman in all other aspects, why should there be any distinction between

man and woman in respect of citizenship? Sir, Parliament is given the power to make laws regarding this; it must take this into consideration and must not allow a woman to be differentiated from a man in this matter. I believe that our women-in the whole of India would agree to this, and would rise up and fight for their right. There is a country which I know that does not make woman lose her citizenship by marrying an alien. India must not fall below such a standard.

**Shri Brajeshwar Prasad** (Bihar: General): What about the children?

**The Honourable Rev. J. J. M. Nichols Roy:** The Children will be citizens of that country where they are born.

Sir, we have had great difficulties to overcome in making this Constitution. We have had the problem of minorities and I am glad that this problem has been solved. I must congratulate our Christian leader. Dr. H. C. Mukerji for a move that there should be no reservation on the basis of religion. I also was in favour of this abolition of reservation. For Assam, Sir, I said there should be no separate constituency for the Christians and afterwards all the Christian representatives in this Constituent Assembly agreed to the same proposition, for we felt that no one should be differentiated from another on the basis of religion. Religion must not be the basis for making a difference between one man and another man. We are glad for that, that this reservation of seats for any community on the basis of religion has been abolished. The difficulties in regard to the Indian States have been wonderfully solved. The credit goes to the Ministry of States which has done wonders in this respect.

Now, Sir, I want to speak about another thing and this is regarding the Sixth Schedule. I myself am personally indebted to Mr. S. N. Mukerji, the Draftsman, Sir. B. N. Rau and Dr. Ambedkar for giving special attention to the drafting of this Sixth Schedule. I am also indebted to the members of the Drafting Committee who gave us a chance to speak before them. Also I am indebted to our own Premier of Assam who has had a very sympathetic feeling towards the Hill-people of Assam. The Sixth Schedule concerns the hill-districts of Assam in which the hill men in Assam live by themselves in their own territories, who have their own language and their culture and the Constituent Assembly ha rightly agreed to the recommendation of the Sub-Committee of the Advisory Committee in which my honourable Friend, Mr. A. V. Thakkar also was a member. The Sub-Committee agreed that there should be councils for these different districts in order to enable the people who live in those areas to develop themselves according to their genius and culture. I am glad also. Sir, that the Khasi States have been incorporated in the Sixth Schedule, for that will enable the same people of the district of Khasi-Jaintia Hills and the Khasi States to have one administration. I am very thankful to all those who have helped us in this matter. I must speak a word in regard to the criticism of my honourable Friend. Mr. Chaliha who has twice in this House criticised the powers given to the District Councils under the Sixth Schedule. I think he is mistaken in doing so. If he thinks that the people who live in the hill districts of Assam are not capable of running their administration and utilising the power given to them by the provisions in the Sixth Schedule, he should come and help them, as a brother to help his own brothers in the Hill areas and in this way contribute his intelligence to them in order to enable them to carry on according to their own ways, and that is the thing that will give them satisfaction and help them to remain peaceful. The people of the Hill areas are afraid of exploitation and that is the reason why they demand that there should be District Councils by which they can make their own laws to some extent and also develop themselves according to their

own genius and culture. I am very glad that there are many Members here who have realised the desirability of such an administration and I am very thankful to the Constituent Assembly for not opposing this Sixth Schedule which contains very good provisions for the people of these Hill areas. I am sure if those friends who live in Assam who are interested in the progress of these Hill areas which are really the frontiers of India, will help them, there will be no difficulty in having an administration there which will be very good to the people and might in some way be a model for panchayats in other parts of India. There are today, Sir, financial difficulties and distress in these areas which are in the frontiers of India. The Government of India's help is immediately necessary.

Just one more word before I sit down and that is with regard to article 48 in the Directive Principles. Here is a provision regarding the prohibition of cow slaughter. I was wondering whether this provision would mean the prohibition of cow slaughter at all times and of every kind of cows and cattle. I thought in my own mind that that was not the meaning. If that be the meaning of this provision which I do not think it is, it would place a terrible burden on the State. Think of the millions of cows that will float round the country without any fodder, and sickly, and the amount of money that will be spent on them and the terrible burden it would be on any country. Hundreds of them will die in the fields without being taken care of. It will not be economic at all for any State to prevent the slaughter of cows under all circumstances. I consider that this article would only prevent the slaughter of cows which are milch cows and draught cattle, which will be of benefit to people. If it be otherwise, I consider that that would be a blot in this Constitution and an oppression also to some of the people, especially to the Hill people of Assam, who eat bee and who keep cattle for the sake of eating. It would also be an oppression to the people who slaughter cows in sacrifices like the Moslems: even the Hindu Gurkhas of Assam sacrifice buffaloes at the time of the Durga Puja. There would be a great deal of disturbance and unrest if this article would be interpreted to mean that all cattle should be prevented from being slaughtered at all times and under all circumstances. This would act against the fundamental rights. I think that this is not the meaning of this article.

I thank you, Sir, and all the honourable members who have contributed to the making of this Constitution and I congratulate you, Sir, for the way in which you have conducted this Assembly. I also congratulate the Drafting Committee for the laborious work that they have done and also all the officers who have had a share in its drafting and the taking down of speeches of members. I was very gladly surprised to see the efficiency of the reporters in taking down the speeches. They have done very well indeed. I thank you, Sir. May God's blessings be upon our country in working this Constitution.

**Dr. Raghu Vira** (C. P. & Berar: General): *[Mr. President, we the people of this country have secured our independence and freedom - We are going to have a Republic of our own as also a Democratic State. We have been assured that during our present life we shall be provided with economic prosperity and social progress. But, Sir, a question yet remains still unsolved. I do not find in this Constitution any reference to the position of our ancient culture. Whenever any nation, such as British in India sought to consolidate their rule by striking deeper the roots of their domination into the heart of the subject nation, struck at the very cultural bonds of that nation and thereby enfeebled it altogether. They take three steps to reach this objective-an attach on the language, an attack on the religion and an attack on the historic ideals of the subject nation. This was what England also did with us. It brought

our religion into contempt. But I need not go here into the question of how it was done. But it is sufficient to say that they gave no place to religion in the sphere of the State. Moreover this significant word of the Sanskrit language was equated by them the Englishmen and their camp bearers to religion which is much narrower and restricted than the former. The fact is that *Dharma* never meant and can never mean religion. I think the word Panthe may properly be translated as Religion but I do not think that Religion can ever be taken to connote Dharma. But the Englishmen made a deliberate use of this for their own ulterior purposes.

The Englishmen imposed their language on us in place of our language. In order that our language be restored its due place and the constitution be framed in it we felt necessary that all the things which the English people had deliberately destroyed in order to consolidate their rule here should be restored, so that our country may recover its soul again. But I say with regret that the word 'Dharma' does not find any mention in this Constitution. When I raised this point with a friend here he replied that the Constitution was a law and it could contain only those matters which could be subjects of interpretation in law courts. But, Sir, my submission is that this country is not eager to have new laws alone, it wants earnestly to rise to higher planes than that of the laws.

There was a time, Sir, when our country had glorious place of its own and had a Dharma of its own. At that time Sir, we were high in the scale of nations- as a matter of fact we were the teachers of the world. But the Englishmen reduced that glory of ours to dust and ashes. The Englishmen, specially the English members of the Indian Civil Service wrote histories of India in which they shoed our countrymen to have been primitive and insignificant, to have always been victims of division and dissension and to have always been defeated in battle. It was all the more necessary, that we should have made some effort to provide avenues for the expression and development of genius in the sphere of culture. But this has not been done. I think, Sir, that it was absolutely necessary for us to have put this glorious word in our Preamble. We have the phrase the glorious triplet of words-Liberty, Equality and Fraternity from the political slogans of the French Revolution, but it is my submission, Sir, that these words have or never had a revolutionary appeal in this country, and so far I can judge these words would not be able to promote a revolution in this country. I do not suggest that we should not take anything from other countries. We can borrow from other countries but only those things which are likely to prove of use for our country. But when we could give a place to these three words in our Constitution, could we not have given a place also to some of the ancient words of our own country. Could we not for example use the expression Ram Rajiya in this Constitution-an expression which even our children in villages understand and appreciate. Again we have in our literature the expression 'Matsa Nyaya' which suggests that the bigger fish should not swallow a smaller fish. It was a duty laid on the King that the rich should not be permitted to exploit the poor-that is to say there should not be exploitation of the people, nor the exploitation of the poor by the rich nor even the exploitation of the weak by the strong. But this significant word Matsya Nyaya-this ancient word which has come down to us since thousand of years-which connotes all these has not found a place in our Constituion. I may refer here to a suggestion which I made during the course of my conversation with the President of the League of Nations which I visited to in the year 1931. I told him that the motto of the League of Nations should be *'Ma Gradhat'* (do not covet) which is to be found in the Ishopanished and the Yajur-Veda. But such expressions and others which stand for ideals regarding the conduct and spiritual upliftment of men and which satisfy their physical and spiritual needs do not find and place in this Constitution. This country was the originator of the Republican

system of government. Again it was this country which spread this system to the other parts of the world. Besides it had the biggest democratic organisation which was-engaged in a system propagation of a new ideal. Its principal mottos were 'Dharma Sharnam Gacchaimi' (I submit to the commands of Dharma) and 'Sangham Sharnam Gachami' (I surrender myself to the Samgha or Order). These in effect that I dedicate myself to my duty and that I shall not and cannot run away from it. I ask 'should not such a motto have been included in the Constitution of this country?" It is my submission that this motto is to be found in our country from the Rigvedic time down to the present age. I feel that we have suffered from the malady of division and dissensions-the malady of internecine conflicts. I think that it is regrettable that in view of this malady the ideal of San Gachaodhwam 'Sam Baddivam San Vo Manausi Jantam' march together bound together are consciousness of *Jantam* has not been placed before us here. Another ideals we find in the assertion of King Ashwapati. He said.

*namaste no janpade nakadaryo namadyapah nana hitagni no vidwanah*

which means that there is not thief or robber, no coward, and no drunkard nor any ignorant person in my State. But these ideals do not find any place in our Constitution. I therefore ask you, Sir, whether the mere fact that a statement is made in Hindi or in our language robes it of dignity and gravity, when we say in Hindi that two plus two are equal to four we lose their mathematical significance and we can retain the mathematical significance by expressing this idea in English. If not I fail to see why we could not have expressed in our language the ideals which we have put in this constitution in terms of English language, of an alien history and a foreign syntax.

There was another ideal, Sir, which was also followed in our country. It is contained in the verse which says:

*karshayanang bhaved dandeyo yatranyah prakrito janah*
*tatra shriman bhaved dandaya sahasramiti dharana*

It meant that where a common person could be fined for an offence one hundred Rupees a king or a rich person should be fined for the same offence one thousand Rupees. The offence committed by a rich man was thus decided by a fine which may be a hundred times or even one thousand times than that awarded on a common man. But I do not find any such thing in this Constitution. If the facts I place before you from the history of our country are not to your tastes you may not accept them. But I do ask that if Sir B. N. Rau our constitutional adviser could go to Ireland, Switzerland or America to find out how the people of those countries are running their governmental system, could you not find a single person in this who was well read in the political lore of this country who could have told you that this country has also something to contribute, that there was a political philosophy in this country which had permeated the entire being of the people of this country and which could be used beneficially in preparing a constitution for India. It is a matter of deep regret to me that this aspect of thought was not considered at all by us.

My time is running short and I would therefore conclude my speech after making

three points. I am very glad that in the matter of language which always is the repository of civilisation a decision has been taken in favour of Hindi. All the friends here and all the provinces have voted for its adoption. I am very glad that some one of our languages has been adopted as the official language of the Union. I, however, feel sorry that even in accepting it, it has been provided that it will become the official language only after fifteen years. It is not only I who had felt sorry for this but also several other friends also have felt the same. My sorrow and humiliation, however, folded hundred times when I come to have a talk with a few foreign ambassadors and diplomatic representatives in our country. They twitted me by remarking that for many years the Imperial sway of English will continue in your country. I would appeal, therefore, friends here not to forget that Englishmen are still having their hold in this country. I know that not a single diplomatic representative of any other country liked this decision of ours for they know well the deep inter-relationship between language and Politics. The decision with regard to nationalities in Europe is always on the basis of language, and therefore they are well aware of the political significance of a language in the life of a country. When you give a place to English in your country you come logically to be bound up with the English People. Some French Friends, who came to this country, often asked my why there was no arrangement for teaching French or Spanish in the Universities of this country. I am sure that if there had been arrangement for the teaching of French and Russian in our Universities that would have given considerable satisfaction to our French and Russian friends because then they could have been sure that you would study their literature and value their friendship. I, therefore submit Sir, that it has not been desirable for us to have retained English for another fifteen years. The fact is that Hindi had been kept so far away out of fear that it may not enter the seat of government. As against this English has been given a position in our Constitution which it did not have even during the British regime so much that not only the rule to be made by the Parliament would be in English but even a rule made by the Delhi Electric power Authority to the effect that their tram service would function from 5 A.M. to 11 P.M. that would also have to be made in English under the provisions of this Constitution. This injustice to Hindi was not considered sufficient in itself. Even the alien form of numerals has been imposed on it. The fact is that we are being treated even worse than children. We are told that the form used that the form used in Roman is the international form of the Indian numerals. This is in fact adding insult to injury. I am sure that if Gandhiji had been alive he would never have accepted the retention of English by a provision in our Constitution for another fifteen years.

Besides I find that real masters of this country still continue to be the Bureaucrats who should as a matter of policy be its servants only. Nor have we made any effort to eliminate litigation from this country. I am afraid that in the next fifteen years the roots of English influence in this country would have become twice as strong as the English people were able to make in their rule extending over a period of hundred and fifty years. The effect of all this is that the reins of power would remain in the hands of the English knowing classes. I am however hoping that after elections on the basis of adult franchise many people who do not know English would be returned to the Parliament and they would certainly dethrone English from its ruling position. I am convinced that that boycott of English is absolutely necessary for the progress of the country.

I would also like to say a few words about the boundaries of India. We have absorbed and assimilated the Indian States of the country. But we had permitted the division of our country and I do not find any limit in this Constitution that this country would become one again. Those who have been students of the culture and history of

India know fully well that the natural boundaries of our country were on the Vakshu which in greek is termed Dkhum and which the Englishmen termed as the Oxus. But that boundary has now received back to the Ravi. Even in the days of Moghuls Afghanistan was a part of India. Besides a big slice has been cut from our heart-I refer to East Bengal being cut off from the midst of Bengal and Assam. I ask you, Sir, could we not strive to unite these again. I do not know how this unity would be brought about-whether by means of war or by peaceful means. Future will reveal the means to be adopted. But I am afraid this is not an objective today. We do not dream that India that is now partitioned and fragmented would become one again, and that it shall not be further divided.

I feel that our indifference to our duty to the nation has been much greater in the matter of Kashmir. The Maharaja of Kashmir offered to accede to India. The people of Kashmir also desire to accede to India. More particularly the people of Jammu Province of that state want to accede to India unconditionally. Again the people of Ladakh desire that they should be permitted to accede to India irrespective of the decision taken with regard to Kashmir. But in spite of all this we find that in this Constitution our Parliament still have no power to make any laws for that State. Our soldiers went to Kashmir to drive the invaders from there. They have shed their blood there and have undergone untold sufferings and hardships. Even then the flag of India does not fly in Kashmir. Side by side with it and their flag has to be kept flying there. But I fail to see the reason for flying another flag there. It is a matter of deep regret to me that even after having spent so much money and shed so much blood we have not yet succeeded in making Kashmir our own. Even today in our politics Englishmen continue to wield great influence. We have no doubt sent the Englishmen away from our country but they continue to rule over our minds even now. I am reminded Sir, of the famous words of Lord Macaulay which he had recorded when the education began to be imparted in English. He had said that as a result of western education a race of persons would arise in India who would be English in every thing except their skin. Alas the proof of the truth of the prophecy is before our eyes today. It is only foreign ideals that have been incorporated in this Constitution. It has nothing Indian about it. I however, hope that some years hence this Constitution would not remain in the form in which it has been passed and that it will come to acquire a genuine Indian character, and would fulfil the basic and fundamental requirements of the people of this country.]*

**Shrimati Renuka Ray** (West Bengal: General): Mr. President, Sir, we are at last reaching the final stages of our Constitution-making, in three years. Three years, naturally, may appear to be a long time to frame a Constitution. But it must be borne in mind that since this Constituent Assembly first came into existence, swift-riding changes came in our country. With the partition of the country, the territorial orbit of the constitution makers was circumscribed, while with the transfer of power, this House became a Sovereign Body, drawing up the constitution of a free country, and acting also in the dual role of Parliament. Thus the first seven months of its labour were largely wasted as changes had to be made. Much of the time of the Constituent Assembly was also spent in dealing with emergency situations and the day to day problems of Parliament. Again, Sir, with the integration of the Indian States, even changes which were not contemplated a year ago had to be made. Sir, when this country was partitioned and provinces like my own province and the Punjab were dismembered, those who were not our friends thought and expected that the further Balkanisation of India was imminent. Who could have thought at that time, which of us conceived, that in two short years, all the Indian States, including Hyderabad, would be come a composite parts of the co-ordinated whole, and that for the States

and the Provinces in a common measure, we would be drawing up a constitution for the entire Indian Union? Sir, living as we do in close proximity to these events that have taken place, it is difficult for us to realise the full significance of the bloodless revolution that has taken place and which stands as an eloquent testimony to the genius of Sardar Patel. I feel that it is only posterity that can given due appreciation to these events.

Sir, turning now to the Constitution, I must say that it is a very voluminous constitution that we have drawn up. It is perhaps the most voluminous in the world today. I was one of those who had believed that it would have been better not to have entered into such a welter of details, but to have drawn up a constitution on more general lines. Sir, a written constitution, however, elastic, must, to a very large extent, be a rigid constitution. It would have been better, I think, to have eliminated as far as possible rigidity, by not going into too many details. But the argument that held with this house was that we were concerned with numerous complex problems, that living conditions in this country differed so much and so widely that much detail was necessary. But for the life of me, I cannot understand why we had to go to such details as to put in the salaries of high dignitaries of the State, like the President and the salaries of Judges, in the Constitution. Why should the Constitution thus usurp what are really the normal duties of Parliament? Apart from any question of the amounts of salaries that have been put in, I should like to point out that in the modern world, where money is always changing in value, a sum of Rs. 5,000 today may tomorrow be worth only 500 or 5. So in the Constitution what purpose can be served by prescribing the exact amount of the salaries?

Sir, turning to the Constitution as it stands, in broad outline, though there may be many flaws, and one very major transgression against the very objectives of our Preamble, I feel on the whole this Constitution can fulfil the objectives for which we have drawn it up.

It has after all been drawn up by men and women who represent this country but who belong to very diverse cultures, different outlooks, with varying ideas on many subjects and thus the constitution had to be drawn up in common agreement and as a matter of compromise: and therefore it may be said-though each of us individually may have much to say on a great many of the clauses-on the whole we have been able to achieve a measure of common agreement.

So far as the fundamental rights of this Constitution are concerned, I think in the case of the majority of them, if they are properly explained to our people there is nothing that will not win their approbation and the approval of all. I should like in particular to refer to one fundamental right which makes a tremendous difference and really does bring in equality: "The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.....". This right is a justiciable fundamental right today enforceable through courts of law, and if there are any laws, social and which remain as a contradiction to this principle of a justiciable right, those laws will have to be overridden.

It is very unfortunate that although the political rights are in these fundamental principles, the economic rights of citizens have not been able to be put in as justiciable rights today. Conditions in our country are such that it has not been possible for us at the present moment to have them as fundamental rights which are enforceable through courts of law. They have been put in as, directives of State policy. Sir, it is

also all the more unfortunate that among these directives of State policy are some to the most vital rights of citizens and along with them are lumped many matters of much lesser moment. At the same time, I do not think there is anything to despair because it is possible for the parliament and the Government of the future to bring these rights which are now directives as economic rights, and as fundamental right, in the near future.

Sir, the content of democracy is not political democracy alone, and although it is quite true that we have laid down a Constitution which with adult suffrage has brought political democracy to this country, it is equally true that this constitution has not been able to provide as effectively as possible for the economic rights of the citizens, although there is no bar in attaining them.

I said a little while ago, that there is one great flaw, one great transgression, in the Fundamental Rights which is a blot on this very Constitution. While every other economic right is in directives of States policy, the right to hold and acquire private property alone remains as the fundamental justiciable right. Not only is it there in article 13(f) but it is further entrenched because of article 31 of the Fundamental Rights. It is entrenched in such a manner that the Parliament of the day has not the final authority to even determine the amount and value of the compensation that has to be paid when property is acquired in the national interest.

Sir, the very exemptions that have been made in article 31 show how firmly these rights are entrenched. These exemptions are in regard to zamindari property in certain provinces and even for these there is a time-limit. So that in the case of all other forms of property as well as in the case of zamindari property which cannot be legislated for in the prescribed time-limit, parliament will have little voice. There was a great deal of confusion on this matter, I feel. There were many who seemed to think that if it was parliament who had the final right to lay down the manner of compensation it may so happen that no compensation at all would be paid. Sir, I am sure you will agree with me, and the House also will agree with me, that no constitutional authority could ever have laid down any such principles in which no compensation whatsoever was paid. Therefore, I consider that there was a great confusion of issues when this point was raised and I feel, and I would humbly submit, that many of us did not quite realize what we were doing when we allowed this clause in the present form to be included in the Constitution.

Posterity may well say of us that here, we did try to lay down the economic structure of future times, for all time, perhaps there is only one compensation, one consolation that we can by amendment of the Constitution change this, and I am sure Sir, that very shortly it will be necessary to bring in such an amendment.

After all a Constitution is but a paper document. It is the way in which it is worked that will determine its success or its failure. We are the framers of this Constitution and in our humble way, as a compromise amongst so many, we have done the best that we could have perhaps, although we must consider that there are many flaws left. But it is the architects who will actually implement this Constitution, who will give it life and breath, who will really determine what manner it will be worked. It will be to them to make of it something worthy and worthwhile and also it may be that they can mar it, distort it, maim it and make those very fundamental principles and rights which are meant for the security of citizens be used in such a way as to bring about the detriment of the citizen. It is really the architects of this generation and the next we

are going to put this Constitution into working, on whom will depend a great deal, its success or its failure. It is not for us to say whether we have come our job well or badly. It is only posterity that can really judge of us. There will be, as I have said, need for amendments which some of us feel must come in the near future. In the light of the experience of the working of this Constitution, there will be need for many other adaptations to bring it into conformity with and adapted to the needs of the genius of our race.

Sir, before I conclude, I should like to join with those who have expressed their gratitude to you for the fortitude and the patience and the sweet tolerance that you have shown to the Members of this House.

I would also like to express my thanks to the able members of the Drafting Committee and its Chairman, and particularly I should like to say a word about Mr. T. T. Krishnamachari who has put in as much effort and as much energy as this galaxy of brilliant lawyers amongst whom he has on more than one occasion brought to bear a humanising touch. Our deep gratitude is also due to Sir. B. N. Rau, the Constitutional Adviser who without prejudice, explained legal intricacies to us an made them clear.

Sir, finally I would like to say that may it be given to us to be able to work this Constitution in this generation and in the generations to come, in such a manner, that the lofty ideas that the Father of our Nation laid down, may indeed become a living reality for the people of this land. May Gandhian socialism be a practical contribution of this country to the world of man.

**The Honourable Shri K. Santhanam** (Madras: General): Mr. President, Sir, on many an occasion during the last three years I was feeling impatient at the slow process of our constitution-making. I was apprehensive lest something should happen to delay indefinitely our Constitution. It would have been an irretrievable disaster. We all know what happened in China when constitution-making was unduly delayed and when finally attempts were made to implement that Constitution it broke down. It is, therefore, fortunate that we have concluded our labours.

Looking back, I feel that these three years have not been too long. In fact, it has enabled us to draft a better constitution than it would have been possible if we were able to finish it a year ago. Many criticisms have been made about this Constitution. My honourable Friend Mr. Naziruddin Ahmad has complained about drafting. But reading it as a whole, if we apply the criteria of clarity and precision, I think we have made a very good constitution indeed.

Sir, my honourable Friend Mr. Pataskar, with some justice, criticised the inroads into Provincial Autonomy that have been made. I agree that in some matters unnecessary provisions have been introduced, making it appear as if the Provincial Autonomy under this Constitution is much less than that even under the Government of India Act of 1935. But, again, I would suggest that we should see things in a proper perspective. I do not think that the quantum of Provincial Autonomy under this Constitution has been diminished and this quantum is justiciable. It is protected by the Constitution and the courts have been even strengthened in the process. In fact, the drifting of power from the original draft to the final draft has been from the Executive to Parliament and from Parliament to the Judiciary. I am not sure that it has been wise, but that has been the drift and as a result we have got a Constitution which is federal in character and the federalism of it is so well protected by the Judiciary that it

cannot be broken except by a change of the Constitution. Therefore, I do not think that Provincial Autonomy as such has suffered materially.

Sir, the one great thing that we should appreciate in our Constitution and which forms its bedrock is that the entire Constitution rests upon the will of the people of India as a whole. It is the Union aspect that is very important in the light of our past history. Sir, if we made the residuary powers rest with the provinces, then it may mean that the sovereignty rests more on sections of the Indian people, not on the Indian people as a whole. Today it is the Indian people as a whole whose will has been embodied in this Constitution.

In this connection, we have to realise that the Constitution, so far as the Indian States are concerned does not rest upon the Covenants. The Covenants have value only to the extent they have been embodied or recognised in the Constitution. The integrity of India does not depend upon the covenants which have been agreed to by the States Ministry with the other States. They were only preliminaries to persuade them to come into the Constituent Assembly. When once the Constitution comes into existence, all these covenants derive their authority only from the Constitution. It is the Constitution that is the supreme and fundamental law. There is no provision whatsoever for any kind of severance of any part of India as defined in the Schedule except through the process of amending the Constitution itself. Therefore, only the people of India as a whole can allow any part of India which has been included in the Schedule to go out of India. Without that, no part by its own will can ask for any kind of severance or separation. That is a great thing.

**Shri K. Hanumanthaiya** (Mysore State): Nobody has claimed that right.

**The Honourable Shri K. Santhanam:** I do not want the representatives of Indian States to claim any right as accruing from the covenants.

Sir, I was rather surprised to find my honourable Friend Seth Damodar Swarup complaining that this Constitution will not be accepted by the people of India, and that it does not give them what they want. I would like to know what he wants. This Constitution enables the people of India to do anything they like. If I understand him correctly he complains that this Constitution prevents the people of India from doing something. It does not impose upon the people of India anything. There is nothing in this Constitution which prevents the people of India from enforcing a fully socialist republic. But he wants that we should prevent the people of India from exercising their free will be imposing, upon them something from outside. Sir, this Constitution is meant to make the will of the people prevail and there is nothing in this Constitution which will in any way prevent that.

Sir, I do not want to go into the merits of the Constitution. I think we are assured of the fullest democracy that my Constitution can give. How that democracy will work, to what extent it will be utilised to convert it into not only political democracy, but into industrial democracy, into social democracy, that depends upon those who will work that Constitution; upon the general will of the people of India and the leaders who will be produced by the people of India. No Constitution can provide such things. All that a Constitution can provide is that the will of the people shall prevail and I think this Constitution has done it to the fullest extent. Therefore, Sir, it is necessary that, instead of indulging in carping criticism, we should from now develop the idea of the sanctity of this Constitution. It is only by making the people believe that through this

Constitution they can achieve all that they want that it will become sacred, that no one, neither military power nor any other power will dare to break the Constitution through force or fraud. That is the great thing that is necessary. The imperfections of the Constitution can be amended in course of time by suitable amendments. I think the amendments which will be required will be very few. No amendments may be required at all for many decades to come. The present Constitution gives as many and as full powers as the people are likely to require in the near future. Therefore, I would like that steps are taken to popularise the Constitution. I would like to make a suggestion, Sir, that every Member of this Assembly should get your autographed copy of the Constitution which he may hand over as heirloom to posterity.

**Shri R. K. Sidhva:** That is not an original suggestion: the President has already made an announcement to that effect.

**Mr. President:** To what announcement does Mr. Sidhva refer?

**Shri R. K. Sidhva:** Sir, the announcement to the effect that the Constitution after completion will be presented to the Members with their autographed signatures.

**Mr. President:** I did not make any such announcement; but that might happen.

**The Honourable Shri K. Santhanam:** I have the suggestion to make that a properly bound Constitution autographed by the President should be given to each Member to be kept as a heirloom for future generations. I would also suggest that such copies should be sent to all public institutions. The Universities should also be asked to make the Constitution a compulsory subject for some decades to come and every graduate should pass a test in this Constitution so that the provisions of the Constitution may become universally familiar.

Sir, I would also suggest that as you have already promised early elections should be held and the Constitution should be fully implemented as soon as possible. If there is much delay between the commencement of the Constitution and its full implementation by Parliament, the value of the Constitution may be diminished and it may not gather sufficient influence with the people. Therefore, it is necessary that the elections should be held as early as possible-early in 1951 at the latest. I hope this will be done.

Finally, the work of the Drafting Committee is, to my mind, beyond all praise. Especially during the last few months they have been so hurried, so much pressed for time that it is remarkable how they did their work. I should also mention that it was not only on the open floor of the House that the Constitution mention that it was not only on the open floor of the House that the Constitution has been scrutinised, but much more severely within the Congress Party meetings. I do not want to mention names, but a group of people in the Party took the greatest pains to scruitinise every clause and very article and a great deal of improvement was made in those meetings. But for their scrutiny the Constitution would not have been so good as it is. On the whole we have done a good job and hope this Constitution will go down to future generations as the greatest work done in the present generation.

**Mr. President:** Before we rise, I would like to know from the House if they would like to sit in the afternoon .(*Cries of "no, Sir", and "One hour in the afternoon"*). The suggestion had been to me that, today being Saturday, Members have other

engagements and therefore we may not meet in the afternoon. If that meets the wishes of the House, I have no objection. Do you not wish to meet today at all?

**Several Honourable Members:** No afternoon session, Sir.

**Mr. President:** It seems Members do not want to have a session in the afternoon. If that is the wish of the House- I think the majority are of that view as I can gather now -then we shall meet at 10 A.M. on Monday.

The Assembly then adjourned till 10 of the Clock on Monday the 21st November, 1949.

---

*[Translation of Hindustani speech.]*

# CONSTITUENT ASSEMBLY DEBATES (PROCEEDINGS) - VOLUME XI

**Monday, the21st November 1949**

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

---

DRAFT CONSTITUTION--(Contd.)

**Mr. President:** We shall now resume further discussion of the Constitution. Sardar Bhopinder SinghMan may speak.

**Shri H.V. Kamath:** (C.P. & Berar: General): Sir, before we proceed with the discussion of the Constitution, permit me to invite your attention to the fact that I have given notice of a motion that the Assembly do take into consideration the question of a National Anthem for India. Will you be so good as to tell the House whether the House will debate this question and, if so, when?

**Mr. President:** We held a meeting of the Steering Committee on Saturday last, but unfortunately this motion was not before us at the time. So we did not consult the Steering Committee on this question I shall again call a meeting of the Steering Committee for considering this matter.

**Shri H.V. Kamath:** Will this question be taken up in this session or in the January Session?

**Mr. President:** I shall have to place it before the Steering Committee before I could say when we can have a discussion of it in the Assembly.

**Sardar Bhopinder Singh Man** (East Punjab: Sikh): Sir, the various aspects of this Constitution, so far as the general trends are concerned, have already been discussed by the previous speakers. I do not think I will be able to improve upon their comments. In a general way, however, I would refer to the over-concentration of power at the Central which has almost reduced the States and the different constituent units to mere glorified corporations. I feel, Sir, that it will leave very little scope for the different constituent units to develop. Their progress is bound to be very restricted, and the very essential things for the proper growth of democracy which are actually to be found from below will not have a fair play; but the argument has been advanced that in the present state of affairs when we are a new State, probably it is essential that we should have more power at the Centre. They very nature of this argument leads us to conclude that this is a just temporary phase and I feel that eventually we shall have to bring in amendments, let me hope, very soon, which will leave more autonomy, more power, to the constituent units. In this respect, I feel that Kashmir has escaped with a very enviable position in the Union and I feel jealous of it.

Another aspect to which certain speakers have referred, and they have actually objected to it is that prohibition has not been incorporated as an immediate task before the country. I am glad, Sir, that it has only been incorporated as a policy to be pursued by the different units and as the realities of the situation demand. Many of the far-reaching reforms, constructive projects, are being held up simply because we are short of funds. There is the question of inflation too, and I feel that when we talk of prohibition and about its being brought about immediately in the country, I feel it is just a mental luxury that we are going to have. Otherwise, so far as practical things go, I am afraid that many of my friends who are bent upon killing recreation and pleasure wherever possible shall have to wait for some time. I am reminded that in the Punjab this prohibition as elsewhere has to be enforced by officers who do not themselves believe in prohibition. In the villages, when they go to check illicit distillation, the orders were to destroy the jars used for the distillation of illicit liquor, but the village policy who went there, instead of destroying the jars, drank the whole of the liquor, and then questioned, they said that the order given to them was "that the people who distilled the liquor should be dispossessed of it and we have done it. Instead of spilling such a nice thing in the dust, we made a better use of it and we drank the whole of it." When such is

the case, I am afraid that we must first bring about an atmosphere of acceptance of prohibition, and then only we should try this wholesale prohibition.

Thirdly, my main and primary object in coming forward to speak is that I am surprised that not many speakers who have proceeded me have referred to the minorities aspect of this Constitution, except perhaps for one speaker, Rev. Nichols-Roy, who said that he was very glad that the concessions given to the minorities have been done away with. I am reminded of how Rev. Nichols-Roy day after day was fighting for tribal concessions, tribal safeguards, and got these tribal safeguards. I may remind him that tribal feeling is as good are as bad as any communal feeling and, when he has escaped with those nice things, to come and advise us that communal feeling is bad is just out of place. When we started to frame this Constitution, there was anxiety in the minds of the framers of this Constitution to give full satisfaction to the minorities. As the days passed by, the atmosphere was cleared, trust was given and received, and confidence was reposed in each other and many knotty problems were solved by mutual consent. Now, Sir, the impression has gone round and I can say this so far as my own community is concerned, that towards the latter days of the framing of this Constitution, the minority question which was such a sacred trust with the majority, was brushed aside and lightly brushed aside and that without the consent and wishes of the representatives of the minority communities. I feel that is a deviation from the earlier trends which evinced anxiety to give full satisfaction to the different minority groups.

Sir, as the House is constituted today, we are expected to give the reactions of the various sections that we represent. The fact remains that we here represent different sectional and communal interests. I will be failing in my duty if I do not give you the reactions of my own community, the Sikhs of the East Punjab, so far as this Constitution goes. Their feeling is that they cannot give unstinted support or full approval to this Constitution. They remember how in the beginning, so far as the minorities were concerned, it was agreed originally that all the minority groups will be given due representation in the Service Compatible with the Centre and in the provinces to watch the working of the Constitution so far as these minorities are concerned. They feel that towards the latter days of the framing of this Constitution, that attitude was changed and different articles were incorporated in the Constitution brushing aside all minorities except the Scheduled Castes. We feel that this change was very lightly brought about in spite of the advice of Sardar Patel who said in the Draft Report that the decisions arrived at should not be lightly changed. In spite of that, it was lightly changed - I can say at least so far as the Sikhs are concerned-without their wish.

We are quite emphatic about it that this is a deviation and contrary to the earlier practice that whenever any change was sought to be made, the representatives of the particular community concerned were consulted on that. In this case, however, it was not done. Everyday, Sir, we are receiving telegrams, resolutions of protest in the Sikh Press which has been hotly agitated over this. This has left a bitter taste and they are surprised as to how decisions earlier arrived at were changed towards the closing days of this Constitution making. Much has been said that the Sikh Press which has been hotly agitated over this. This has left a bitter with the Hindu Scheduled Classes and they will be treated on a part with the other Depressed Classes; but Sir, if it had been done in the spirit of conceding a just demand and not in the spirit of sacrifice, or concessions, much of the bickering would have been avoided. We find, Sir, this very decision too that to treat the Sikh Scheduled Classes as well as the Hindu Scheduled Classes has been diluted in such orders that have been issued and the Sikh Scheduled Classes will not be treated alike or on a part or will not be included in the Schedule in the Patiala State or anywhere else in the whole of India. Sir, it passes my imagination how a Sikh Depressed Class who is considered to be economically suppressed and submerged is not to be considered so because he was only a few miles away in Patiala while he is considered to be quite backward only in East Punjab. So far as the United Provinces are concerned, I am quite sure that the Sikh Depressed Classes invariably come from the lowest strata of society and there they are not to be given any concessions which are to be given to their counterparts, I mean their Hindu brethren. Such dilution have spoiled the grace of this concession too. Now the power has been given to the President to include all the depressed classes in the Scheduled Class. At this time of the day, Sir, I request and repeat my request that the suppressed, backward Sikh scheduled Classes should be given the same concessions, should be treated alike everywhere in the whole of India, equal to their counterparts.

I might explain a situation. It has not been explained so often and sometimes there seems to be some misunderstanding. Because of the social and economic close-knit ties in East Punjab and a sort of spiritual affinity between the two, invariably one brother is a Hindu Scheduled Caste and the other brother grows long hairs and he is a Sikh, but so far as the job or profession is concerned, it is absolutely similar. Both are treated alike. He may be a Sikh, but he is not allowed to draw water out of the wells. His real brother, born of the same parents, one is a Hindu and the other is a Sikh; he is mending the shoes and the other is also mending the shoes; the one is cleaning the latrines and the other is also cleaning the latrines and simply because one happens to grow long hairs, he should not be given the same opportunities which the other, his real brother is getting. I feel it is a recognition of certain facts which exist today and not a concession.

However, I feel that it is not the lifeless structure of a Constitution or the written word that ultimately counts. As time passes there are bound to grow certain conventions which are more akin and near to realities, which are more dynamic in character and I feel, Sir, that ultimately it will be the inherent good sense of the people that will count and not the letter but the spirit which shall prevail, and people here in the country will have equal opportunities of justice in every sphere, the sphere of administration and economic structure of the society.

**Kazi Syed Karimuddin** (C.P. & Berar: Muslim): Mr. President, I congratulate the Drafting Committee for the stupendous work they have done and I have also to congratulate Mr. Naziruddin Ahmad for the arduous work he had undertaken for which he did not receive a word of thanks from the Drafting Committee. I particularly thank Dr. Ambedkar and congratulate him for his brilliant advocacy and the task he had undertaken in drafting this Constitution. I know that he had great handicaps and one of the instances of that handicap is the amendment that I had moved regarding the illegal searches-searches of houses and persons-which he had accepted and which was carried by the House and which was defeated after a week's time after its postponement.

Sir, there is no doubt that this is a very solemn and historic occasion. This is the happiest day in the life of the nation that we are framing our own constitution after centuries of bondage and foreign domination and that today we are the masters of our destiny and that the Constitution that we are framing is ours. We may disagree or agree with it. Sir we are liberated, but the Constitution does not guarantee economic freedom to all classes. In this Constitution there is no flexibility. The amendment that had stood in the name of the Prime Minister, the Honourable Pandit Jawaharlal Nehru that the provisions could be changed within five years by a simple majority has not been moved. So today if it is framed by a majority is secured. So we have not only framed this Constitution for us but we have inflicted it on the next posterity. I say it was our duty to keep flexibility in the Constitution and this we have not done.

Sir, I am very proud that India is proclaimed to be a secular State. The provisions in article 9 to 30 do not make any discrimination on grounds of religion, race or caste and there is equality of opportunity in public employment and in holding and disposing of the property.

Sir, the communal bitterness or the communal discord that is existing in India today must be done away with. The Constitution must be worked out in the spirit in which it is enacted. My earnest appeal is that we should live up to the ideals and it should not be said that we do not practice what we profess. Sir, today I find that the policies of the Defence and the Railway Departments are moving us towards economic annihilation and I submit that if these provisions regarding the equality of opportunity of employment have been accepted in the true spirit then the unsecular activities existing in these departments must be put a stop to and it should not be disqualification to be a Muslim in India. I am sure that the majority community will create trust and confidence in the minds of Muslims in order that they may regard this country as theirs.

Another problem to which my honourable Friend, Mr. Man has referred to is the minority problem. Sir, I take pride that I was the first man to move for the abolition of the reservation of seats at the time of the second reading of this Constitution, but I had pleaded that there should be proportional representation. Proportional representation was not given and the abolition of the reservation of seats was granted. Now it is very clear that the privileges and rights which we had enjoyed for the last 60 years exist no more and we depend on the good

sense of the majority in this country for our privileges, I have only to say:

*"Tamashai ahle Karamdekhte hain".*

We look to the generosity of the majority in this country, for our future. We accepted this because it was the wish and will of the majority. Those who have accepted in this House have no representative character. I maintain. Myself, or Mr. Tajamul Hussain or Begum Aizaz Rasul after the dissolution of the League Party have no representative character. Therefore, my submission is that we are embarking upon an experiment of a very huge magnitude. Whether the Muslims, without any safeguards, in view of the Muslims, without any safeguards, in view of the communal bitterness in the country, would succeed in the next elections: whether they would be taken in the services, is a doubtful proposition. I hope and trust that the top leaders of the Congress, particularly those who are responsible for this abolition of this separate representation, will see that in the future a spirit of co-operation will prevail and the Muslims will get their full share in public life. I really thank Mr. Kapoor from Agra who had made a reference in this speech while moving an amendment that the majority community should realize the great responsibility which is place on them by abolishing the system of representation.

Another thing, Sir, to which I seriously objected and to which even today I object is the emergency powers given to the President. It is an admitted fact that the President is not elected on adult franchise. He will be a creature of the majority party. His actions will be in keeping with the wishes of the majority party. The opposition parties are not likely to get a fair deal. If the majority party wants that the Constitution should be suspended, for the reasons given in the sections, it can be suspended. Provincial autonomy, in my opinion, is only a sham institution. If the opposition party is elected in some of the provinces and the Centre does not want them to continue, under any pretext, under any of the provisions of the law, the Constitution can be suspended. Therefore, my submission is that the Centre should see that in matters of policy the Constitution should not be suspended. It is only when there is domestic violence, or when there is a rebellion or when it is impossible to carry on the Constitution in the provinces that the Constitution should be suspended. As has been said in one of the recent cases in America, "The Constitution of the United States is a law for rulers and people equally in war and peace and covers with the shield of its protection all classes of men, at all times, and under all circumstances. No doctrine involving more pernicious consequences was ever invented by the wit of man than that any of its provisions can be suspended during any of the exigencies of the Government. Such a doctrine leads directly to anarchy and despotism: I hope and trust that after giving trial to these provisions, within five or ten years, they will be repealed and perfect freedom will be given to the provinces by the Centre.

Another objection to the Constitution is the absence of the words 'without due process of law' in article 15 and the limitations on article 13. Without these words, and with the limitations on article 13, I maintain even today very seriously that there is no scope for full civil liberties in India. When there is an invasion of the Fundamental Rights by the Legislature, when these words 'without due process of law' are not there, then if the procedure laid down by law is complied with, a man can be hanged, under a law which is unjust. My submission is this. We have been framing the Constitution at a time when there was disorder in India. It may be that in view of the exigencies of the situation we have framed the Constitution. I hope and trust that as soon as peace is restored in India, the fundamental rights conferred in article 13 will be without any limitations and that due process of law, which is the only guarantee for individual liberty, as in America and other countries will be introduced even in this Constitution. If this is not done, if the special powers of the President are not taken away, the result will be chaos and anarchy. Too much centralization is bound to create conflict between the Centre and the Provinces. Today we do not find that because the same party is ruling in

the Centre and in the Provinces. Suppose different parties are elected to the provincial legislatures and if there is a conflict between the Centre and the provinces, there will be military rule all over, the Constitution will be suspended and India will be vast prison with the President as the Superintendent of Jails and the Ministers as visitors. Therefore, my submission is that there is very serious objection to these two provisions. In my opinion, the Constitution is neither federal, nor unitary, neither Parliament nor non-Parliamentary, that is neither here nor there. With these words, Sir, I give my qualified support to this Constitution.

**Shri Arun Chandra Guha** (West Bengal: General): Mr. President, Sir, this is a glorious day for the people of India. After centuries of slavery, indigenous and foreign, the people of India for the first time have got the power to frame a Constitution for free India. I say, the people of India, because it is not within living memory of history that the people of India had any say in the framing of the Constitution of the Government they would be living under.

This Constituent Assembly is the child of a revolution. We are passing through the revolution and the Constitution that we are going to frame or that we have framed here must be suited to revolutionary conditions. If the present Constitution that we have framed here takes the social forces for granted as in a stablised society and if we have framed a constitution only to suit such a society, then, I am afraid, this Constitution will not serve the purposes of the people.

Through years of struggle, we have roused forces among the people, we have roused aspirations in the minds of the people and we must take cognizance of those forces and those aspirations so that those aspirations may be reflected in this Constitution. Otherwise, Sir, this Constitution will have little utility for the people and I am afraid it will have little stability also. But, at the same time, I know that just after the transference of power, all sorts of fissiparous tendencies in society get an impetus to raise their heads. Just as after the Russian revolution in 1917, about a score of political parties and groups big and small were all aspiring to seize power, here also regional, political and economic parties, classes and groups have similar aspirations. That reality of course, we should take into consideration in framing the Constitution. Moreover, we have started with legacy. Unlike other revolutions, we have not been able to begin on a clean slate. We have inherited a machinery and a social order which hangs rather heavy on us, and that also has to be recognized and has to be considered. So, the present constitution by the very nature of things must be something like a stop-gap arrangement and something like a hybrid product.

It has been said, and I think it has been rightly said, that this Constitution has no character of its own. The Russian Constitution clearly stipulates that socialism forms the economic backbone of the State that it has set up and the Soviet in every stratum forms the repository of all social authority. Here, in our Constitution, we have not mentioned anything like that and I think, in that respect, we have failed to reflect the aspirations of the masses and to reflect the ideology of the revolution which we have been conducting and of which this Constituent Assembly is the product. Decentralized economy based on village panchayats should have been distinctly mentioned as the fundamental principle and basis of new state.

Yet, Sir, this Constitution has embodied some very significant achievements of the National Government during the last two years. First I should mention the abolition of untouchability. Untouchability was the greatest blot, the greatest slur on the Indian civilization and culture. That has been made a thing of the past at least according to the statute of this Constitution. Then, I should mention that the communal electorates and all sorts of separatism have been abolished. That was a thing which was created by the British Government to divide the nation into so many segments psychological and regional. That has also been abolished. I must thank here the Members who represent those communities which have so long been known a minorities that they have rightly responded to the needs of the times and I thank them for coming up to the occasion. In that connection, I should also particularly mention the names of Sardar Patel and Dr. H.C. Mookerjee. But for the determined efforts of these two gentlemen, I think it would have been difficult to achieve this.

The third achievement of significance is the abolition of the States. Six hundred and odd States were something like plague spots on the body politics of India. They also have been liquidated, mainly due to the vigour and energy of Sardar Patel.

The Fourth significant point is the secular character of this Constitution. When communal passion was raging throughout the whole country, the framers of this Constitution refused to yield to the passion of the moment and they insisted that the State that they are going to set up must be secular and democratic- based on adult franchise. Every citizen irrespective of religion should have the same opportunities and the same rights. That is an achievement particularly significant in the present set up of the country as we used to know it before 1947- and it should be particularly commended.

In spite of all that may be said against this Constitution, Fundamental Rights, Directive Principles and the Preamble, these three have embodied very noble sentiments and ideas; and the right to work, right to education, and the right to minimum living wages-all these have been embodied in the Constitution. Freedom of speech and association has also been conceded. I know these rights have been hedged in with some overriding clauses; but as I have stated before, just after the transference of power, I think some such restrictions are to be imposed. Until the society has been stabilized, until the Government can feel sure of its position, some such restrictions ought to be imposed. John Stuart Mill who is the apostle of individual liberty and freedom has also admitted the necessity of individual freedom being restricted by social obligations to other citizens and to the State. Such obligations and such restrictions must have been incorporated in every Constitution-in the form of restrictions to individual liberty and to suit the realities of the situation.

India is a big country with many federating, units and it is not impossible that some political party or some other mischievous group may seize power in any of the federating units either through ballot-box or through some political strategy and subterfuge. In such a case the State should have authority to control that unit so that-that political party or group may not use the federating unit, which they have taken possession of, as a jumping-off ground for future expansion. So far all these reasons, I do not mind that the Centre has been given some overriding power over the federating units. Yet I feel the power vested in the hands of the President is too much. It has a dangerous potentiality; it smacks something like the power of the German President which helped the rise of Hitler in 1933.

This Constitution is something like a hybrid Constitution. It is a Federal Constitution but it has started from the top, not from the bottom, as all Federations should start. It is the Centre that is delegating some of its powers to the federating units-not that the federating units who are enjoying sovereign powers are surrendering some of their sovereign powers to the Centre as was the case in the U.S.A. So naturally the Centre which lis devolving some powers must be stingy in this devolution of power. And in the present context it is in the fitness of things that the federating units have not their full privileges that in a Federation they ought to have. Yet the financial provisions might have been a bit more liberal so that each federating unit may have opportunity to devlop according to themselves without always looking to the Centre for any paltry sum.

This Constitution is a product of a revolutionary movement and it must reflect the aspirations of the revolutionary masses. We have been conducting a revolution and we are in the midst of it and we have not come to the end of our journey. But during the course of our struggle we have been given some revolutionary and economic ideas which, I am afraid have not been correctly represented, except two niggardly concessions to the ideology of Gandhiji in articles 40 and 43, .e.g, regarding village Panchayats and cottage industries. Even retaining the authority for the Centre, even retaining some provisions for stabilizing the society, this is a thing which could have been conceded and provided for in this Constitution. So this Constitution can not satisfy the needs of the revolution. But I do not feel frustrated. I know history is a developing process. No country has its constitution stabilized through one constitution only. The U.S.S.R. has got it through four Constitutions, first in 1918, then in 1923, then in 1923, then in 1936 and then in 1944. The U.S.A. has got several amendments to its Constitution and I think this Constitution of ours is only a stop-gap arrangements. We have to proceed further so that the revolutionary aspirations of the masses may be correctly represented in the Constitution that will be framed. There is warning from China; that should be taken note of. It is not enough that the Congress has achieved the independence. The masses should and will look towards the future. If we cannot build up a state taking the potentiality of the future into consideration, I am afraid the Congress Party may have the same fate as the Kuominatang in China and I hope the leaders of the Party will take note of it

and will frame the future Constitution with a correct perspective so that the aspirations of the masses maybe correctly reflected. Another point in this Constitution on which I have been repeatedly asked by many friends to speak, that is, on the power to detain without trial. Sir, I have passed about a quarter of a century in detention without trial and I know the stings of it, particularly what it means to the relatives of the prisoner. But as I have stated, in this period, just after the transference of power, the Government ought to have such provision; and I say this spite of the fact that I know the sting and I have suffered it to the fullest.

At the Jaipur Congress, a resolution was passed which stated that the liberty which has been achieved, the freedom attained in the political field, should be extended to the social and economic spheres also. I, however, think that this Constitution will not be of any help to the extension of liberty in the social and economic fields. That is the ideal which Gandhiji gave us, and that is the ideal for which we have been struggling, and that is the ideal which I hope, the nation has not forgotten. I do not feel frustrated or dejected that this Constitution has not come up to our expectation. We shall have to rise to the occasion and follow the lead which Gandhiji has given us. A mad fanatic has killed his frail physical frame, but his spirit is still pervading, and in the words of the poet Tagore, I would say, that old man whom we have rejected in our pettiness, and whom we have killed in our anger, will in the future, guide us and lead us to the birth of the new world and the new man.

*"Vandemataram."*

**Shri Shankarrao Deo** (Bombay: General): Mr. President, Sir, after more than two years of patient work, we are in the stage of finalising the Constitution of a democratic Republic, for a nation which is 350 million strong. In spite of the partition, the Bharat of today, thanks to those who have worked for that consummation, is bigger than ever before. It is said that we are approaching the end of our task. But there is nothing like an end in human history. An organic thing has to grow, or disintegrate. It can not remain what it is, a static thing. This nation which has attained its freedom after centuries, has to grow according to its genius; and if this Constitution is to help in its growth, then this Constitution must also grow, which means that it must have in it seeds of growth. After centuries of imperial domination, when a country of this dimension, a nation so numerous and so varied in its culture, seeks to build an instrument of its governance, it is indeed a grand endeavour-an endeavour which requires the most intense sympathy, to reflect the aspirations of the people and the boldest imagination to interpret the current of history.

As constitutions are made, they also grow. The makers of the constitution, therefore, must have a complete knowledge of the constitutional theories and practice of different ages and climes. If we look at this grand documents, which in a few days time will be the Constitution of the Democratic Republic of India, it embodies the philosophy of the exponents of the revolutions which have gone before. If we look at its size, perhaps it is the bulkiest volume, and no other Constitution can stand comparison to it. But that in itself may prove to a shortcoming or a drawback. It seems as if we have not left anything to the future; we have tried to create a straight jacket in which this nation must grow. Many things ought to have been left to conventions, to future events, aspirations and growth. A Constitution which is so big, is bound to lack in elasticity, and therefore, there is a possibility-a fear of its proving an impediment to the growth of the people. Still we must admit that it embodies the philosophy of the exponents of the revolutions which have gone before. It is strengthened by the political institutions which man in his experiment in democracy has so far evolved. The Preamble of the Constitution recognizees the sovereignty of the people and is in complete accord with the philosophy of Rausseau's Social Contract. It is consistent with the theory of Separation of Powers of Montesquieu. Its secular character is in conformity with the spirit of the Renaissance. It has taken the federal institution, first adumbrated as a measure for practical politics at the time of the American Independence. The distribution of powers in the Indian Federations has been fashioned after the Wrimar Constitution of Germany in 1918. The Chief Executive of the Indian Republic is neither fully American nor completely French. He will not govern as much as the American President, nor will be like the French President, an automatic machine for collection of autographs of responsible Ministers. And yet, as under the Weimar Constitution of Germany, he has the potentiality of being a virtual dictator. Our long association with the Commonwealth has imported the cabinet form of government, along with the presidential type. Part III of the Constitution-the Fundamental Rights, and Part IV-the

Directive Principles of the State-put forward in unmistakable terms the awareness of the makers of the Constitution of the principle of Rule of Law which is the bulwark of British liberty, as well as the impact of the Marxist philosophy on the life and society of man. Indeed the Constitution embodies eclecticism *par excellence*.

While appointing the draftsman of our constitution, we were eager to have the knowledge of the constitutional pandits, and the precision of the constitutional lawyers and we have got them in full measure. Dr. Ambedkar and his associates or his colleagues of the Drafting Committee deserve our gratitude, and I think they could stand comparison to any of the constitution makers and draftsmen of any constitution in any country in the world. But we did not choose to have the wisdom of the statesmen whose main asset is mother wit and commonsense, nor did we choose to fashion our Constitution in the spirit of our Revolution, because none of the makers of this present Constitution can claim to have passed the test of the revolutionary struggle which preceded the year 1946 when the Constituent Assembly met. In fact, the Constitution can hardly be called the "child" of the Indian Revolution. Look at the Constitutions of the world which are the products of revolutions. They have a stamp of their own, by which even a man who runs can read them as the British, the American or the Russian. The Constitution which would rule the Indian people has got every institution which guarantees liberty to man, every principle which promotes progress peace and fraternity, but at the same time we must admit that the Constitution has not made provision for adequate and effective machinery for the implementation of any definite principle of progress inspiring our Revolution. But I know this is no fault of any single individual. Though we say that we have made a Revolution and we have come to power on the crest of a non-violent Revolution led by Mahatma Gandhi, still we must admit that the principles on which that Revolution was based have not gone deep into the body politic or in the Indian society. We followed Mahatma Gandhi. We did what he asked us to do, because he promised us that he would give us independence. But we must admit that, though we followed him, we did not accept his entire conception of life. It was a political Revolution which has give us power-political- which we have tried to embody in this Constitution.

But as far as social or economic conceptions of Mahatma Gandhi's ideology of life are concerned, we must admit that we have to travel for before we can say that we are anything near to them. How often has our Prime Minister, in his American tour, emphasized that the world is looking to India with an expectant eye; and that expectancy is for finding a way out of the present crisis that the world is facing. We must regretfully admit that there is very little in our Constitution which they can feel as something new, which if they copy will enable them to tide over the present crisis. We have drawn very liberally from the Constitutions of different countries like America, England, Australia, Canada, Ireland, Germany and so on. But there is very little that is in our Constitution which they can, in their turn, accept. Mr. President, Sir, it has been a one-way traffic practically. I am afraid, but as I said, it is no fault of any individual. If it is a fault, it is the fault of us all, because we have not faithfully followed our Master. I would not say that we have consciously tried to betray or deceive him. I would not say that we have consciously tried to betray or deceive him. It was our shortcoming, it was our weakness that has disabled us from accepting what he gave us as the philosophy of a non-violent, peaceful life.

Still, there are many things in our Constitution of which we and future generations can legitimately be proud. The first thing which attracts the eye is the unity of this nation as it has been embodied in the present Constitution. We have once for all done away with that poisonous creed which destroyed our unity-political, social, cultural and moral-namely separate electorates and reservation of seats for minorities. I know that our friends, the Scheduled Castes, have insisted on having at least some kind of reservation. We have allowed it to continue for ten years. But if we all work and try to remove this blot of untouchability, not from the Constitution but from our hearts, if we destroy it not in law but in spirit, then I am sure this last blot or the sign of it will also go. This unity has also another feature.

We are proud, especially those who had the privilege to serve the Congress, that while passing this Constitution of Free India, we have fulfilled our pledges to our fellow brothers in the so-called Indian States. In our Haripura Congress we promised that the freedom or independence for which the Congress was struggling was also for the independence of the States. Today we can say that the Indian States are free and independent to the extent or to

the measure the so-called provinces in the Indian Union are. In that way, I can say without any fear or contradiction that India was never so united or so great as she is today.

Also there is another feature. Our Constitution, we can assert, has given political freedom and democracy in full measure, because it is based on the principle of adult franchise. I know that there are people who fear the consequences of this privilege or right given to the masses. But I am sure this fear is due to the lack of faith in the people. If we have imbibed the teachings of Mahatma Gandhi, then we can go ahead with full faith in our people, and if today there is any guarantee against the fissiparous or disruptive forces and tendencies in this country, then in my humble opinion, it is this principle of adult franchise. This guarantees us, as far as it is possible for a Constitution to guarantee, that the progress of this country will be on peaceful and democratic lines.

But as I have said before, we must admit that as far as our own Revolution is concerned, there is very little which is reflected in this Constitution.

We have often repeated that the building of a non-violent, decentralised society is the solution of the present crisis-social as well as moral-which the world is facing today.

I know that in this Constitution there is a definite bias towards centralisation of power. But today this a world tendency. Because we are planning the economic order keeping the possibility of war in view. And to win the war you cannot but centralise power and production. The command order must go from one centralised authority. Unless we decide to build society on nonviolent principles you can neither and exploitation nor outlaw war. I would like to remind my honourable Friends who find fault with the Constitution and who want decentralization of power and production, they must be prepared for a non-violent society. It is a question of fundamentals. It is a fundamental issue which you and the rest of the world has to solve. But we must regretfully admit that as far as we are concerned we are not in a position today to hold up the pattern of Constitution which can give us and the rest of the world a non-violent social order. Except section 44 on Gram Panchayat which runs four lines in this document of 395 articles and 8 schedules and a bare mention of cottage industries, there is no room for the Gandhian way under which the pyramid-like constitutional frame-work would be broad-based on the million panchayats vital with the initiatives and creative energy of the common man. Sir Charles Metcalfe in his memorandum before the Select Committee of the House of Commons in 1832 has well brought out how these panchayats kept the even tenor of our life and culture when dynasties toppled down like ninepins and revolutions succeeded revolutions. In the centralised society of today one bomb on the power plant is enough to extinguish all light and there is no single lamp left to light up darkness. But where many lamps burn with little oil in the tiny mud pots, there may not be the flood light that dazzles but there will never be darkness.

I am afraid in this highly centralised Constitution of Indian Republic there is possibility of there being apoplexy of the heart and paralysis on the ends.

And it is no wonder, because what happened on August 15, 1947 was a mere transfer of power. The British quitted but physically; they left behind many things that they had created during their long rule. As the Constitution is the mirror of society and as the society is practically the same, the Constitution naturally reflects the *status quo*. People expect, alas perhaps wrongly, what they do not deserve. They expect that the constitution which has been made by the apostles of the great Martyr will breathe his breath. But should we not be rational and must not be moved by sentiment. Reason demands that we must be realistic. There is no scope in this world of stern reality for building a Utopia. Reality demands that the society, before being recast must be stablised. But how often have the exponents of real politic and statecraft been enmeshed in their own nets? How often has the reality been a mere passing phase? We must stabilise but at the same time should we forget that what we stabilise today will grow like a Leviathan and cast its shadow. In the progress of history and the affairs of man, there is no resting place. It has never happened in the history of man that he has built in a hurry and changed in leisure without demolishing what he has built. If we build to day on the foundation of this Constitution of centralization par excellence we cannot any day reorient our life and society. It is true that in the context of today we cannot have a constitution under which the Government will govern the least. There is bound to be a progressive realization of the ideal, but, as I have stated earlier, constitutions are not only

made but they also grow. I may say in conclusion that this Constitution gives us sufficient scope, if we remain true to our aspirations and to our ideals, to slowly bring about a social change, a vital and fundamental change without any violent change in the Constitution. This will enable us to realise our ideal which is a non-violent and non-exploiting society where all men will be equal and will have equal opportunity for their self-development. Then only will we be in a position to show the third alternative to the world.

**Syed Muhammad Sa'adulla** (Assam: General): Sir, it is said that sometimes silence is golden while speech is silver. In my humble opinion this should have been one of those occasions when silence would have benefitted this August Assembly. We have already passed all the amendments to the Draft Constitution in the second reading. Any criticism of the provisions thereof in the third reading is in the nature of a post-mortem examination. But when I heard from you, Sir, that as many as 125 Members of this August House, that is more than 40 per cent of its total strength, desired to speak on this occasion I had to revise my opinion and I thought that this large number must have seen the utility of these discussions, the necessity of criticism being recorded for future guidance. Hence my stand before you today. Moreover, there is a Persian saying:

"Marg-e-ambuh jashane dared"

which means even death en masse is a festivity in itself.Therefore, I have joined this death squad.

I can not stand here today without showing my dual personality, that is being a Member of this August Assembly as well as being a Member of the Drafting Committee. To all those friends who have been kind enough to appreciate the hard and dreary labour that members of the Drafting Committee had to undertake throughout the last two years both on behalf of myself as well as on behalf of my colleagues of the Drafting Committee I bow my head in grateful thanks. I am not unmindful of conveying our thanks even to those critics who in their superior wisdom had thought fit to criticise the shortcomings of the members of the Drafting Committee. But I am constrained to say that they have looked into this matter from a perspective that is faulty, from an outlook that is wrong and from a focus that is out of alignment.

Sir, the Drafting Committee was not a free agency. They were handicapped by various methods and circumstances from the very start. We were only asked to dress the baby and the baby was nothing but the Objectives Resolution which this Constituent Assembly passed. We were told that the Constitution must confirm and remain within the four corners of that Objective Resolution. Moreover, Sir, whatever we did had to be considered and accepted by this House. how dare any Member of the Drafting Committee be so arrogant as to thrust the opinion of seven members against a total number of 308 in this House?

Sir, it is an acknowledged principle of psychology that man is a creature of environments. The Draft Constitution which the members of the Drafting committee were privileged to place before this House could not evade this universal principle. They had to take the environment and the circumstances prevailing in the country into consideration and many of the provisions which jar against the sense of democracy, even of the members of the Drafting Committee, had to be embodied here on account of forces which were superior to that of the Drafting Committee.

So I remember that many sections of our Draft Constitution had to be recast as many as seven times. A draft section is prepared according to the best in each of the members of the Drafting Committee. It is scrutinized by the particular Ministerial department of the Government. They criticise it and a fresh draft is made to meet their criticism or requirements. Then it is considered by the biggest bloc, the majority party in the House-I refer to the Congress Parliamentary Party, who alone can give the *imprimatur* of adoption in the House; and sometimes we found that they made their own recommendations which had to be put into the proper legal and constitutional shape by the members of the Drafting

Committee.

Sir, no human-made constitution or document is perfect and it is a trite saying that the actual always falls short of the ideal. Even though I am a member of the Drafting Committee, I have very great objection to many of the principles that have been embodied in this Constitution. It does not lie in my mouth to criticize individual provisions of the Draft Constitution, as I am as much responsible as any other member of the Drafting Committee for the incorporation in our Constitution, but yet I am sorely tempted to draw your attention to only two or three things in this Constitution which are entirely repugnant to a free democratic constitution.

First, Sir, the over-centralization in the Centre and the emergency powers given to the President secondly, the limitations on the provisions of civil liberties and the hemming in of our Fundamental Rights by very many objectionable features; thirdly, the want of any provision of financial help to the provinces, although in the previous regime we were apt to say that the then provinces although in the previous regime we were apt to say that the then British masters of ours were not administering the country, but they were simply exploiting it. I often herd that the then Government was not doing any *shasan* but they were doing *shosan*. But the limitation of our Fundamental Rights was argued by the superior authorities as essentially necessary on account of the forces of disturbance and destruction that is now raging in the country. They said that the liberty of the individual must be subordinated to the liberty of the country. It is quite true, Sir that at no time liberty can be allowed to degenerate into licentiousness, and the forces of freedom must be superior to the forces of the transgressors of peace and security. Therefore, though it went against the grain of free democracy, the Drafting Committee had to put in all those limitations to the Fundamental Rights.

As regards over-centralisation, I need only point out to the emergency powers in Part 18: article 352 refers to the proclamation of an emergency by the President of the Union. Well this proclamation can be had, according to article 356, for failure of the constitutional machinery in a Province: according to article 360 for financial instability, and according to article, 365 for failure to comply with directions issued by the Union. It was very well said by my Friend, Kazi Karimuddin this morning that this will lead to a conflict often times between the Centre and the Provinces, and instead of breathing an atmosphere of independence, freedom and liberty, we will be subject to the utmost interference from the Centre and the president which is bound to go against the very peace, tranquillity and contentment of the people.

Sir, the absence of my provision for financial help to the poorer and needy provinces brings me to the question of the province from which I come namely Assam. Honourable friends will remember that early this year, I had taken seventy minutes of your time to explain to you the position of financial collapse to which the province has been subjected to unless timely aid comes from the Centre she cannot exist as a unit of the federation. Assam's position is that of a sentinel on the east and north east boundaries of the vast continent of India where dark and menacing clouds of communism are rising and collecting to the panic and charging of all the civilised world. It is very well said that the strength of a unit is the measure of the strength of the federation and, no doubt we have tried to make the Centre strong in the draft of the Federal Constitution for India. Just as the strength of a chain lies in the strength of its weakest link, Assam must be kept upto the standard of a civilised Government; her people must be kept happy and contented as otherwise there is a fear of Assam becoming the favorite hunting-ground of Communism.

I had pointed out both in the local Legislature as well as on the floor of this House that deficit to the tune of 2 1/2 crores out of a total income of 5 ½ crores is no matter of unconcern. The Ministry of Assam was strenuous in opposing my notions and deduction from their own budget estimates. But I am glad that I was corroborated day before yesterday by one of the Ministers of the Assam Government, I mean the Rev. Nichols-Roy who said that the deficit in the current year will come to about two crores. On an earlier occasion, even the deficit of Assam will go upto 3 or four cores. Sir honestly beseech this House and through this House the authorities at the Centre to look to this woeful state of affairs in Assam and come to its aid liberally and timely. They need not give anything from their own coffers; for, as I have pointed out earlier, two or three months ago, that as much as ten crores of rupees are being derived in various shapes from Assam as revenues of the Central Government. So, if one-fourth or one-third of this sum is given to Assam, it would not be a gift or any special

concession, but only rendering unto Caeser what belongs to Caeser.

Sir, within the province of Assam, there is the District of Khasi and Jaintia Hills. The capital of Assam is located there. Most honourable Members will be surprised to know that the border of Pakistan is only 50 miles from the town of Shillong. The people on the southern slope of the Khai Hills used to get their foodgrains and means of livelihood from the district of Sylhet which now forms part of eastern Pakistan. On account of customs barriers between India and Pakistan, the free flow of trade has ceased and no wonder my Friend Rev. Nichols-Roy was accusing Pakistan for this state of affairs. But, Sir, my idea is simply to point out to you that unless foodgrains can be made available in sufficient quantities in that area, as also in other areas of the District those people may ultimately look up to Pakistan as their saviors. But the pity of Assam is that in spite of the fact that it is a surplus province so far as foodgrains are concerned, and though during the three years of my tenure as Prime Minister from 1943-46 Assam could declare a surplus of two hundred thousand tons of rice and had actually supplied to the Central Government that surplus as will be borne out by the records in New Delhi, we supplied on an average fifty lakhs maunds of rice, annually. Assam has become a deficit area and you will be surprised to hear that in the town of Shillong where rice is rationed my own household, the household of an ex-Premier and leader of the Opposition and a man who has been there from 1924, had to go without rice for three days recently.

Sir, the Khasi Hills have been relegated to the Sixth Schedule for which Rev. Nichols-Roy is very thankful, but there is a constitutional anomaly. Although the Constituent Assembly is not to find a remedy for that, yet I must sound a note of warning that this small district of Khasi Hills embraced 25 Native States most of which had treaty rights with the Suzerain power in Delhi. They were asked to join the Indian Dominion in 1947. Instruments of Accession accompanied by an agreement were executed by these Chiefs and they were accepted by the Central Government. But though even this area has been included in the Sixth Schedule, up till now no agreement or settlement has been arrived at between the Constituent Assembly of the Federation of the Khasi States and the Assam Government or the Government of India. I do not know what will happen to these areas or people after 26th January 1950. A deputation headed by the President of the Federation of Khasi States came early this month to Delhi to press their grievances before the States Ministry as well as the Drafting Committee. The Drafting Committee met them and they had two simple requests to make. They are the most democratic of all democratic people. Their native chiefs are elected by all the people in their territory by adult franchise. The chiefs could be removed as well by the people. They want that that system should continue. The second thing which is in the heart of all people in that part of the world is that these chiefs are only territorial chiefs. They have no right over the ownership of land in the territories of their chiefs they want to preserve, but they are afraid that section 3 of the Sixth Schedule gives a loophole for doing away with that right. They want a simple provision that these two rights may not be disturbed by the District Autonomous Councils.

Some may say that the District Autonomous Councils will consider their own representatives, but membership is limited to twenty-four and three-fourths of it only is to be elected, and the rest one-fourth has been felt in the air. I do not know whether these seats will be filled up and by what process, whether by nomination and if by nomination by whom, or by any other form of indirect election. I know that these Khasi people are late in the day and nothing can continue to be Members of the Constituent Assembly even after the 26th January 1950 to see that this wrong of the Khasi people is righted in no time, for the contentment and peace of this area will greatly conduce to the safety and preservation of the boundaries of the Indian Dominion.

Sir, after two centuries of subjugation and humiliation, we have drafted our own Constitution. They very idea of it is thrilling to my mind, that very thought sends our hearts bumping and racing, but yet we cannot say with our hands on our hearts that we feel jubilation and joy over the present Draft Constitution to that extent. This Constitution which will be passed and come into law with in a couple of months is a compromise Constitution. Many honourable Members have said that this is but a transitory Constitution. I do hope, Sir that future legislators will try to make it as perfect as possible. The test of the pudding is in the eating. Similarly nobody can say that this Constitution is to be commended or condemned. The working of the Constitution alone will show whether it is a workable Constitution of whether it

is unsuited to the necessities of the times and the requirement of our people or to the genius of our nation, but if we work it in the spirit of the Preamble, we must say that we have a Constitution which can be made an ideal Constitution by working it in the proper spirit.

In the end, Sir, I would like to invoke the blessings of the Maker of the Universe and I will recite only two invocations in Sanskrit.

*asato ma sadgamaya*

*tamaso ma jyotirgamaya*

In the Arabic we have a saying:

*As sayyo minni, al itmaneo minul atiah*

The enedavour is man's, but the ultimate result is in the hands of God or alah. Let us all in all humility try to work this Constitution which has been drafted by people who gave their best to it, and if we work it in the spirit of equality and fraternity, we can turn even this dreary Constitution into a garden of paradise.

**Shri H.J. Khandekar** (C.P. & Berar:General): Mr. President, Sir, I stand here to support the motion moved by my Friend Honourable Dr. Ambedkar. Before saying anything about the Constitution, Sir, I would like to congratulate you first for the able work that you have done in this Assembly for the last three years, and while doing that, Sir, you never made any differences, and any discrimination between Members and Members and you were so liberal in giving chances to every member to participate in the debate and the most important thing that you have done as the President of this House is the best rulings that you have given on the points of order raised in this House.

Secondly, I congratulate the Drafting Committee for the work that it has done to frame this Constitution. Sir, I also congratulate my Friend, Pandit H.V. Kamath, a devotee of G.G. for taking keen interest in the work of this Constitution-making. I am very much proud of him as he comes from my own province of C.P. Sir, I would call him a Pandit, because he is a Pandit in this way__

*Matrivatparadareshu Paradraveshu chu Loshtawat, Aatmawat Sarva*

*Bhuleshu yah Pashyati sah - panditah.*

Pandit Kamath is a man of these qualities as long as he is a bachelor. I cannot say whether there will be any change in him if he gets married.

Sir, no section of the Indian people will welcome this Constitution more enthusiastically than

the members of the Scheduled Castes of this country for the reason that this Constitution has made a provision of the abolition of untouchability and thereby enabled the Harijans to live like human beings in the country. Sir, I being a member of the Scheduled Castes welcome this Constitution whole-heartedly. Sir, you also know that untouchability is a curse on the Hindu society, and seven crores of the people of this country have been treated or are being treated like dogs and cats by their caste Hindu brethren. they have seen segregated for the last so many centuries. When the agitation for India's independence intensified, leaders like Pandit Motilal Nehru, Lala Lajpat Rai, Lokmanya Tilak, Sardar Vallabhbhai Patel, Pandit Jawaharlal Nehru, Babu Subhas Chandra Bose, Mahatma Gandhi, Babu Rajendra Prasad, Rajaji and others found that there can be no freedom for India without removing untouchability from the Hindu society. When India became formally independent on the 15th August 1947, I remember, Sir, that Sardar Vallabhbhai Patel who in my judgement is the greatest custodian of that independence who deserves the unstilted gratitude of this house and of the country for the most magnificent work he did in bring all the States into the Indian Union, said on some occasion that India's hard-won independence cannot be preserved if untouchability is continued. So also I remember that our veteran Leader Pandit Jawaharlal Nehru, the Prime Minister of India, said on an important occasion that the foreign countries blamed India only because it observes untouchability. Sir, the social workers and the religious workers and even the political workers of this country worked very hard for removing this untouchability but they could not succeed. So also the social and political workers, leaders amongst the Scheduled Castes like Rao Bahadur Srinivasan, Virratna Devidasji Jatas Sant Chockamela, Bhakta Ravi Das, P.N. Bhatkar, Kishan Fagoo Bansode, G.A. Gavai, Mahatma Kalicharan Nandagaoli, Umaji Gujaba Khandekar, Dr. B.R. Ambedkar, Muniswamy Pillay, E. Kannan, B.C. Mandal, Narayan Dhanaji Bhosle, Mrs. Venubai Bhatkar Sambhaji Godghate, R.B. Matte, Antooji Bhagat, Diwan Bhadur M.C. Rajah, my humble self and many others in the countryworked hard for years together to get rid of untouchability, but it is not removed. But we could only succeed to the extent to make the Harijans feel that they too are human beings. This country was being governed for ages together by the law of Manu and you know, Sir, what are the effects of this law on this country. Varnas were crated, castes within castes were formed and even one caste could not see the face of other caste. The untouchables according to the law of Manu were to go and settle outside a village or a town and that too in the east? Even today, Sir, if you minutely see the situation of villages and towns, the houses of untouchables will be found in the east. What of that? We untouchables, at the time called Sudras Smriti there is a sloka: "Mangalam rahmanasya syat Kshatriasya Balanvitam vaishyasya Dhansaiyukte shudrasya Too jugupsitam". If we Sudras, today's Harijans, were to name our children according to our wishes we were not alloed to name them like Jawaharlal Brahmadatta and so on but we could use only Manu. Now today, Sir, we are enacting a law of Independent India under the genius of Dr. Ambedkar, the President of the Drafting Committee. If I may do so, Sir, I call this Constitution the Mahar law because Dr. Ambedkar is a Mahar and now when we inaugurate this constitution on the 26th of January 1950 we shall have the law of Manu replaced by the law of Mahar and I hope that unlike the law of Manu under which there was never a property in the country the Mahar law will make India virtually a paradise. Well Sir, even the social, political and religious reformers in the country like Gautama Buddha, Ramanuja, Kabir, Sant Tukaram, Raja Ram Mohan Roy, Swami Dayanand Saraswati, Paramahansa, Mahatma Joti Rao Fulley, Vithal Ramji Shinde, Thakkar Bapa and last but not the least, Mahatma Gandhi, found it very difficult to get rid of this ghost of untouchability. They agitated in the country but they did not succeed. Now, Sir, we have embodied an article No. 17 in this Constitution to remove untouchability and I am sure that untouchability will be removed, but I have seen Act for removing untouchability in the Provinces, the Temple Entry Act and the Removal of disabilities Acts passed by the different Provinces in this country. What is the effect of these laws? Not an inch of untouchability has been removed by these laws and, therefore, if this law of removing untouchability remains in the book of Constitution itself, I do not think that untouchability will be removed. If at all the ghost of untouchability or the stigma of untouchability from India should go the minds of these crores and crores of Hindu folks should be changed and unless their hearts are changed, I do not hope. Sir, that untouchability will be removed. It is now upto the Hindu society not to observe untouchability in any shape or form. My honourable Friend, Mr. Ranga in his speech the other day said that he is an optimist and he is sure that untouchability and even the name Scheduled Caste will be removed from India within ten years' time. Well, he may be an optimist. I am not. But I am a practical man. Being an untouchable I know the difficulties of untouchables. I am an untouchable

(Interruption); I have got into practical knowledge of untouchability and I can say that it cannot be removed within ten years if the Hindu community is not sincere. It will take, in my opinion, very many years because the hearts of the Hindu society are not changed. I have got so many instances, but I have very little time at my disposal and therefore, I do not want to go into details but I can only say that it cannot be removed within ten years if he Hindu community is not sincere. It will take, in my opinion, very many years because the hearts of the hindu society are not changed. I have got so many instances, but I have very little time at my disposal and therefore I do not want to go into details but I can only say to my honourable Friend, Prof. Ranga that making speeches in the Assembly will not remove untouchability. He should go in the country from corner to corner and preach to the Hindu society and change the minds of that society to his views and then and then only untouchability has a chance to be removed. Mr. Ranga also said in his speech the other day that he is fortunate in having got the Andhra Province but I am unfortunate for not having got the separate province for the Marathi speaking people of Maharashtra.

The other thing, Sir, is the Government of India, the Provincial Governments, the Congress and other political bodies will also have to do their best to remove untouchability. For this untouchability the civilized countries in the world were looking upon India with contempt so far and now, Sir, I would ask those countries to judge us by the Constitution that we are now passing. No wise harijan or reasonable Harijan would like to be an untouchable or a Scheduled Caste for ever. We all wish that we should be merged immediately into the Hindu Society because we also being the children of this country want that India's head should be high in the whole world.

Sir, I now come to the article which deals with the reservation of seats for the Scheduled Castes and Scheduled Tribes. I am glad that seats have been reserved for these two classes in the legislature on their population basis. But, the time limit given is only ten years. There were amendments to this article from the beginning, I mean in the Minorities Committee of the Advisory Committee and even in the Constituent Assembly itself. But, unfortunately, they were not adopted. I think this ten years time is to sufficient to make the Harijan society to come to the level of the Caste Hindus. I am sure that if a harijan contests the election after ten years, when there is no reservation of seats with a Hindu, no Caste Hindu will vote for him and it may even lead to forfeiting his deposit. This is the condition in the country. Therefore, ten years' time is not sufficient for the political emancipation of the Scheduled Castes.

The other point is about the claims of the Scheduled Castes and Scheduled Tribes in the services and posts. Sir, a few minutes before, I heard the speech of a friend of mine who belongs to the Sikh community. I was astonished to hear him saying that there are Scheduled Castes in the Sikh community. I remember when Dr. Ambedkar wanted to denounce the Hindu religion. Sikh friends and Sikh leaders came to Dr. Ambedkar and said so many times and on so many occasions even in the public that there was no untouchability in the Sikh community and they invited Dr. Ambedkar and his party to embrace Sikhism. But, today, I hear from this platform a Sikh friend of mine saying that there are untouchables in the Sikh community. On these grounds the seats of the Scheduled Castes in the East Punjab have been taken by my Sikh friends. If at all they wanted to take their share in the name of untouchability, they ought to have taken it from the general seats. But, these seats have been taken from the equally backward community whom they call Ramdasias in their opinion who are the most backward people of this country. However, I am glad that we people have secured reservation of seats in the Legislatures for our community and from that quota, the Sikh community has taken a share on the pretext that some of them are also untouchables. It is not their ordinary political game. They have got included some Sikh communities in the list of Scheduled Castes with the object of contesting all the reserved Harijan seats in East Punjab, thus to encroach upon the rights of the real Harijans. About the services and posts, that Sikh friends of mine was grumbling. He wanted the posts and services also as have been given to the Scheduled Castes people among the Sikhs. If I may tell this House, that the Scheduled Castes have been appointed to the services until now by the Government but not to the extent of the percentage that has been given to us by the Government of India, I mean 12 ½ per cent in upper class services and 16 ½ per cent in the lower class services. Their percentage has not been fulfilled. Still, I may tell you, Sir, that notices have been given to the persons belonging to the Scheduled Castes by the different departments of the Government of India for

retrenchment. Hundreds of Harijan people are going out of their services in this month or the next month. I hope the Home Ministry of the Government of India will exempt the Harijan Government Servants from retrenchment. Here under this article 335 our claims are to be considered for appointment in posts and services while in the Government of India in this month, when we are going to adopt this Constitution, retrenchment of Harijan employees is being made by the different departments. Therefore, I would like to say this clause will not serve the purpose of the Scheduled Castes unless the Government of India and the different provincial Government being this clause into effect and give them the chance in services and posts according to their percentage. I do not want more; give them the same percentage that comes to them according to their population.

The next thing that I would like to say is about the Federal Public Service Commission and the Provincial Public Service Commissions. In these Commissions, unfortunately, there is no provision in the Constitution for having a Harijan member or a Scheduled Caste member. I can only say that the fate of these communities, I mean the Scheduled Castes and Scheduled Tribes, is now in the hands of these Commissions in which there will be no Harijan members. It is for the Government of India and the Provincial Governments to give instructions to these Commissions to look to the claims of the Scheduled Castes. That much, I can say about these Commissions and their work about these communities.

We have been demanding for the last so many years that there should be reservation for the Scheduled Castes in the Cabinets of the provinces and in the Government of India. These provisions are not found in this Constitution. There is only a convention now. I hope the leader of the party in the Government of India and the leaders of the parties in the different provinces should note this thing and that seats in the Cabinets should be given to the members of the Scheduled Castes more liberally. You will say, there are seats today; but they are not adequate. I would like to say a word or two more. There is not a single Harijan in this country who has been appointed as a Governor or Ambassador or Deputy Minister. Of course, I am saying this for the information of the Government and the congress High Command and hope that they will consider this question seriously.

In this Constitution, Sir, powers have been given to the President. I hope the President will make the best use of his powers as regards the Scheduled Castes and Scheduled Tribes. I would like to bring one thing to your kind notice. In this House there are 308 members out of whom there are 73 members from the States. But I am sorry to say that our of these 73 members from the States. But I am sorry to say that out of these 73 that have come from the States, there is only one Harijan member. I hope, Sir, you as the President of this Constituent Assembly, are going to fill up casual vacancies within a few months and I hope you will keep this thing in mind and bring more Harijans to this House from the States so also from the provinces. We are only 27 in this House whereas according to our population we ought to be sixty. It is also upto the Congress High Command and to you, Sir, to see that our quota in this House is fulfilled. I also suggest that some Harijan members who are the spokesmen should be allowed to continue in this House (Legislative) and resign their seats in their provincial Legislatures.

We have been given according to this Constitution freedom of speech and freedom of movement and so. But there is no freedom of movement for one crore of unfortunate people in this country. That is, the Criminal Tribes. Nothing is said about them in this Constitution. Will the Government repeal the Criminal Tribes Act and give every freedom to the Criminal Tribes?

**Shri .V. Kamath:** So called Criminal Tribes!

**Shri H.J. Khandekar:** Yes, so-called Criminal Tribes. Article 19 deals with protection of certain rights regarding freedom of speech etc. with provisos. I hope this article may not be used as a weapon against the rival political parties and labour leaders I am glad to see in the Constitution that begar and forced labour are abolished and the curse on untouchables from whom the begar and forced labour were taken has gone.

I am personally not in favour of Sales Tax because it is an indirect tax on poor masses but the Article on this is adopted in this House. I can only say about this article that it has brought C.P. and Bihar provinces to a loss.I would like to say a word about adult franchise.

Adult franchise has been given and I hope now the dream of Kisan and Mazdoor Raj will be fulfilled. Kisans and Mazdoors in the majority will be the voters of this country and they will elect persons of their choice and form their own Government. In the last elections the Congress had in its election manifesto said that it will start Kisan Mazdoor Raj in the country. By incorporating the article of adult franchise the Congress has fulfilled its promise.

I am very glad, Sir, that Hindi has become the national language; but that should not be the Hindi as I read it in today's agenda. I could not understand the word 'Parit' there. If such words are being used in Hindi, that will be a misfortune of the country. Let us have that Hindi which everyman of this country understands (Hear, hear)

The other thing is that there should be a National Anthem. I am very much thankful to this House for adopting the name "Madhya Pradesh" for my province-C.P. & Berar

**Shri R.K. Sidhva:** May I know which word be referred in the agenda?

**Shri H.J. Khandekar:** I referred to-'Parit' in the Hindi copy of today's agenda circulated to us by the office of this Assembly. It is this:- is parishad dwara nischit kiye gaye roop mein vidhan parit kiya jaye. I know Hindi well but I cannot understand what 'parit' means.

I was talking about 'Madhya Pradesh'. This amendment was moved by my honourable Friend Mr. H.V. Kamath and myself and it is accepted by this House. I also congratulate the Premier of C.P. Pandit Ravi Shankar Shukla and his Cabinet for recommending the name 'Madhya Pradesh' and this House for adopting the same.

(At this stage Mr. President rang the bell).

**Shri H.J. Khandekar:** Sir, I have to speak on behalf of a certain community.

**Mr. President:** There are other speakers also who have spoken and who will speak.

**Shri H.J. Khandekar:** I will say a word about my Friend Damodar Swarup. He says in his speech that this constitution will have to be changed or amended if the Socialist Party comes into power. I only draw his attention to articles 37 to 47 and ask him what more he wants according to his socialist programme and views. I know that there is a directive principle. These are obligatory on the Government and I hope the Government will carry them out. I also tell my Friend Seth Damodar Swarup that if at all socialism is wanted by some body in this country it is the Scheduled Castes and not to the Capitalists, Malgujars Zamindars and mill owners. But today I see that the sons of these capitalists are the workers and agitators in the socialist party. I do not know what is the object behind it.

I congratulated Dr. Ambedkar in the beginning of my speech. I and Dr. Ambedkar had differences for the last 18 years on the question of separate electorates versus joint electorates. We were not prepared to see face to face and not only worked but given up the idea of separate electorates and he voted for the joint electorates in the meeting of the advisory Sub-Committee. Therefore, I do not have any fundamental difference with him and for the greatest service that he has done to this country within the period of these three years in framing this Constitution he deserves congratulation. Now only one suggestion that I have to make to him, I.e., he should now join the congress and make good to his own people. I hope if he joins the congress, I am sure, the Scheduled castes of his country will be more benefited. So also, I would like to make a suggestion to the other friend of mine-Honourable Mr. Jagjivan Ram who is a member of the Congress Working Committee and a Minister in the Government of India. When Dr. Ambedkar was doing the greatest service to this country in these three years, my honourable Friend Shri Jagjivan Ram was doing the greatest harm to the Nation.

**Honourable Members:** Question.

**Shri H.J. Khandekar:** That is by splitting up the Scheduled Castes into Chamars and non-

Chamars.

**Shri Brajeshwar Prasad:** (Bihar:General): We protest against this remark.

**Shri H.J. Khandekar:** This is only a suggestion. I hope he will not divide the community in this way.

**Mr. President:** This is not a suggestion, it is an allegation. You had better stop. You have taken more than thirty minutes-Mr. Khandekar.

**Shri H.J. Kamath:** I would like to know what he meant by 'G.G.'.

**Shri H.J. Khandekar:** 'GG' means the devote of God and Goddess. With these words I commend to the House this Constitution for adoption.

**Mr. Mahboob Ali Baig Sahib** (Madras: Muslim): Mr. President, Sir, it is not mrere formal or customary expression of appreciation if I express my deep sense of gratitude to you, for the manner in which you conducted the proceedings which left no ground for complaint and if I also congratulate Dr. Ambedkar for the outstanding ability with which he piloted the Draft Constitution. Some of us who did not belong to the dominant party which decided question outside the Hosue before hand, either confirming or modifying the views of the Drafting Committee and as it were, acted as the final arbiter such of us who did not belong to this party would have been helpless if you had not come to our rescue and allowed us to have our say in the matter, for which fairness on your part. I heartily thank you. Dr. Ambedkar was unique in his clarity of expression and thought, and his mastery over the Constitutional problems including those of finance has been marvelous, unique, singular and complete. But, Sir, unlike you, he was not a free agent. So the evils or the defects in the Constitution as it is placed before us today are inherent in the situation in which he was placed and he cannot therefore be personally responsible for them.

Now, let us examine the causes that led us to shape the Constitution as it is before us. There are three causes according to me. The first is, most of us including those on the Drafting Committee were brought up and nurtured in an atmosphere of British Imperialism and this British Imperialism in its last stages became repressive, especially when the freedom movement began and in the name of safety and stability of the State, deprived the subjects of their civic rights and their personal liberties. Although most of the persons who suffered protested vehemently against this rule of repression when they were called upon to frame their own Constitution after they attained freedom, they could not shake off that frame of mind which was engendered by notions of stability and security of State inculcated by the British Imperialism.

The second reason, Sir, is this, that it is very unfortunate that when this Constitution was before the Drafting Committee, and subsequently before the Congress Members of this Assembly, and also finally before this Assembly itself, conditions in the country were far from peaceful. And the third reason is that one political party became the successor of the British imperialism and has been enjoying power. I am, therefore, led to believe that these three factors were responsible for the fashioning of this Constitution which is before us, and which, according to me, is very, very disappointing, conservative and reactionary. To illustrate my point and to substantiate it, I would invite the attention of this August House through you, Sir, to the contrast between the decisions which this Assembly had taken in the year 1947, and also those that have emerged now after the Consideration stage.

Sir, memories of the repression were very green in our minds in the year 1947. The disturbances in the country were not in great evidence at that time, and the political party which is now enjoying power, was not in exclusive authority at that time. Therefore it was, Sir, when the Modern constitution was placed before us, it was the Honourable Sardar Patel who moved that those provisos curtailing civil liberties should be deleted, and it was he who again moved that as far as personal liberties are concerned, they should be decided by a judicial inquiry. And as far as provinces are concerned, autonomy was contemplated. With power vested in one political party, and the memories of repression fast fading away, and also with disturbances in the country raising their ugly head, the whole face changed, and changed for the worse. Civil liberties have been curtailed. Personal liberties have been hedged in, and centralisation of power has been increased. It is claimed by some that there is justification for

curtailment of the civil liberties, in view of the conditions prevailing in the country.

I submit, Sir, that we have to consider two points in this connection. The first point is whether we are making this Constitution for all time to come and for normal times, or whether it is for meeting the exigencies of the present day. That is the first question. And the second question is: what are the safeguards which you give to the individual in the Constitution, which is moelled on what is called Parliamentary democracy, that is, government by a political party. These are the two questions to be considered and we must ponder over them. As far as the first question is concerned, my humble submission is there is ample provision in part XVIII which deals with emergency powers, there is also one article No. 358, I suppose which gives power to the State to suspend the rights which are given under article 19. What more do you want? Why are you disfiguring this Constitution by curtailing Fundamental Rights, curtailing civil liberties, in view of the present circumstances? There is no justification at all for that. You have got the emergency powers. The Centre has got power, the President has got powers, and the State has the power, whenever an emergency is declared, to take away the rights. So my point is that there is no real justification for doing this.

The second point is, what about the safeguards for the citizens in a Constitution which is going to be what is called Parliamentary democracy. Two provisions are absolutely necessary in such a Constitution. One is that the Fundamental Rights must be real and these Fundamental Rights must not be subjected to the jurisdiction of the Legislature, which under such a parliamentary democracy, is bound to be a partisan government. So these Fundamental Rights must be taken out of the jurisdiction of the Legislature. That is the first requirement. The second requisite is that these rights must be enforceable at the instance of the aggrieved citizen, by a court of law. These are the two tests of a good Constitution, and let us see whether the Constitution satisfies these two tests. I am afraid, our Constitution falls too short of these two requirements. With all the goodwill of Dr. Ambedkar and also with the commendable championship of friends like Mr. Bhargava and Mr. Jaswant Roy Kapoor and others, they were not able to pursuade the House or the drafting Committee to place these Fundamental Rights out of the reach, out of the Jurisdiction of the Legislature which necessarily is bound to be a party legislature. Even today after so much of so-called improvement in article 22, the State Legislature can still detain a man, without trial for three months, and Parliament can detain him for any period it may decide. That is the position as far as the Fundamental Rights are concerned.

Now, it is very unfortunate that throughout in the provisions of this Constitution, there runs some kind of suspicion of or lack of confidence in the judiciary. This is very unfortunately, Sir. In a democracy where parliamentary system of government is contemplated, the most important thing that we have to look to is whether the fundamental rights provided for in the Constitution are real and are enunciated and defined, and whether courts are empowered to enforce these Fundamental Rights without jeopardizing the safety of the State. That is the only way in which the rights of citizens in a parliamentary democracy can be safeguarded. Otherwise, Sir, I am afraid it will result in-I am afraid to say it-in fascism, autocracy and dictatorship.

Centralization of power in the Centre is another instance of the tendency in the Constitution towards a totalitarian and unitary form of government. Even the little autonomy which the provinces had before, even that has been taken away, all in the name of emergency. As during the time of the Britisher in the name of stability and the safety of the State, people have been deprived of their liberties, in the same way we find in this Constitution so many provisions which in the name of emergency deprived citizens of their liberties and strengthening the Centre, deprive States of their powers.

May I again invite the attention of this House to the first article in the Emergency Chapter 18? There you have made provision to meet conditions of war, outside aggression and internal disturbance. The whole chapter is there. You can utilize it in the case of a real emergency. There is danger if Fundamental right themselves are curtailed. In the hands of an unscrupulous executive, articles 22 and 19 will be taken advantage of to oppress the persons. That is what this Constitution has laid down. For some reason or another, the persons who were responsible for drafting this Constitution have taken in into their heads to urge their points of view, making emergency more important than normal conditions. It is said that the price of democracy is vigilance. hope the people will be vigilant enough to change the

Constitution, and if necessary, change the Government which would, taking advantage of these provisions of this Constitution, rule in an arbitrary way. I hope India will rise to the level of self-consciousness and enthrone democratic principles and individual rights and instal a Government which will uphold the rights of individuals as well.

**Shri S.M. Ghose** (West Bengla: General): Mr. President, Sir,first of all, I express my gratitude to the Arabindo who first gave us the call for the struggle of Indian independence. We are practically at the end of our journey which was commenced by the Indian sepoys in 1857 and subsequently countless martyrs and great leaders have joined in that journey and led us through these difficult periods of our struggle to the fulfillment and realization of our great dream, the independence of the Indian people. I will be failing in my duty if I do not mention some of the names of those great leaders, and martyrs-I mean, Tilak, Lajpat Rai, Pandit Moti Lal Nehru, Pandit Madan Mohan Malaviya, Chittaranjan Das, J.M. Sen Gupta, Subhash Chandra Bose, Srinivas Iyengar, Satyamurthi, Dr. Ansari and the matryrs like Kanyalal, Satyen Bose, Jatin Mukherjee, Jatin Das, Surjya Sen and Many others who have falled during the struggle. In the present generation, we have worked under the leadership of Mahatma Gandhi, the Father of the Indian nation, Panditji, Sardarji and yourself, Sir. We express our gratitude to all.

There is a tendency to think that Russia has spoken the last word so far as human progress is concerned, and Russia is the last milestone in the revolutionary struggle of humanity. I would like to say most emphatically that Indian people and India shall have to go much beyond that. I believe the Indian people have got that strength, that courage and that genius to fulfill the great task.

I have heard in this Assembly something about Manu which I consider is not a proper understanding of what Manu stands for or what Manu really means. Speaking about Dr. Ambedkar an honourable Member was pleased to say that he was not a Manu but a Mahar giving us law. But there is no knowing whether many belonged to the Brahmin or to the Mahar Caste. But Manu represents a conception of Indian people, an ideal of law given for humanity. In that sense Dr. Ambdkar was rightly called the Manu of the present age. It is not that anybody who is in charge of making law really makes anything, but he simplifies and codifies the law as seen by rishidrishti, i.e., seen by intuition. In that sense, whether a man comes from Mahar community or Brahmin community or any other community, if he has that intuition, if he could see and codify things not only for his community, not as his community views things, but for the whole of humanity, he will be rightly called Manu.

Coming to the Constitution, I know many of us are not really satisfied with it, for in it India is linked up with the British Commonwealth. At the same time I would like to remind my honourable Friend that it is not so much the constitution but the will of the people which will determine the future destiny of the country. Whatever there may be in the written Constitution, we have to see whether it will come in the way of our doing anything for the good of the Indian people as we would like to do. In that sense I am confident that there is nothing in the Constitution which will prevent us from doing anything for the good of the Indian people at large. Even if there is anything, I am also confident that much will depend on the conventions which we will create.

Sir, I lay more stress on the provision of panchayats. I am aware that the provision is not the one which we wanted it to be; yet I am confident that if we put our strength and soul into it and work the constitution which has provided the basis for the panchayats, God willing we shall succeed.

With these few words I support the motion.

**Shri P.T.Chacko** (United State of Travancore and Cochin): Sir, much has already been said about the merits of the Constitution. I must say that I can view this Constitution only from the point of view of a representative of an Indian State. From that point of view I must say that in this Constitution the Centre is remaining supremely predominant just like a mother-in-law, who is jealous, young, widowed, mischievous and also autocratic placing all sorts of restrictions and obstructions in the way of the movements of a young married couple. I am not against having strong Centre in India. In the background of our history I know that we should have a strong Central Government. At one time every adventure, who came from any

quarter of the globe could easily find a fortune in India. Therefore we want a strong Centre. I am also conscious of the tendencies of our people. This is a time when political parties are using violence for the attainment of their aims everywhere, and at lest in some places in India. Even Congress volunteers who have gone at least once to the prison are thinking in terms of becoming a ministers. Every Dick, Tom, and Harry thinks he can become a Minister either in the Centre or in the Provinces. So look at the tendencies of our people and also at the background of our history I know that we should have a strong Centre. But we should not forget what India is. It is a continent with people differing from one another in language, race, religion and mentality who are often jealous of one another's manner and customs. There are various cultural, religious, communal, racial and linguistic minorities and accordingly we have decided in favour of a federation. But I doubt whether we are having a federation at all in our new Constitution. Though in form it may be said that this is a federation. I am of opinion that in substance it is a unitary constitution. Take for example the legislative powers of the Centre. Specified power are given to the States and the residuary powers are given to the Centre unlike the Constitution of U.S.A. or the commonwealth of Australia.

Then again looking at the Concurrent List and also the Union List on which the Union can legislate one can see that any subject of any vital importance to the community comes under these Lists. Even in ordinary times the Centre can legislate on any subject of any importance to the community. Again by involving the special provisions in article 249, 250, 253 and also 369 the Parliament can legislate on any subject in the national interest, or in an emergency or to implement certain agreements or on certain subjects temporarily for a period of five years. From this we can see that all power is given to the Parliament at the Centre and practically no power is given to the legislatures in the States. Thus India becomes in substance almost a unitary State.

As regards the executive also extraordinary powers are vested in the Centre. Besides emergency powers, directions under articles 256 and 257 can be given by the Centre to the Constituent States. They have to be obeyed under penalty under article 365. It appears to me that these provisions strongly emphasise the unitary character of the Constitution. To enumerate them again:-

1. The residuary powers vest in the Centre; 2. There is no subject on which the Parliament cannot legislate even ordinarily; 3. Special powers to legislate on subjects in the State list; 4. States cannot alter their constitution of their own free will; 5. The law of the Parliament over-rides the law of the States; and 6. Extraordinary executive authority is vested in the Centre.

Now I come to the position of the Indian States in the Constitution. The Indian States are placed under the control of the Centre under article 371 for a period of ten years. Article 371 read with article 365 makes Indian States almost complete vassals. For a moment I am constrained to think of the long struggle for freedom in which the peoples of the Indian States took no little part. There are people in the States who have given up even their lives in the freedom struggle. There are many of us who have made smaller sacrifices also. What is the final out-come of all these struggles? In the place of the foreign imperialism, we are now having an Indian Imperialism. It is true that Sardar Patel, as if by the wielding of a magic wand, has obliterated even the last vestiges of a certain sort of autocracy in the States. But Sir, now we find that we are placed under the guardianship of the Centre and we are considered almost as minors. I ask, where is the autonomy of which we spoke so much in 1937? Where is the autonomy for which we wanted assurances from Governors in 1937 when the Congress was about to accept office?

It is a well known principle of constitutional law that there should not be any preference for or discrimination against any of the Constituent States. In the Australian Constitution, as regards commerce and trading, section 99 lays down the Commonwealth shall not by any law or regulation of trade or commerce or revenue give preference to one State or parts thereof, over another State or any parts there. And again in the Constitution of the Commonwealth of Australia section 51(2) prohibits any discriminatory treatment in the matter of taxation. In the United States, equality of constitutional right and power is a condition of the States of the Union. Even in cases where new States were admitted into the Union, it was held by the Supreme Court of the United States that no conditions creating inequality can be imposed by the Congress. Coyle-*vs*-Smith is a case to this point, wherein the Supreme Court held that even a condition agreed to by a State, at the time of its incorporation, becomes void, if the

condition prevents the State from being an equal with other States. All constituent States in the Union are equal in power and in rights. In our Constitution we see that there is a discrimination made between States who were once knows as Indian States because of mere historical accidents, and the States which are known as the Provinces. Why, Sir, for a period of ten years should these States, which were known as Indian States, be under the complete control and management of the Centre? Is it the case that the Provinces are more progressive than the Indian States in India? I cannot agree to it. As all the speakers at the time of the discussion on article 371, said, many of the States are more advanced than Provinces. Therefore, I do not think there is a case that has been made out for including this article 371 and also article 365 in the Constitution as regards the Indian States. These provisions give a preferential treatment to the provinces as compared with the States.

**Shri R.K. Sidhva**: It is not applicable to the progressive States.

**Shri P.T. Chacko** : Yes, Sir. It is said it will not be applicable. I cannot understand the meaning of that. Once it is laid down in the Constitution that for some time the States should be under the control of the Centre, there is no meaning in saying something against it. Of course I attach great weight to the assurance given by Sardarji. But I am now discussing the constitutional provisions. It would have been so easy for this Assembly to decide to exempt the States which are progressive in the Constitution itself.

**Shri Mohan Lal Gupta** (United Provinces : General) : There is a proviso that the President can exempt.

**Shri P.T. Chacko** : Of course there is a proviso. It may do good in future. But this Assembly could have exempted the States in the Constitution itself, which we have not done. Therefore as regards States, I must say that in the Constitution preference is given and discrimination is made between the States and the Provinces.

**Shri Mohanlal Gautam** : The proviso is in the Constitution.

**Shri P.T. Chacko**: It is for the future, Sir. But we could have provided otherwise. It would have been so easy. We will see from the Constitution that in some cases we have provided for exemption for certain purposes and for certain States. We could have done so, in the Constitution itself. When we apply article 365 and article 371, I would like to ask one question about the position of the Legislatures in the States. It is well known maxim of constitutional law that a power conferred upon Legislature shall not be delegated to any other authority. (Panama refining Co-*vs*-Ryan). It is also another well accepted principle that a delegated authority cannot delegate its own authority to another body or person. In the case of the United States of America, after the Constitution was drafted, it was sent to all the States for their ratification. In Australia also they did the same thing. Even in South Africa the colonies had to ratify the Constitution before it was finally passed in the Parliament. So also we sent the Draft Constitution to the Indian States, to be ratified by the States Legislatures. We have three States which have Legislatures - Travancore-Cochin, Madhya Bharat and Mysore. The Draft Constitution was sent to these States for ratification. All these States unanimously recommended certain amendments but none of those amendments were even considered in this Constituent Assembly at the time of the consideration of the Constitution. Therefore I ask : Was ratification necessary? In America they believe that the power of the Legislature cannot be delegated to another body and the delegated authority can not delegate its own authority to another body. So they got ratification by the Constituent States. If the States legislatures could not delegate their power to their representatives here, it was necessary that the Constitution should be ratified by the States Legislature. If that be the case, in ratifying the Constitution they have suggested amendments and some of the amendments were suggested from all the States. It was a qualified acceptance. I regret to say that at the consideration stage not even one of those amendments were even considered in the Constituent Assembly. Hence the question remains whether the States have validly ratified the Constitution.

In future, when article 365 and article 371 are applied, what will be the position of the Legislatures of these States? The Central Government can give a direction to the Government of the State to act something, because the Government of the State is completely under the control of the Centre. Suppose the State Legislature, who gets the authority from the people - as for example in Travancore-Cochin State Legislature which is elected already on adult

franchise and which gets its authority from the people - refuses to enact certain provisions in a piece of legislation according to the direction of the certain provisions in a piece of legislation according to the direction of the Centre! What happens? The Centre will under article 365 say that the country is not being governed as per the provisions of the Constitution. The administration may be taken up by the Centre. That means that for disobeying the directions from the Centre, the State will have to pay the penalty. Thereafter the Legislature of the State will not have the authority which they got from the people. Thereafter the State will not have the authority which they are given in the Constitution itself. I do not know whether it is right to terminate the authority of the Legislature which is derived from the people. So, I say at least for a period of ten years - the period can be extended also by the Parliament - clearly preference is given to the States which were known as Province and a discrimination made against what are known as Indian States.

There are the Directive Principles in the Constitution. Excepting in the rish Constitution and also perhaps in the Weimar Constitution, no other Constitution in the world contains such Directive Principles which cannot be enforced by any body constituted under the Constitution. It looks like a party programme. What is the use of incorporating such a political treatise in the Constitution, which cannot be enforced by any body constituted under the Constitution? There are some similarities between the German Weimar Constitution and our Constitution, according to me. In the Weimar Constitution alone we find that Parliament is given extraordinary powers, even though therein residuary powers are vested in the States. Extraordinary powers are given to the Central executive also. In the Weimar Constitution, also, some Directive Principles were included which were not enforceable. It is that Constitution which produced a Hitler in its working afterwards. So, Sir, I must say that we from the States at least regret very much that, the representatives of the people of India are giving to themselves a Constitution which in some respects is similar to a Constitution which gave birth to a Hitler and which may, in future, if the powers come into the hands of an unscrupulous person make him a second Hitler.

I know that the success of a constitutional experiment depends more on the character of the people and on the conditions of the times than on the provisions contained in the Constitution itself. Hence, granting these defects, I know it is our duty now to make an honest endeavor to successfully work it. Let us believe that the darkness will be over soon and that in the morning to come we will be able to amend the Constitution and to treat all States alike, and to give some powers to the Constituent States also. Knowing its drawbacks let us try to successfully work it.

The Assembly then adjourned for Lunch till 3 P.M.

The Assembly re-assembled after Lunch at Three P.M., Mr. President (The Honourable Dr. Rajendra Prasad) in the Chair.

---

**Sardar Hukam Singh** (East Punjab : Sikh) Mr. President, Sir, I must start with paying my earnest and sincere tribute to our worthy President whose patience, forbearance and sense of justice have guided us throughout these proceeding and have contributed mostly to our successfully going through all these stages.

I join my other friends in congratulating the Drafting Committee and particularly its leader for cheerfully carrying through this heavy strain during these months. It was gigantic task and they must be feeling relieved after it.

Of course we have produced the bulkiest Constitution in the world. The Constitution of other

countries are much simpler. I am not happy at all over this achievement.

The glamour of our present leaders, I am afraid, has dimmed the vision of our experts. We should have looked beyond the present. We have presumed that the Union will be equally blessed with such heroes in the future as well.

In this Constitution, no particular pattern has been followed. A Constitution moulded out of different types will not endure, because it is neither indigenous nor a complete copy of any other single type. It is neither federal nor unitary. It is an enigmatic production, with every part stranger to the other.

The English make of Indian frame was already there as the Government of India Act 1935. We have substituted an American head in the form of a President, replaced the old limbs by an English parliamentary system, poured Australian flexibility in bones and flesh, infused Canadian look of a single judiciary and added an Irish appendix of Directive Principles and thus brought out a hybrid which we have been pleased to name the Indian Constitution. How it develops and what it bears is not known to everybody. I submit, Sir, we have overdone ourselves in certain respects and particularly in the Preamble. Besides justice, liberty and equality we have resolved to secure fraternity which is impossible of enforcement at this state. Then again we have assured liberty of thought, which is funny. Thought is an inner working of the mind and the individual does not come into contact with another or with the State until be expressed himself. Such moral virtues are impossible of achievement particularly in a secular State. Further equality of status is an empty boaster under the present Constitution. It could only be claimed in a Communist State.

Then I come to Fundamental Principles. On a first glance it would appear that the safeguarding of the Fundamental Rights set forth in Part III of the Constitution is complete. The charter is very exhaustive in description and ostensibly guaranteed.

But on closer examination it would be found that these Rights and particularly the Rights to Freedom in article 19 are hedged round with exceptions and reservations that make them ineffective in those situations when their impairment and ordinarily be apprehended. Like other Constitution, ours also has assigned separate spheres to Government and liberty, but in doing so it has allowed so much latitude to the Legislature in the matter of defining inalienable rights as to make them exceedingly precarious, and robbed them of the guarantee which could make them secure.

In his opening speech moving for the introduction of the Constitution on 4th of November 1948 Dr. Ambedkar had observed:

"Democracy in India is only a top-dressing on Indian Soil, which is essentially undemocratic."

"In these circumstances", he said, "it is wiser not to trust the legislature to prescribe the forms of administration."

I wish that conviction had guided our decisions. But I find that the pervading spirit all through is the greater trust and confidence in the Legislature rather than in the Judiciary.

In my view this is an incorrect and wrong foundation on which this structure has been built. The Judiciary can be more safely entrusted with the holding of the balance between the individual and the State.

Practically all the rights in article 19 are based on one fundamental provision, namely, that the various rights are subject to the existing restrictive law or laws which may be made hereafter. What change that a citizen would feel by the commencement of this Constitution? We were told that even in U.S.A. the rights are not unqualified, and for every limitation enacted in article 19 it was said that the least one ruling of the Supreme Court could be quoted in support of that. What a funny logic? If in an extreme case, under particular circumstances, the Supreme Court declared any limitation, does it stand to reason that the same limitation ought to have been made a provision of the Constitution to be enforced at all times whenever it suited the Legislature so to do? The crucial difference is that in U.S.A. the Supreme Court is the final judge of the circumstances when any restriction is to be imposed, while in our Constitution it is the Legislature that would be the final one. We could choose

either of the two methods, one in which constitutional safeguards are wholly lacking just as in U.K. and the other in which such safeguards are as complete as human ingenuity could make them, as in U.S.A. In our Constitution a compromise has been effected which is impossible. We have imposed prohibitions on the Legislature, thus conceding that there is danger from that side, and then proceeded to permit the legislature itself to restrict the liberty. The feared robber is made the judgte and the possible tresspasser the sole arbiter. This is a clear deception.

Then again there are emergency provisions. As soon as there is a declaration under 358 on the report of a Governor or Rajpramukh, all liberties worth the name come to an end. The mere Proclamation of Emergency ought not to have been allowed to abrogate civil liberties. Civil liberty should come to an end only when civil authority comes to an end. These rights are incomplete without a right to work. Can you imagine of any liberty being enjoyed by a citizen who goes about hungry for want of employment, who is haunted by the fear that his family would be without food as he has not got work? Have we made any provision for such an individual? Can such a man have any interest in the administration except to blow it up? Unless material insecurity is eliminated personal freedoms are paper safeguards and worth nothing.

So far as the Directive Principles are concerned, I have already referred to this Part as a useless Appendix. (An honourable Member : Is it appendix or appendicitis?) It is 'appendix'; I accept that I am wrong; after all it grows on the appendix and therefore it is called appendicitis. I believe rights are no rights unless enforceable. It was admitted in the beginning that it was not proper to insert them in the midst of the Constitution but the mistake has been persisted. The perusal of these principles in Part IV leads one to believe that ours is going to be a Socialist State. But there is nothing in the rest of the Constitution in support of these pious platitudes.

Then we come to the President, Part V. He is to be the executive head of the Union. In the introductory speech the President was described to occupy a position similar to the King of England; the head of the State but not of the Executive; to represent the nation and not to rule it as the symbol of the nation. His place in the administration was stated as that of a ceremonial device on the seal. But under the Constitution now settled he has been given enormous powers. Elected by the Members of the Legislatures under article 54 he would most probably be the choice of the majority party. He can only be impeached for breach of the Constitution under article 61 and not for any other misbehaviour. That in my opinion is a grave defect in the Constitution.

My second objection is about article 68(2). This can be misused. The President might, in the interest of the Party which placed him in power resign his office a few months before the expiry of his term, and may get himself re-elected for another full term of five years, though the party might be defeated in the impending elections.

Then again under article 75 the President is authorized to appoint the Prime Minister. It is not clearly laid down that he must necessarily be the leader of the majority or even be an elected member of the House of the People. Strictly according to the provision a non-member may be appointed. In a written Constitution it should not have been left to conventions which are still to grow in our country.

There are other provisions under articles 123, 358, 75(2) and others which may provide an ambitious politician an opportunity to assume dictatorial powers while professedly acting within the strict letter of the settled Constitution which can be interpreted by its plain words and not expressed. The possibility of a virtuous dictator being corrupted by power may be remote in the case of our present leaders, but these immortals of history cannot be immortals of physical bodies as well, and the Constitution has not taken that fact into account. We have been misled by the present. We should have realised that the Constitution would survive our present leaders. We have not guarded against the emergence of dictators. I have grave misgivings against investing a single individual with such wide powers, however great he might be.

Then I come to the special provisions relating to the minorities. It would be interesting to know how an ordinary Sikh mind is working in these days. If the sacrifices for freedom were

to be looked back upon, the Sikhs can feel well proud of their contributions. In 1872 in the well-known Kuka rebellion more than 68 Sikhs were blown off with cannons. In 1907 S. Ajit Singh, Kishen Singh and others played a very important part in the movement. During 1912-16 the Ghadar movement got considerable momentum by the advent of revolutionaries brought in by Kamagata Maru and other ships. Most of them were Sikhs who died cheerfully on the gallows for the love of their country. During Martial Law Regime in 1919 the Sikhs raised a bold and open revolt against the British and underwent many hardships. The Gurdwara movement, though directly organised for religious reform in Gurdwaras had its political aspect no less important, as by the huge sufferings and strict restraint the Sikhs lowered the prestige of the rulers.

In 1937 the Akali Dal formed an alliance with the Congress and succeeded in elections on national programme against the Unionist alliance with the bureaucracy. That union must have grown closer and had been further cemented but for the Congress wooing the Muslim League in order to put up a concerted fight. The Sikhs grew apprehensive that the Congress, in their anxiety to win freedom, otherwise very commendable, might hand over their home-land to the Muslims and they might be subjugated for ever. These fears led a section of the Sikh community to chalk out an independent line of action. But, even after that, preserving their individual identity, the small community supported the Congress very faithfully in the negotiations during 1942, 1945 and 1946.

The Cabinet Mission Plan was unjust and unfair for the Sikhs and it was so acknowledged by the Congress Working Committee in their resolution dated 25th June 1946. The Sikhs got indignant and the Panthic Prathinidhi Board boycotted the Constituent Assembly by their resolution dated 5th July 1946 when the Muslim League had accepted it. The Congress Working Committee in their meeting of 10th August 1946 appealed to the Sikhs to reconsider their decision and participate in the Constituent Assembly. The Working Committee assures the Sikhs that the "Congress will give them all possible support in removing their legitimate grievances and in securing adequate safeguards for the protection of their just interests". Immediately, the Sikhs, on this assurance, reversed their decision, and directed their Sikh representatives to raise the question of safeguards in the Assembly at the proper time in the hope that the Congress would support the Sikh demands in accordance with the assurances dated 10th August 1946 and their premises earlier in 1929. Since that day, the Sikhs made common cause with the Congress and stood firmly by it. Then again on 6th January 1947, the Congress, in accepting the interpretation put forward by the British Government on the Cabinet Mission Plan, made it clear that the right of the Sikhs in the Punjab should not be jeopardised. Later, on 8th March 1947, the Working Committee assured the Sikhs that "they would keep in close touch with the representatives of the Sikhs and other groups with a view to co-operating with them in the steps that may have to be taken and in safeguarding their interests".

The Congress was announcing again and again that all minorities hall have proper safeguards. The Muslims refused to be contented with any safeguards, but insisted on having a home for themselves. They got Pakistan, and can have no further grievance. The Anglo-Indian community has been sufficiently protected. They can have no grouse. The Parsees and the Christians are far more advanced educationally and economically and have declared that they do not want any safeguards. It is only the Sikh Community that earnestly desired, repeatedly requested that constantly cried for safeguards but have been denied any consideration. They fail to understand why they have met this treatment. The majority can oppress, it can even suppress the minority; but it cannot infuse contentment or satisfaction by these methods.

Separate electorates have been done away with; the Sikhs submitted to it cheerfully. The reservation on population basis in the legislatures was abolished. Their representatives fell in line with the others. But the economic safeguards about services were never voluntarily given up. On scrutiny, it appears to be a very trivial thing. But it was a test case where the majority was on trial. It was said that it was a blot to acknowledge any religious minority; but the Anglo-Indians have been given safeguards in the Constitution. They are a religious as well as a racial minority according to Government's own publication. The entry about consideration of claims of Sikh community similar entry about the Scheduled Castes and Scheduled Tribes and the Anglo-Indians does not impair its beauty. The whole economy of the Sikh community depended upon agriculture and army service. Lands have been left in Pakistan and their

proportion in the army since the partition has been greatly reduced and is being reduced every day.

Their demands were very simple. They wanted a Punjabi speaking province. That has been denied. It was not a communal demand, but a territorial one. But the majority community in the province went so far as to disown their mother tongue. That language is in danger on account of aggressive communalism of the majority. Andhra province is a settled fact; other cases are to be looked into; but North India cannot even be considered for it. The next was this consideration for services. That has also been denied.

Mr. Khandekar today referred that there was no untouchability among the Sikhs, and that seats had been taken out of the Scheduled Castes seats. I may briefly refer to these observations of his. Certainly according to the Sikh religion, there is no untouchability. But does it stand to reason that if there are two sons of one father and they are untouchables and one embraces the Sikh religion, he should be neglected simply because he professes that religion different from the one which he originally professed? Would that not have been discrimination on account of religion? I think that injustice has been removed and the Scheduled Castes should have no complaint about it. Then again, he made a remark that Sikhs have been given seats out of the Scheduled Castes quota. That was what I could not comprehend, because reservation for the Scheduled Castes and Scheduled Tribes is to be made on the basis of population. If certain castes have been included in the Scheduled Castes, then, certainly they would bring in their population and their seats will be increased. It does not stand to reason that the Sikhs have taken away any part of their quota which the Scheduled Castes possess.

Naturally, under these circumstances, as I have stated, the Sikhs feel utterly disappointed and frustrated. They feel that they have been discriminated against. Let it not be misunderstood that the Sikh community has agreed to this Constitution. I wish to record an emphatic protest here. My community cannot subscribe its assent to this historic document.

I now come to centralisation of powers. For the last thirty years, the policy had been progressing towards provincial autonomy. There were valid reasons for it. The vastness of the country, its multifarious population organised in units having different languages, varied social systems, uneven economic development, made it impossible to have uniformity everywhere. Even in old regions whenever centralisation was attempted in India, the system cracked under its own weight. Independent units with greater responsibility and willing co-operation would have lent greater strength. In our Constitution, each article tends to sap the local autonomy and makes the provinces irresponsible.

To sum up, our Constitution does not give anything substantial or concrete to the individual. It only gives solemn promises and pious platitudes. The Fundamental Rights are worthless as they have so many restrictions and are left at the mercy of the legislature. The right to work is not guaranteed. There is no assurance for old age maintenance or provision during sickness or loss of capacity. Even free primary education has not been provided for. The minorities and particularly the Sikhs have been ignored and completely neglected. The Provincial units have been reduced to Municipal boards. The common man has been squeezed out of politics and the President has been enthroned as the Great Moghul to rule from Delhi with enough splendor and grandeur. Any ambitious President would discover a rich find in this Constitution to declare himself as a dictator and yet apparently be acting within this Constitution. The discontent and dissatisfaction is sure to grow without any economic solution of difficulties of the masses. This shall consequently facilitate the development of administration into a fascist State for which there is enough provision in our Constitution. May we be saved from such contingencies!

**Shri S. Nagappa** (Madras : General) : Mr. President, Sir, very many speakers that spoke before me have congratulated the Drafting Committee and its Chairman. I join them, Sir, I do so.

From the point of view of the Scheduled Classes, their point was achieved on the day on which Dr. Ambedkar was elected as Chairman of the Drafting Committee. He had been one of the stoutest champions of the cause of the Scheduled Classes. He was elected as the Chairman. Even since he was elected, the other members of the Scheduled Classes were very

reluctant to cooperate; not because they did not want to co-operate, but because they knew Dr. Ambedkar who was a champion of their cause was there to watch and provide such articles that will be safeguarding the interests of the Scheduled Classes. Well, Sir, this has proved to what heights Dr. Ambedkar, though he is a member of the Scheduled Classes, if an opportunity was given, can rise. He has proved this by his efficiency and the stable way in which he has drafted and piloted this Constitution. Now I think this stigma of inefficiency attached to the Scheduled Classes will be washed away and will not be attached hereafter. Only if opportunities are given, they will prove better than anybody else. Now for having played such a great part, on behalf of the Scheduled Classes I congratulate Dr. Ambedkar. It is not the strength of the Scheduled Classes that made him the President of the Drafting Committee but it is the generosity of the majority party and I am very much thankful to them for the same.

Now I call this a Constitution for the benefit and betterment of the common man. It can be called a Common man's Constitution. This assures the right of common people more than that of the landed aristocracy or of industrialists and capitalists. This will go a long way for the betterment of the common people of this country. It is so because though Dr. Ambedkar happens to be a man of high status in society, yet he has been drawn from the lot of common people. He has not forgotten the interest of the common people and he has been good enough to do all that is possible for their betterment. Articles 14 to 17 go a long way for the betterment of Scheduled Classes, Article 14 assures equality before law particularly to everyone. This is the most important one. There was no equality before law all these days. Article 15 forbids discrimination on the ground of race, religion, caste or community. The country was in need of such a Constitution. Article 16 gives equal opportunity to everyone. No doubt opportunities were not much these days. I hope in days to come, though they are equal from my point of view and from the point of view of the Constitution, I feel that the Scheduled Classes will get better opportunities than others.

I am very much thankful to the majority community for their large-heartedness, for having acceded to our - I do not say demand - requests that we should be given reservations for some years to come. We too would have been glad to forego our reservations if we had the status of other minorities, the economic status, the social status and the educational status which the other minorities are enjoying today. Unfortunately we were not only lagging behind in all these respect but there was also a stigma attached to us namely the untouchability. I am thankful to the majority community for having recognized what wrong they have done to us all these centuries. They have now been good enough to abolish this untouchability by a statutory provision. We are abolishing untouchability today, but I would request the framers of this Constitution and those who are going to work this Constitution from the 26th January 1950 to see that in every bit of it, every letter and word and spirit this untouchability is removed from this country. The responsibility lies more on your shoulders, as you have taken the pledge that you should bring us upto your level within 10 years' time. I hope with this goodwill, with your generosity, we will be able to come to that level. We will also endeavour on our part to come to that level at the earliest opportunity that is possible.

Now, Sir, another unique feature of this Constitution is that you have been good enough to abolish forced labour. That was one of the features under which these poor classes were suffering all these ages. You have now abolished it under Article 23. I do not agree with article 31 which gives the right of property for those who are propertied. I do not say that all the people of this country should be poor, but when you want to take away some of the properties for the betterment of the State as a whole, you should not have given them any compensation. If you want to give them compensation, there should have been a limit. There is no such limit at all according to this article. If there is a capitalist Government in power, they can give any amount - even more than the real cost of the property which you are going to acquire. It is said 'just compensation'. What is fair and just from your point of view may not be really fair from other point of view. I know under this Constitution there is no scope for a Capitalist Government to come into existence. As you have been good enough to extend the adult suffrage, the common people are found to capture power - if not today, some other day. They are bound to be at the helm of affairs. Anyhow during the interim period there is every scope for a capitalist Government to be at the helm of affairs. Under the Directive Principles you have been good enough to direct the country and the provincial Governments to see that the wage-earner is given his minimum wages. He is protected from the exploitation

of industrialists, capitalists or agricultural capitalists. I think the country will be benefited by this.

Again this country consists of illiterates but this Constitution provides by article 45 that everyone who is below 14 years of age is made literate. They are given education before 14 years of age at the cost of Government. That will be free and compulsory education. That is a good point for labour and poor people This Constitution has given protection not only by giving reservation of seats to Scheduled Castes but it has given other kinds of protection. It has given reservation in service and their appointment in services will be considered and they will be given their due share in services provided sufficient number of qualified people are coming forward. I hope this article will go a long way to help the Scheduled Castes economically and this will be translated into action - to the very spirit of it, to the letter of it and to the word of it. This depends more on those who have framed this Constitution to see that it is properly worked. A constitution if it is not worked with all the spirit with which it has been enacted, will become a dead letter and only a paper constitution but not a practical Constitution. To make it practical it depends more on the people that work it.

Coming to elections of Governors, before we entered into this Constituent Assembly there was a rumour that Governors should be elected. Then I though if the Governors are to be elected, there was a very poor chance of a Scheduled Class member being elected as Governor because he is to be elected by the whole province. No doubt even if a large part of the country were in favour of them, some may be against them, not because they did not like Scheduled Classes, but in their own interest to become Governors themselves they would have opposed them. Now the President have given the power of appointing. That itself assures that there would be some Governors from the Scheduled Classes.

Again, on the question of Service Commission, I am not generally in agreement with this article especially on the age question. If they can serve in the Commission up to 65 years, it is too long a period for any public servant to be in service. I say so especially to the Federal Public Service Commission where if they are retained till 65 years, the work will suffer a lot. Even now, people are being interviewed for a job and then they have got to wait for four or even six months for a reply. They are made to wait and wait. That is because there are old people on the Commission. They cannot understand the country and they can not move as quickly as they are required and so the result is stagnation of work. So I am not in agreement with this article which allows the members of the Commission to be there up to sixty years of age. And then they should have served ten years under the Government. But I may point out when you fill up the Provincial Commission or the Central Commission, you very rarely get members of the Scheduled Castes with this qualification. It would have been better if you had made some such provision which might have enabled the representatives of the poor people to be in the Commissions, Provincial and Federal.

Sir, as regards the bifurcation of the judiciary from the executive, the principle has been accepted in this Constitution. Under this, especially the poor people were suffering a lot, because the persons in whom these two powers were combined were misusing, more often than using them for the betterment of the people. I say so, Sir, because that has been my experience. This Constitution has recognised this principle. This was the slogan of the Congress too and the Congress was agitating for the separation of the judiciary from the executive. I am proud that province of Madras has already begun this bifurcation and it is going ahead with it. The U.P. also has started, and I hope this will be followed by the remaining provinces also and they will see that this bifurcation is effected as soon as possible, in the interest of the poor man who is expecting justice from this government.

Sir, I then come to article 335 where the claims of the Scheduled Castes, especially in regard to the services, have been considered. It is said that these claims will be taken into consideration. It should not be always in the consideration state, but the claims should be recognised and fulfilled, and that is the most important part of the Constitution.

Under article 391, I am glad to say there is provision to make separate provinces on linguistic basis and it provides that any time separate provinces can be created. I am glad the Congress High Command has accepted the creation of the Andhra Province, and I hope you will be good enough to see that province is brought into existence as early as possible. Sir, when the Dhar Commission was appointed by you, that Commission made it clear that there was apart in

Andhra called the Rayalseema and there was a pact or agreement between the Sircarians and the people of Rayalseema that representation should be given to the latter, not on the basis of population, but on territorial basis, that every district should get equal share of representation. But now it has been accepted on population basis, and that has gone against the people of Rayalseema. But even now it is open to the people of the Sircars to be large-hearted and say that representation for themselves will be as one for one lakh of the population and for the Rayalseema at the rate of one for every seventy-five thousand of the population. If this is done, it will go a long way to help the people of the Rayalseema. No doubt, the House did not agree with our point of view, although there was a pact between the people concerned, the Sircarians and the Rayalseema people. But we are prepared to accept the present decision of the Drafting Committee. They did not agree to our view because they never wanted to give any representation, on the ground that a particular area was backward. But when they have given reservation for particular sections of the people, because they were backward I do not see why they could not agree to give the same thing because a particular area is backward. But anyhow we have agreed to this decision, though I would point out that this works very hard on the people of the Rayalseema. Now we have to depend on the Sircar people, but I hope they will be generous enough to recognise our rights and do us justice.

Article 120A relating to the language question was one of the most difficult problems that this House had to solve. My friends from the U.P. were very stiff and very particular that Hindi should be accepted and Hindi should be made the language of the country, the very day on which the Constitution is brought into force. But, Sir, after great difficulty, the people coming from the South were able to convince them and we were able to carry them with us, and they were good enough to grant us at least fifteen years time. Even this period of fifteen years is not enough. I do not think within this time our people will be able to come up and learn Hindi in the Devnagari script. No doubt, I have no quarrel with the script. But whether people of my part will be in a position to come up to the level that the U.P. are expecting them to do, within fifteen years, that remains to be seen. Anyhow, they have been good enough to concede that time limit. And then the question of numerals was there and that was very important. It took three days' debate and then it was decided. Although the numerals were called "international numerals" we had to convince them that they were really Indian numerals first, and they have conceded after all. It is a great achievement from the point of view of people from South India. I hope my friends from North India will not mistake me, when I say that the difficulty is ours, because we have to learn the language and not they.

Sir, I am glad we have come to the last stage of this Constitution. It is about to begin, on the 26th January, and I once again make an appeal to the Members that we should make it a point - because most of them will be the people who will work this Constitution to see that it is worked in the spirit in which it is enacted. Only then can we realise the dreams with which the people have enacted this Constitution. Establishing of gram panchayats and cottage industries, introduction of prohibition, - all these things will go a long way to help the poor people.

A unique feature of this Constitution is that the rights of the agricultural labourers have been recognised by this Constitution. Though the agricultural labour forms the bulk of the population, though he produces the maximum wealth of this country, his claims were ignored simply because he could not organise, he could not come forward, he could not strike, though he could stand for the property of the country. When I moved the amendment asking for agricultural labour to be included in labour, the Drafting Committee were kind enough to accept it. I leave it to the honourable Members, while working out this Constitution, to see that the just claims of the agricultural labour are recognised. I support this Constitution, not as my honourable Friend Mr. Kamath did with limited support. I support this Constitution without any reservation, either mental or physical.

**Shri Jaspat Roy Kapoor** (United Provinces : General) : Mr. President, Sir, the discussion on the Third Reading of this Constitution has been going on now for the last several days and every little article of this Constitution has been under discussion for the last about three years now. That being so, one can hardly add anything which is new. If even then I venture to address this House, it is not because I would aim at anything original, but because on an occasion like this when the heart is full of happiness, gratitude and reverence, there is a natural urge for one to pour out his feelings. These speeches on the Third Reading, I do not

think, are in the nature of a post-mortem examination as honourable Friend, Shri Saadula stated this morning, for we are not analysing or dissecting anything which is dead and gone. But we are here on this occasion to give our blessings to something which is newly born, something which we wish would work successfully and live long and prosper and cast happiness all round.

The uppermost feeling on this occasion is that we should pay our homage to Mahatma Gandhi, the Father of the Nation, under whose guidance and because of whose great sacrifices we have been able to break the shackles of slavery and to secure freedom for this country. On this occasion our thoughts also go out in grateful reference to the departed patriots like Dadabhai Naoroji, Surendranath Banerji, Gokhale, Tilak, Motilal Nehru, Malaviyaji and others, and to many a martyr, known and unknown, who has has lost his life in freedom's battle. But the latest sacrifices that have been made in the cause of our country's freedom are those our refugee brethren, who have been displaced from Western Pakistan and also from Eastern Pakistan. Their sacrifices have been the latest and it will be sheer ingratitude on our part if we were to ignore them. Not only must we not ignore them, but we must see to it that we do everything that is possible on our part to remove their misery. Providence will not forgive us if we neglect their cause. So long as we are not in a position to rehabilitate them, I think we shall not be able to create an atmosphere in the country which is necessary for putting this Constitution on a sound footing. I feel that our position is very much like that of a peacock who, enchanted by the beauty of its feathers dances in joy, but when he looks at his feet begins to weep and shed tears. That is exactly how I think we feel today. While we are happy at the freedom that we have attained, when we think of the partition of the country and the more so when we think of the misery of our displaced brethren, we certainly feel that we cannot fully enjoy the fruits of freedom. I submit therefore that we must do everything possible to recognise the great sacrifices that our displaced brethren have had to undergo for the sake of securing the freedom of the country, and the problem of their rehabilitation must be given top priority.

Dr. Ambedkar and his colleagues have rightly deserved the praise which has been showered on them by almost every speaker. I had started with a prejudice against Dr. Ambedkar, for I had felt very sore many years ago when Mahatma Gandhi was undergoing fast against grant of separate electorates to the Scheduled Castes and I had read in the papers the news that when he had been invited to see Mahatma Gandhi to discuss that question, he once said that for a day or two he was not free because he had to attend to some professional engagements. I felt very sorry then. I do not know how far it is correct. But even if it was so, the great work that he has done during these three years has washed away that particular sin or any other sins which he may have committed. I have developed an admiration and also affection Dr. Ambedkar for the very useful work and the very patriotic work which he has done. His very first speech in this Assembly had dispelled all my doubts and fears in relation to him and today I can say that I consider him to be one of the best patriots of this country. I have always found him to bring to bear upon the subject a very constructive approach. On many an occasion when there seemed to be a deadlock, he came forward with suggestions which resolved those deadlocks. I always found him rise to the occasion except, unfortunately, on one occasion and that was when he did not agree to give up reservation of seats for the Scheduled Castes. Every other minority gave up reservation of seats, but unfortunately Dr. Ambedkar would not agree to it. I wish he could have also agreed to it and I could have then been in a position today to say that he rose equal to every occasion, but unfortunately I cannot say it today. Be that as it may, the great work he has done except this must be recognised in very grateful terms.

I must also express my gratitude to Shri B.N. Rau, Mr. Mukherjee and his loyal lieutenants for the very good and efficient work that they have all done. Shri B.N. Rau kept on flooding on us precedents after precedents of Constitutions as they are in the different parts of the world and they have been very helpful to us.

And so now we have come to the close of our labours. We have done our job well with mutual accommodation, understanding and common consent. We are proud of our achievement. But this has been made possible only under your wise guidance, Mr. President. You have shown a tremendous and marvellous patience. You have extended to us unfailing courtesy. You have given to us the fullest freedom for expressing our views. You have not merely regulated the

proceedings here but you have stepped in whenever you thought that the decisions which we were going to take were not rights, and almost on every occasion when you intervened things were set right. It is, therefore, that we have been able to prepare a Constitution which is worthy of us and deserves the support of every one of us here and outside in the country.

The one great thing about this Constitution is that almost every clause of it has been adopted with unanimity and in agreement with those who were affected. Some might differ with a clause here or others might differ with a clause elsewhere but on the whole the Constitution represents the greatest common measure of agreement among all sections of this House. I do not ignore the fact that there are some irreconcilable like Seth Damodar Swarup, Prof. Shah and Shri Lakshminarayan Sahu. They are some who for reasons of their own can never be convinced for nothing can convince those who are bent upon not being convinced, and we should not therefore take a very serious note of their opposition. So far as Seth Damodar Swarup is concerned he contended that we are not a representative body, not having been elected on adult suffrage. While we may not agree with him in his view, so far as he himself is concerned admittedly according to his own confession he is not representative of anybody, and fortified by that conviction that he is here not to represent anybody, I believe he has allowed himself to indulge in irresponsible attack, because perhaps he feels that he can safely talk anything not being here in a representative capacity.

Though the number of such hostile critics is not many I must confess that it has been a matter of regret and surprise to me, as I believe it must be so to many others, that the latest recruit to the ranks of hostile critics is a person who less than Sri Sampurnanand, Education Minister of U.P. Last Saturday while addressing the students at the University Convocation at Agra he condemned the Constitution and decried it outright. While I was listening to his speech sitting not far from him I was wondering whether that was the sort of speech that should have been delivered to students who should be told what their duties are when they are entering the threshold of the world. He ridiculed the Constitution outright and perhaps expected the new alumni of the Agra University to also similarly ridicule the Constitution. One would have expected a distinguished and responsible person like him to call upon the students to work the Constitution and make it a success. It was an occasion when wholesome advise should have been given to the new graduates. But it was otherwise. It was ill-conceived, ill-timed and ill-delivered.

With your permission, Sir, I would like to refer to three or four things that he said. He said:

"It is my conviction that this Constitution is not really worthy of us".

Further he says that "it is a large tome". He considered it so weighty that even his stout shoulders could not carry its weight. He has of course not given us the exact weight of this "tome" or how much his shoulders could carry. Later he says:

"A Constitution is something of a sacred character which inspires future generations. It is in the case of important States the embodiment of a living, faith, the philosophy of life of those who framed it. You have only to look at the Soviet Constitution to realise this."

Here we have an inkling into his mind and we find which way his sympathy lies. Then he goes on to say:

"Judged by this criterion, our Constitution is a miserable failure. The spirit of Indian culture has not breathed on it; the Gandhism by which we swear to vehemently at home and abroad, does not inspire it. It is just s piece of legislation like, say, the Motor Vehicles Act."

What contemptuous and unworthy description of this sacred document! Ultimately, as if this was not enough, he says:

"There are other serious defects. I shall refer only to one. The attempt at centralisation of all power is hardly veiled and provincial governments have been sought to be reduced to the position of agents of the Centre. This is bad. Centralisation has been tried before in this country. The results of the experiments are not unknown to students of history."

I do not know which history he has studied. The history of centralisation that we know of is not the history which he seems to have studied. History rather undoubtedly proves that

whenever there has been no centralisation in this country it has been over-run by foreigners. It seems that the history which Sri Sampurananand has read is one of which none of us is aware.

One of the criticisms against this Constitution is that it is not inspired by Gandhism, as Sri Sampurnanand has said and some other friends also have said it, though their number is small. But nothing is farther from truth than this. The chapter on Fundamental Rights and that on Directive Principles give a direct lie to such criticism. What is it that Mahatma Gandhi stood for? The thing nearest to his heart was the removal of untouchability. Have we not laid down in definite and specific terms in this Constitution that hereafter there shall be no untouchability and if it is practised it shall be an offense punishable under the law?

The second thing that Gandhiji wanted was that power should be in the hands of the masses, the peasants and labourers. Have we not really provided for that also? What does adult suffrage mean? We have taken a bold step in providing adult suffrage. It is a risky experiment which we are going to make. In deference to the wishes of Mahatmaji we are going to take that risk and I hope and trust that we shall not be sorry over this experiment.

Thirdly, Gandhiji wanted a secular State, that religion should be a personal affair and that the State should have nothing to do with it, that persons professing any religion must have absolute freedom and should be equal in law and in the eyes of the State.

That is what we have provided for in this Constitution. While absolute religious freedom has been granted, we have made several provisions in the Act laying it down specifically that religion shall not be compulsorily taught even in educational institutions which receive any aid from the Government.

What Mahatma Gandhi was particularly anxious about was that there should be village panchayats and that they should enjoy a certain amount of autonomy. That is exactly what we have provided for in article 50 of our Constitution. This is what it says:

"The State shall take steps to organise village panchayats and endow them with such powers of authority as may be necessary to enable them to function as units of self-government."

So, this is what we have specifically provided for in the Constitution. Those who talk of centralization of Government would do well to look at article 40 in the Constitution. True, it is in the Directive Principles, but where else could it be, and what more could you do at this state? You could not have established village panchayats by one stroke of the pen or by merely waving a magic wand. All that you could do was to set forth your firm determination to proceed in that direction and that is what we have done.

Sir, there is another thing which Mahatma Gandhi was anxious for and that was the spread of cottage industries. For that we have made a specific provision in the Constitution in article 43.

Then, again, Sir, prohibition was very important plank in Mahatma Gandhi's programme. We have made a definite provision in that direction also under article 47, which finds a place in the chapter of Directive Principles.

Those who say that this Constitution is merely a copy of other Constitutions - would they please point out to us whether in any other Constitution of the World there is any mention of prohibition or cottage industries in the directive principles and policy of the State? And yet they say that our Constitution does not bear the mark of Gandhism.

There are two more things that I would refer to and they are the question of the national language and the question as to what the policy of the State is going to be in international matters. So far as international matters are concerned we have laid it down in article 51 as Mahatma Gandhi would have wished us to do, and that is that the State shall endeavour to promote international peace and security, maintain just and honourable relations between nations, foster a respect for international law and treaty obligations in the dealings of organized peoples with one another and lastly, encourage the settlement of international disputes by arbitration, and not by having recourse to force or war. This is to be our policy in the international sphere, a policy which is in complete accord with the principles of truth and non-violence of which Mahatma Gandhi was to ardent an advocate.

Lastly, with regard to the question of one common national language : we have proceeded on the same lines on which Mahatma Gandhi would have wished that existed on this question. But then ultimately when we passed the article in regard to this language question, we passed it in a manner that appears to me to be just what Mahatma Gandhi would have wished for except in one or two minor details. We have adopted Hindi as the national language, a language which is to be composed of all the languages and which has to make its shape from all the different languages of the country. Of course, Mahatma Gandhi did not want domination of English and in that respect I must confess. Sir, that we must plead guilty to the charge that we have not met his wishes in full. Those friends of ours, those honourable Members and responsible members here, who mention Mahatma Gandhi's name in season and out of season, would not let us throw away English and in that respect I must confess. Sir, that we must plead guilty to the charge that we have not met his wishes in full. Those friends of ours, those honourable Members and responsible members would not let us throw away English within a short period : they insisted that English must continue to dominate for full 15 years. About this, Sir, I have no doubt in my mind, and I am sure none of us would have any honest doubt in our minds, that Mahatma Gandhi would never have relished the domination of English for 15 years and the idea of having English numerals. But then those who preach to others to follow Mahatma Gandhi's principles and policies and theories in toto were the loudest in insisting that we must have English for 15 long years and also English numerals. Well they have had it to their satisfaction. We have kept the English numerals.

**Shri L. Krishnaswami Bharathi :** They are absolutely Indian numerals.

**Shri Jaspat Roy Kapoor :** My honourable Friend says they are Indian numerals. I know, of course, that one fine morning this wisdom dawned on Mr. Bharathi, and some others also felt that they would be wiser if they would accept what Mr. Bharathi had discovered, namely, that these numerals were not English numerals but were Indian numerals, and we had then the funny description of Indian numerals in international form. Well, I would not care to refer to that story any more. It is a sorry story of self-deception. I have referred too it only in relation to the objections raised by Sri Sampurnanad and those of his way of thinking that our Constitution does not bear the impress of Gandhism.

Then, Sir, Sampurnanandji and some other like Seth Damodar Swarup said that the Socialistic principles did not find any place in this Constitution. In answer to that, I would refer them only to articles 39 and 41 of this Constitution which provide for public ownership of material resources of the country and equitable distribution of wealth. One of the articles lays down that there shall be equal pay for equal work.

These and other cognate articles would go to show that we have fully adopted socialistic principles. Of course we could lay them down only in the Directive Principles and could do nothing much beyond that.

The two fundamental things about this Constitution are the unity of the country and a strong Central Government, and surely none need be sorry for either reason. It is absolutely necessary that we must have a strong Centre. But we have a strong Centre only so far as it has been consistent with necessary and reasonable provincial autonomy. We have not stopped there but, as I have already submitted, we have gone beyond that and we have provided for the creation of village panchayats which have to be given a very substantial amount of self-governing powers. So, though we have a strong Centre, it is not inconsistent with provincial autonomy and reasonable village autonomy even. So far as unity of the country is concerned, we have been wise enough to incorporate in the Constitution certain definite principles and I think nobody should be sorry for it excepting one who would like to bring about confusion and chaos in this country because his sympathies may be lying somewhere else outside the borders of this country.

We have provided that any person born in India and residing anywhere in the State shall be employed in any part of the country. That I consider to be a very wise article which we have dropped. I hope and trust that the power which has been given to Parliament to enact a law which may lay down that the residential qualification may be necessary in the case of certain appointments, would only be exercised with care and caution and not extensively at all.

Then we are going to have a uniform Civil Code for the whole country. That is a very good

thing. It will be a great unifying factor. Then, above all, we have provided in the Constitution that all Indian States shall have the same Constitution as the portions which hitherto used to be called provinces. Two years ago we could not have visualised that Princely India would disappear and that it would be integrated with the rest of India and that the whole country will have the same sort of Constitution. But today it is an accomplished fact. This is something of which we are proud and happy. I only wish that Kashmir should also have been brought in on the same level as other States but, unfortunately, much to our dissatisfaction and chargrin, if I may say so, this would not be done. This is a delicate subject and I will not say anything more on it.

One very good thing which I have found mentioned 25(2) at the late stage is a very good addition. This includes the Buddhists also among the Hindus. This is a new incorporation. This is a provision of which I feel particularly happy.

The President's bell has been rung and, my time is up. I would not, therefore, refer to two or three points about which I had something to say. But it is well that the time is up now, because this prevents me from referring to any defect in the Constitution for the time for pointing out the defects and offering hostile criticism is now over. It is time now that we create in the country a feeling of sanctity for this Constitution. It must be, as my honourable Friend Shri Santhanam point out, our endeavour now to make the people wholly understand the various provisions of the Constitution. We must create an atmosphere of respect and reverence for the Constitution so that every one may do his best to work it and make it a grand success. That only will bring us peace and plenty, prosperity and happiness. Our motto and slogan hereafter should be "Bharat Samvidhan ki Jayaho, Bharat Mata ki Jayaho".

**Shri Algu Raj Shastri** (United Provinces) : *[Mr. President we are in the last lap of the journey of our Constitution making which we had undertaken after achieving our Independence. I consider, Sir, that the representatives of people who are in this House may congratulate themselves for their great good fortune for having seen the day when they could shape their own constitutional destiny after having smashed the chains of their slavery. The parallel for the present day that comes to my mind is the Coronation Ceremony of Ram. When he returned from his great triumph over Ravana to his Ajodhya his forest followers who have been described mythologically as monkeys and bears also accompanied him. On his ascending the throne of Ajodhya Rama gave them each a diamond necklace as a gift. I feel that the common people of India who had sacrificed and dedicated their all to the Congress and who by marching behind the great leaders whose efforts and courage has brought us the sweet fruit of freedom and as a result of whose efforts we are sitting here making the Constitution of our free India-These common people who give their firm support to our leaders in achieving Independence just as the forest followers of Ram had supported him in recovering Sita from Ravan are now getting this reward of this diamond necklace of this great and big Constitution of free India from the hands of this Constituent Assembly composed of followers and statesmen. Sir, this Constitution really appears to me to be like a necklace of diamonds. I believe, Sir, that even if this Constitution were examined with a very critical eye or even with a hostile eye yet it would be very clear without any possibility of contradiction that the Unity it has established in a country which was divided into many states and which was practically going to pieces as a result of internecine differences is unrivalled and unparallel in the history of the world. I should say it is a unique achievement and we have been able to do so only through great daring, great industry and great goodwill. Each section of these sacrifices and compromises we have now this Constitution.

When the British quitted this country they granted complete Independence to all the princely potentates of this land. They declared that the treaties which had been entered into with the princes would lapse on their departure and that the princes would become completely sovereign and free. These princes then had before them a great temptation of sticking of their privileges and rights. If that had happened there would have been so many rulers in the country and the struggle for power and political conflict would have been on so many fronts that it would have been impossible to resolve them successfully. But our princes had wisdom not to do so and through the surpassing ability of our great leader Sardar Vallabhbhai Patel and the far sightedness and skill of our leaders we have been able to bind India together into a common whole and thereby establish a greater India than there was during the British regime. Not only was there the princely question but linguistic question of our country was no

less complex as ours is a multilingual country so much so that we have a saying that the taste of water changes after every ten bighas and so also does change the language of the people It is therefore nothing short of a marvel in such a vast country, that there could have been accepted one language and one script as the official language of the whole State. I should say, Sir, that this has all been due to the great liberalism of all the component units of this great land who have in this matter sacrificed their individual interests for the sake of the common and the collective good. I believe, Sir, that in this achievement we owe a duty to praise and honour the leaders and our friends of different provinces who by skill or spirit of accommodation have made this decision possible. If we view it in this manner we find that we have been able to constitute a new nation. We have been able to constitute a national language and we have been able to gather in an organic whole the scattered fragments into which our country was divided as a result of the existence of many States. All this unique achievement is reflected in the Constitution and I may say, Sir, that we have been able to secure it only through hard and toilsome labour. It is also because of these achievements that I consider this Constitution to be a diamond necklace which is being presented by the destiny makers of our nation to the people of India. In this connection, however, Sir, I find a difference between the parallel to which I had referred only a while ago. Is the diamond necklace given to Hanuman by Ramchandra was put to pieces by the former and he began to examine each piece to find whether it had on it the name of Ram or not, and he threw away all the jewel pieces on finding that they did not contain the name of Ram on or within them. But I do not think Sir, that this will be the case with this Constitution. I believe on the other hand that the people of this country would feel greatly pleased on getting this garland or necklace of the Constitution and would render thanks to the Lord at the moment when it puts it round its neck. I know, Sir, that those among the people who like Hanuman are lovers of the Lord and those who on examining the jewels and diamonds of this necklace of this Constitution find that it does not have on it or in it the name of the Lord would feel a little hesitation in accepting it. But what are the defects which can make these people hesitant to accept it. I think that it is my duty to point out these to the House today. It is my feeling Sir, that we have used very beautiful and sweet language in the preamble. But in spite of the fact that the language is sweet people like Hanuman who are lovers of Lord feel that there is not within it the name of the Lord himself. Moreover, Sir, we do not find the least reference in this Constitution to the great heroes and martyrs whose sacrifices alone made it possible for us to have a Constitution for an Independent and free India. I really, Sir, do not know if there would be any occasion when there would be record that in this Constitution there is no reference at all to the Father of our Nation nor to the martyrs of our country. We have, Sir, proudly, declared in the preamble arising out of a sense of pride and vanity. I submit, Sir, that we should not do anything in pride as saying is 'pride goes before a fall'. My submission is, Sir, that we should have referred to God in its opening sentences even though the reference would have consisted of a few words only. We should also have made a reference to the brave spirits whose constant striving and continuous sacrifices have brought us this day. And we should have paid, our homage in all respect to the Father of our Nation, Mahatma Gandhi under whose beneficence and blessings we are able to witness this glorious day. My submission is, Sir that if it had contained a reference to Mahatma Gandhi it would have become as beautiful as would have been the diamond necklace for Hanuman if it had contained the name of Ram. But since it is not there those of us who are devotees of the country, of the State and a God feel a sense of void in certain aspects of this Constitution. Next Sir, when we proceed further from the preamble we come across the chapter relating to the name of the country in which it is stated that India shall be a Union. It is, Sir, a matter of deep sorrow and deep regret for me that we in this country did not rise above the slave mentality and we did not say frankly what would be the name of our country. I think, Sir, there is no single country of the world which has such a clumsy name as we have given to our land that is 'India, that is Bharat.' The fact, Sir, is it is no name at all and we have failed very badly in giving it a proper name. My feeling is, Sir, that having a beautiful type of its own this Constitution has lost much of its sweet flavour on account of this short-coming on account of the absence of the name of Ram and would not be acceptable to many Hanumans. Next, Sir, we find the clauses relating to citizenship. It is stated therein, Sir, that people who have migrated from Pakistan to India before a particular date shall be the citizens of India. The fact is, Sir, that we should have said plainly that the Hindus and the Sikhs who may not have acquired voluntarily the citizenship of a foreign state would be the citizens of this country whenever they may decide to come to this country. Had that been done there would not have

been the right of acquisition of citizenship as is contained in the provision relating to a particular date on which persons could become citizens of India. As against this there should have been a severe limitation of the right of those who had left this country after partition but who have returned for reasons which may not be known to this country again but I find that in that matter that strictness has not been observed. Naturally those of us who have been ruled so long as by patriotic sentiments do not feel satisfied in regard to this matter. Next, Sir, is the chapter relating to fundamental rights. That chapter carries liberty and security to every individual and every citizen has been afforded the amplest rights and a pledge has also been given that their rights would be duly protected. But, Sir, even there we have failed to consider sufficiently the responsibility of the citizens of the State and their duty to make their country strong and powerful. We appear to provide safeguards to persons who are usually termed as minorities. I, however, submit Sir, that we should provide safeguards to those who need them. But at the same time I submit that these minorities should realise their duties towards the country and should understand the ways in which they can truly serve the country and the way in which they can keep off from their hearts loyalty to alien elements and they should not begin to have attachment to other countries of the world. For if they did so that would prove fatal to our own country. I find, Sir, however, that sufficient and adequate provisions have not been kept in the Constitution to realise the objective. Further, Sir, we have prohibited the religious education being imparted in schools particularly in schools which are being run by Government aid. I feel, however, Sir that this has not been wisely done. Mahatma Gandhi used to recite 'raghupati raghav raja ram pateet pavan seeta ram'. Mahatma Gandhi used to study Geeta and Ramayana practically every day. If these and other religion I do not understand how we will be able to maintain a moral code. My feeling is that our fundamental rights have this fundamental defect. When we proceed further, Sir, we find that the so called directive principles wherein the ideal of our country and the rights of the people are given that though the language is quite attractive, find and dignified yet it is nowhere said that the State takes the responsibility to feed, to clothe and to provide the other basic needs of human life to its citizens. It is no doubt true that we have said that we shall strive to provide as far as possible all these things. But, Sir, while we have very proudly referred in the preamble to our giving this Constitution to ourselves we have suddenly become very meak and humble in a place where we should have very emphatically and loudly declared that since we were assuming sovereignty to ourselves we would be making provision for the bread, the clothes, housing and the other basic needs of man in the chapter relating to fundamental rights. In our ancient polity it was the precept that the raisond'etre of the State was to provide the basic needs of life to every one of its citizens. But Sir, in this matter we in this Constitution have become extremely modest and we qualify our promise in this respect as far as possible and as far as it lies within the economic capacity of the State, and in this way have shirked our real duty to our people. The fact is, therefore, that there is not the least hint of a promise of this type in the chapter of fundamental rights, and the people who were expecting to see some such thing in the body of this Constitution are today greatly disappointed. In our country, Sir, there are many a beggar who are lame or lepers or otherwise disabled have to pass their days in dire distress on the road sides and who pester the pedestrians by begging them for pice. I do not find any provision in this Constitution for the stoppage of that practice. The fact is that the State has not taken upon itself the responsibility of looking after them. In this connection we talk of our economic capacity and I consider it a great defect in this Constitution. Again Sir, it is my belief that there should have been a clear provision for prohibition of cow slaughter and the slaughter of other animals. It is for years that we have been trying to stop the slaughter of animals and particularly of cows. The people of this country had been chanting the words which enjoins the protection of the cows and even of the animals and even prohibit the sacrifices of any of them. But unfortunately in this Constitution we have made no reference to it. And we have not said that the slaughter of animals will be considered like the slaughter of a man. This again, Sir, is something which appears to me to be a short-coming.

With regard to the structure of the Union Government its executive, legislature and judiciary I know that there is nothing new than what they are in the other parts of the world. Besides the provisions relating to them are more or less a copy of the Government of India Act 1935. These matters had caused disappointment to the patriotic and religious-minded for which I would like to say a few words today. The first question that comes to my mind is what relation we still continue to have with the Karachi Resolution. In that resolution it had been provided that with a view to bring the people and the administration together. Similarly the executive,

legislature and the judiciary, accounting system and the public services of the Provinces have the same form and outline as they had under the Government of India Act 1935. Rs. 500 should be the maximum salary permissible to any person. But Sir, you will not find even the least mention to the maximum limit of Rs. 500/- throughout this Constitution. The Government expenditure is going up. Formerly we used to question the utility of the two houses of a legislature. We could not understand why there should be one house to check the other. We felt that there was absolutely no necessity of two storeyed house consisting of an upper chamber and a lower chamber when one storeyed house of one chamber could alone do. But we actually find that under this Constitution almost every province has two houses. The expenses have thus been increased extremely. But there is no provision to increase production . We have as a matter of fact not done anything to decrease the expenditure of the Government. We have not left many powers in the hands of the elected representatives of the people for we have no felt it safe to pur ourselves entirely in their hands. Besides we have increased the number of representatives considerably and the financial burden of that would fall heavily on the shoulders of the producers. We have referred to the salaries, the allowances and the other privileges and facilities to be provided to the officials under this Constitution. But we have forgotten while doing so that the entire burden would fall on the back of the poor people of this country. We have as a matter of fact failed to keep in our view the weak skeleton framework on which this splendid building is being raised . We have entirely ignored the standard of life our people. Today we look more to the comforts and facilities of the Government officials whom we praise in and out of day. It is no doubt true that the government officials are our kith and kin and not aliens. But when they are praised, when their facilities are provided for and when their salaries are compared to those of the foreign employers and on the basis of their responsibility, it is asked whether Congressmen could do otherwise I feel somewhat disappointed. The fact is, Sir, that the Congressmen are not after government jobs. Their ideal has been and is one of sacrifice and service. They had always dedicated their lives to reinforce the foundations of the temple of the nation. In this connection a poem composed by me comes to my mind.

*desh jati hita novan ke hum kankar hove*
*aasuri samyatti nari ke kata kankan sohe*

That is, we may be the pebbles of the foundation of the building of welfare of our country and nation. We should not be the pebbles of gold for shining in the bangles of handsome and prosperous ladies and conquettes.

Any Congressman who has been striving hard for the Congress since 1920, would not like to shine as the frontal stone of any building. He would consider it his duty to dedicate his life in the service of the nation. When the mention of salaries etc. in respect of the services in made, it is only because we took up the question of services, but we ignored the masses who have been suffering and who have been exploited for so many years. I wish to draw your attention to their hardships. We have ignored those unfortunate people, and have failed to pay sufficient attention to them. If sufficient attention is not paid to them, I can say definitely that they would feel it and think they have been transferred from the white bureaucracy to a brown bureaucracy, that their standard of life cannot be raised, while we are worried about raising the standard of life cannot be raised, while we are worried about raising the standard of life of their servants. None worries about the masses who are the earners, whose earnings are sustaining this whole structure. We do not worry about production, about raising the standard of life of the masses, our attention has been attracted towards those who are comparateively more prosperous, happier, and we think of them day and night so that they may not get annoyed. How can they do so? We have not monopolised patriotism, their hearts also thump with patriotism.

Sir, your own life has been that of dedication, Pandit Jawaharlal's life has been such and Sardar Patel's life has been one of dedication, you have not led a royal life. You have not taken up power for the sake of ruling or collecting wealth, you have come here for the producer, for the masses. The nation cannot take on itself the responsibility of those people who enjoy like parasites at the cost of the poor. We should take upon ourselves the responsibility for raising the standard of life of the masses, and such a thing is absent in this Constitution.

I wish to conclude my talk, after inviting your attention to one or two things more. This I say

only because such are the causes which afford an opportunity to the opponents to criticise, and these things pain the patriotic section. I would say one thing, and that is this, that in the structure that we have framed, much power has been vested in the Centre. The Secretary of State exercised control over us formerly, now the States who have acceded will be under our control. If such a control continues, the initiative will be gone. If our Central Government becomes weak, our units will also become weak, and our nation will perish. But if the Centre become so strong, that it begins to reprimand all its units, as if its children, like Aurangzeb, there would none to take upon himself the responsibility about the people. Hence there should be harmony between these two. There must be a control over the defence, - we should see that there is no infiltration from the side of Kashmir, that none infiltrates from the side of Assam, that the enemy does not enter from any side. In this matter we would try to control the units, but ordinarily the Centre would not check the fullest development of its units by putting restrictions. Look at the farmer, he guards his cultivated fields, protects them from stray cattle and wild animals, but after sowing the seeds, he does not unearth them every now and then to see whether they have sprouted. If, therefore, there is interference in even minor matters, that would make the Centre as well as the units weak. I have noted one thing, recently the U.P. Government decided and suggested the name 'Aryavarta' for itself. The people at the Centre felt that this name is absurd. I gave this instance of naming merely as an instance, if we adopt this name Aryavarta, then, how does it imply that rest of the country became non-Aryan? Now, just see, Pakistan has named itself Pakistan (the land of the pure), does it mean India has become a land of the impure? Is all the land other than Pakistan, a land of the impure? Our leaders have by agreement accepted the name of Pakistan. Similarly Aryavarta could be adopted and that would not have rendered all other Provinces non-Aryavarta. This is only an instance, you did not like it, so we will change it, but if such things continue to happen, then where would liberty exist, where would local initiative exist? Today our units should have the power of developing themselves, but would that exist in face of such interference? In this way the units that you have created would also vanish. The Centre should therefore interfere with units to the minimum. In this connection I am naturally reminded of the English saying, viz. 'that Government is the best Government which governs the least'. This great saying is completely applicable to this matter, and points out that the Centre should not have extraordinary control. Safeguards and suggestions may be made by the Centre. There should not be interference at every step, so that the local initiative may be retained. I would invite your attention to this.

I appreciate Shri Shankar Rao Deo's views that the Indian Constitution does not seem to bear the Gandhian outlook. But I would tell him and other friends sharing this view that, whatever be the position, though Dr. Ambedkar might have previously made a fun of the Panchayats, yet they find a place in this Constitution. Village industries have also been given a place here and there is also a mention of prohibition. Its greatness lies in the fact that the problem of untouchables has been solved and the general masses have been given the right of adult franchise, a right to vote. All these things are its great peculiarities and in view of them, we should take it, that the soul of the father of nation, Gandhiji, will be happy at this.

I would conclude after saying one more thing owing to which this Constitution is not dear to the Indian people. The people have to judge whether this Constitution is the necklace of jewels, or of artificial stones, of emeralds dug out from the mines, of diamonds of Golkunda or simply that of glass marbles. The language in which this Constitution has been framed is not the language of the people, the language of the people is that in which the poetry of Sur, and the great epic poetry of Tulsi was composed, in Northern India. Today my sister Durgabai cited a piece of verse from Telegu, which I would not commit to memory, but I would read it out, it is in Telugu:

mandar-makand-madhuryamana delu madhuyagmu poane madanayuleka

nirmal mandakini boyikal jhag rayajcha chanena kurjayuleka

ambujodar divya padaravinda chintanayuta bhartayatta meriti

nitarambu cheranetsu vinuta gunasheela yathal veinal?

I look at those words, if you too look at them, you would not find in Hindi of north or east any word which is so directly connected in its origin with Sanskrit as the words of this Telugu

verse are. These are all Hindi words. Compare these Telugu songs with these couplets of Tulsi:

manas salil sudha pratipalo

jiryad ki lavan payodhi maralo

nava rasala vana biharanasheela

soi ki kokila vipin karila

You would thus see how this language is spoken right from Himalayas to the Cape Comorin. Bandemataram is a song in simple Sanskrit and it has been our national song too. The famous song, namely,

vaishnava jana to tene kahiye

jin peed parai janire

appears to be a Sanskrit verse and Gandhiji loved it more than his life. This Constitution has not been framed in the language universally current in the whole country. Sir, under your Presidentship, you were pleased to say that the Constitution of our nation would be in our language. Today the Constitution which this Constituent Assembly is adopting is not in our language. Shri Santhanam says that we should propagate this Constitution and carry it to the general masses. But how to carry it?

Lord Buddha did not propagate his religion through Sanskrit. He had adopted Pali language which was the language of the masses. When Gandhiji converted the Congress platform into public platform, he discarded English and began delivering his speeches in simple Hindi. The things can happen this way, only if the Constitution is adopted in our own language. Only a Constitution in our own language can reach the people can become popular. It cannot become popular unless it is in people's language.

I would make one more submission and then take my seat. I hope the Hindi translation would be ready till the time this House reassembles for two or three days in January, and if we do not consider every article thereof, we can discuss it for two or three days at least and thus impress it with the authority of the House. Sir, you are the crown of this House. If the constitution is authenticated by you, it would have the same authenticity. But if it is discussed and authenticated in the House, we would be able to go to the people and say that our great leaders, who relieved us from the centuries old bondage, who are the founders of our nation, have given us this treasure, which any people can secure by good luck only and which they have got after breaking the shackles of slavery.

With these words, I faithfully bow to you for affording me this opportunity to speak, which is a very significant moment in my political life, the most significant indeed of all the moments. After passing through the war of independence in 1920 and through many sufferings, this occasion of declaring our independence has arrived, and I have got this opportunity to speak on this occasion by your kindness. For this I am very grateful to you.]

**Shri Amiyo Kumar Ghosh** (Bihar : General) : Mr. President, Sir, at the very outset, I offer my grateful thanks to you for conducting the deliberations of this House with dignity, justice and patience. I also thank the members of the Drafting Committee for the great work done by them.

Sir, there is no such thing as unmixed good. Everything has got its merits, and demerits, and this Constitution of ours is no exception to it. I personally feel that the present Constitution has ignored time and history and has followed the old track, the track which was despised and criticised by us in the past. The reason is obvious, this Constitution of ours is not a creation of our own. It is a borrowed thing. It has been borrowed from several constitutions of the world. If we had shut our eyes to other Constitutions, sat together and decided what should be our economic structure, what should be our rights, and what type of Government we should have and put our decision in our own words, then perhaps we could have produced a much better constitution than what we are discussing today. Another misfortune is that this Constitution has been framed not from people's point of view but from the Government's view point, and so lacks in revolutionary fervour. It is said that the country is faced with various troubles,

problems and difficulties now and during such times, it is not proper to have a liberal constitution. But I submit that constitutions are always framed in abnormal times and circumstances and so it is no answer.

The first thing that I like to say is that this Constitution of ours is a voluminous document. We have incorporated in it so many minor matters and have gone into so many details which are no part of a constitution proper. The reason is probably, that the many responsible for the Constitution, and the members of the Drafting Committee could not place faith or trust in the future Parliament. The Constitution should have only laid down our rights, and privileges, our economic structure and the type of Government wanted and the rest should have been left to the future Parliament to do according to the needs and demands of the country. But, Sir, here we have given no such scope to the future Parliament. Things which ought to have been left fluid and flexible have been made rigid by putting them in the Constitution. This Constitution lacks flexibility which itself a great defect in my opinion.

If we examine the Constitution critically, the unitary nature of the Constitution becomes patent. We have given a good-bye to the Panchayat system. So much so, that in the name of co-ordination and better administration, we have reduced the States to the position of merely order carriers. All finances, all powers are with the Centre. The States have been so much impoverished in the matter of finance, that it will become difficult for the States to carry on the administration and discharge its various obligations. The result of this over centralisation would be that either the Centre will crash under its own weight or there will be constant friction between the Union and the States, endangering the whole structure of the Constitution. I hope that this position should be revised soon and more powers and finances would be placed at the disposal of the States. In this Constitution, no definite financial aid to the States has been guaranteed. The only power or taxation which the States had, namely the Sales Tax, has also been restricted to a great extent. The distribution of the subsidy from the Income Tax has been very unfair hitherto. The great inequality in a fair level. So far as the finances of the provinces are concerned, I would like to draw the attention of this House that the financial position of Bihar is not very satisfactory and with implementation of prohibition the Province may collapse financially. Hitherto, Bihar had not got its proper quota from the Income-tax income. I therefore stress that this position has to be revised as quickly as possible and in deciding the quota of such subsidies, it must be seen that the province gets its full share in the Income-Tax income levied on the profit earned from the products of that province.

Now, Sir coming to the articles dealing with the Fundamental Rights, personal liberty and acquisition of property, I feel they are very disappointing. So far as fundamental rights and liberties are concerned, the restrictions are more prominent than the actual liberty and freedom. As a matter of fact freedom and liberties are lost in the restrictions. Enough power has been given to the executive to detain any person whenever it likes and there is every chance of this power being widely misused. I wish that these articles should soon be revised by the future Parliament specially the provisions dealing with personal liberty and "due process of law" will find its proper place in the Constitution. So far as acquisition of property is concerned, my feeling is that the Union and the States should have been given wider powers to acquire property. The question of payment of non-payment of compensation should have been left to be determined by the future Parliament according to the needs and demands of the time. That was the proper thing. The present article 31 has debarred the States or the Union at all times from acquiring any property without paying compensation. I do not know what view the Supreme Court will take regarding this article but the fact remains that this Article is charged with clumsiness. My honest view is that this Article will act as a great impediment towards our social progress, and national development.

Then, another matter to which I would like to draw the attention of this House is the wide emergency powers given to the President. Virtually the President may set himself a dictator by exercising these emergency powers and deprive the people from the benefit of a democratic Government. I submit that this may bring disaster to the country. I hope that the emergency powers will never be taken recourse to in spite of the fact that it has been put in the Constitution. Except in cases of grave national danger and a convention to that effect should be established.

Sir, these are also very good articles in the Constitution and some of them require special

mention. The removal of untouchability has removed a strong barrier to our social and economic progress and I think the future Government will try to implement this with a strong hand. Abolition of separate electorates which has brought so many miseries to the country is another redeeming feature of this Constitution. Adult franchise is another bold step in our Constitution; but it is not free from danger. We know that our country is not so educated as to understand the real implications of adult franchise. Now, the responsibility is with us to go to the people and tell them the real implications of this right so that this right may not be misused, and the people may not be misguided.

Then, Sir, the integration of the States within this Union and giving them a place in this Constitution is another remarkable performance for which all credit is due to our revered Deputy Prime Minister.

Sir, in the end, I would like again to impress this House regarding the financial position of the province of Bihar. I have already stated and I repeat it that if the Province is not given its proper share of subsidy from Income-tax, and other subsidies the financial position of the Provinces may become precarious and the Province may not be able to march towards its progress.

In conclusion I must say that it is momentous achievement and in spite of its defects and short comings its colossal nature cannot be denied. I wish the document a happy sail.

With these words, I thank you, Sir, giving me this opportunity to express my views in short.

**Mr. President:** The House stands adjourned to 10'clock tomorrow morning.

The Assembly then adjourned till Ten of the Clock on Tuesday, the 22nd November, 1949.

---

*[ ] Translation of Hindustani speech

# CONSTITUENT ASSEMBLY DEBATES (PROCEEDINGS) - VOLUME XI

**Tuesday, the 22nd November 1949**

---

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

DRAFT CONSTITUTION-(Contd.)

**Shri H.V. Kamath** (C.P. & Berar : General) : Mr. President, a few days ago you were good enough to tell the House that the election of Members from Vindhya Pradesh to the Constituent Assembly would take place about the 20th of this month. Will you kindly tell us whether the election has taken place and whether the Members will take their seats here during this session?

**Mr. President :** Well I am expecting them to come; but it is not by way of election. As a informed the House the other day, an attempt has been made to constitute an electoral college but for some reason or other, that has not been found possible. So ultimately I was asked to agree to nomination, and I did. So I am expecting the nominated Members to come.

**Shri Jainarain Vyas** (United State of Rajasthan) : I understand that two Members have already come here.

**Mr. President :** If they have come, they will come here.

**Shri Jainarain Vyas :** But they have not got the credentials from the Rajpramukh and that is why they are waiting.

**Shri H.J. Khandekar** (C.P. & Berar : General) : I read in yesterday's paper that four persons have been nominated by you to this House from the Vindhya Pradesh.

**Mr. President :** No, not by me.

**Shri H.J. Khandekar :** No, I am sorry : By the Rajparamukh. May I know on a point of information whether there is a Harijan among them?

**Mr. President :** Well, the names that we have received are these, and I do not know if any of them is a Harijan or not. The names are :

(1) Captain Awadhesh Pratap Singh,

(2) Shri Shambhunath Shukla,

(3) Pandit ram Sahai Tewari, and

(4) Shri Mannulalji Dwivedi.

No, I do not think there is any Harijan there.

**Shri H.J. Khandekar** : From the surnames also I can made out that there is not Harijan.

**Shri H.V. Kamath :** Is any attempt being made, or will any attempt be made, to get the Hyderabad State into the Constituent Assembly by the next session ?

**Mr. President :** I do not know. I cannot make any attempt so long as Hyderabad does not

accede to India and agree to send its representatives to this Assembly.

**Shri H.V. Kamath :** There was a rumour in the Press that Hyderabad was shortly going to accede.

**Mr. President :** I have no information.

May I suggest to honourable Members to confine themselves to ten minutes each, because there is a very large number of speakers and many of the points have already been covered by one speaker or the other. So, the speeches now will be more or less a repetition. I would, therefore, suggest to honourable Members to confine their remarks to ten minutes, if possible.

**Begum Aizaz Rasul** (United Provinces : Muslim) : Mr. President, Sir, this is indeed a very solemn and auspicious occasion that this Constituent Assembly has finished its mighty task of drafting a Constitution for free India-a Constitution which embodies in itself the hopes and aspirations of the Indian people. If a constitution can be judged by its phraseology, or by the provisions it contains, then, certainly, our Constitution deserves a very high place in the constitutions of the world and I think we are justified in feeling proud of it. I would like to congratulate Dr. Ambedkar and members of the Drafting Committee on their wonderful work and to thank you, Mr. President, for the patient and efficient manner in which you have conducted the proceedings of this House. The Secretariat staff of the Constituent Assembly also deserve our thanks for their hard work and incessant labours.

Sir, the most outstanding feature of the Constitution is the fact that India is to be a purely secular State. The sanctity of the Constitution lies essentially in its affirmation of secularity and we are proud of it. I have full faith that this secularity will always be kept guarded and unsullied, as upon it depends that complete unity of the peoples of India without which all hopes of progress would be in vain.

Then, Sir, being a Democratic Republic, the Constitution provides for all citizens, individually and collectively, the best fruits of democracy and ensures to them those basic conditions and freedoms which alone made life secure, significant and productive. Even though these Fundamental Rights are hedged in by various conditions and provisos, yet to my mind, Sir, they guarantee to the citizen that meassure of liberty which is necessary for a free and full development of his total personality. These are also justiciable which is an essential corollary to the theory of Fundamental Rights which are incorporated in a constitution to ensure the principle that man has certain rights independently of the Government under which he lives and a court of justice is there to see that these rights are not infringed by any of the governmental bodies-the Legislature or the Executive.

Article 14 to 28 ensure to the individual social, economic and political equality, irrespective of caste, creed or sex, religious freedom and equality of opportunity. Articles 29 and 30 ensure to the minorities the preservation of their language, script and culture. I hope that article 29 will be so applied as to be effective, and primary education of children will be imparted in their mother tongue wherever such demand is reasonably made.

But, Sir, I regret to say that article 31 relating to the right of property has been very unfairly and unjustly embodied in the Constitution. Like builders of cities, the makers of the Constitution frame a constitution for all times, embodying principles of universal applicability. The Constitution should not favour one party or one group or one province. It is regrettable that the provisions of article 31 do not pass this test and have been made to facilitate party programme in some provinces. It discriminates against zamindari abolition in provinces other than the U.P., Bihar and Madras, and also discriminates between agricultural and industrial property. It takes away the rights of justifiability from agricultural property in these province. This is a strange provision and makes an ugly boot on an otherwise beautiful picture.

Sir, the introduction of adult franchise in the country means a great step forward, but with the large masses of uneducated people this system would only succeed if effective measures are taken immediately to educate the people of India for citizenship.

Sir, the women of India are happy to step into their rightful heritage of complete equality with men in all spheres of life and activity. I say so because I am convinced that this is no new concept which has been postulated for the purposes of this Constitution, but is an ideal that

has long been cherished by India, though social conditions for some time had tragically debased it in practice. This Constitution affirms that ideal and gives the solemn assurance that the rights of women in law will be wholly honoured in the Indian Republic.

Then, Sir, one of the most important and historic features of the Constitution is the abolition of reservation of seats for minorities. I am in the happy position to remind the House that right from the very beginning I have consistently supported the thesis for the abolition of these seats, as I made clear in my speech at the time of the First Reading of this Constitution. The part that I have played in the removal of these reservations and which I did with the greatest sense of responsibility, was inspired by the conviction that it was absolutely suicidal for a religious minority to keep alive the spirit of separatism by demanding reservation on communal lines. As a matter of fact nothing can protect a minority or group less than a barrier that divides it from the majority. It makes it a permanently isolated group and prevents it from moving closer to the other groups in the country. I hope that by doing away with reservations we have also swept away those difficulties and misunderstandings with so unfortunately marred our public and political life in the past few years. I look forward, Sir, to the day when individuals will cease to regard themselves as members of religious minorities. But this, Mr. President, can only be done if and when the majority also cease to be conscious of their majority and members of all communities, big or small, sincerely and simultaneously begin to consider themselves and one another as full and equal citizens of a Secular State.

Another interesting aspect of our Constitution is the fact that it is now applicable to the whole of India, including the erstwhile Indian States. This has been made possible by the remarkable genius of Sardar Vallabhbhai Patel who has achieved in a miraculously short period of time, in a completely non-violent manner, the unification of our country in spite of the intransigence and obduracy of such States as Hyderabad and Bhopal. We look forward to welcoming very shortly in our midst the chosen representatives of Hyderabad.

May I say, Sir, what a thrill of pride we felt on reading that the Prime Minister had referred to a quoted from the Constitution of India when he addressed the Parliament of the mighties democracy of the modern world. By this gesture of his we feel that the seal of authenticity has been placed on the democratic nature of our Constitution, Sir, a constitution is judged by the spirit in which it is worked : it is judged by the manner and method of its implementation. Then, again, the ultimate aim of all constitutions is to increase human happiness, human well-being and weld together the various elements in a country into one nation. Ours is a great country with a great destiny stretching before her. I hope and pray that the implementation of this Constitution will be such as to enhance the prestige of our motherland and make her a dynamic force that will bring together all nations of the world within the orbit of a enduring peace. Sir, I support Dr. Ambedkar's motion.

**Dr. P.S. Deshmukh** (C.P. & Berar : General) : Mr. President, at the very outset I would like to endorse all that has been said in praise of you and the tributes paid to you. I refer especially to the tributes paid by Mr. Maitra, Mr. Naziruddin Ahmad and Pandit Thakur Das Bhargava. I do not propose to spend more time in offering congratulations to various Members of this House who have taken such keen part and have spent all their intelligence .....

**An Honourable Member** : All their intelligence ?

**Dr. P.S. Deshmukh :** Not all, but so much of their intelligence and have worked so hard in seeing that the Constitution was framed as far as possible to their own satisfaction.

In this Constitution we have decided to have a parliamentary democracy. It is a parliamentary democracy modelled on the British constitution and although we have not parliamentary sovereignty and although we have decided to encroach on the sovereignty of our Parliament in various ways by incorporating Fundamental Rights and many other matters of like nature, including decisions as to what salary shall be paid to such and such individual, etc. We have gone on the model of the British constitution more than the American constitution. So far as similarity between ours and the American constitution is concerned it is more in the form or the nomenclature than in the essential powers that we have conferred on the various office-bearers or dignitaries in the Constitution.

One great merit of this Constitution I consider is that the people of this country are not going to have a Constitution very much different from what they are familiar with during the last ten or twelve years. With the exception of responsibility at the Centre it is essentially the Act of 1935. I do not mean this, for the moment at any rate, as a sort of condemnation. I am prepared to regard it as a merit and not a demerit, because the people will not have much difficulty in understanding the Constitution. The Governors are there, the name of the Governor-General has been altered to the President, but essentially the whole superstructure of the constitution of 1935 remains intact. There is one important change which will bring about, I hope, a radical change in the social and political status and composition of the people in the country and that is adult franchise. Excepting for this there is very little in the Constitution to enthuse over. But that, namely adult franchise, is one factor which I think will make a tremendous difference to the nature of representation in the various legislative bodies. Although the superstructure will remain the same I have no doubt that the underdog or the common man in India will have greater power in his hands and he will be able to wield it to the benefit of the whole country. I look at the Constitution from two distinct points of view and I consider it unsatisfactory from those points of view. Firstly, if we look at it from the point of view of building a strong nation we have certainly discountenanced many binding forces which should have been useful and which are useful to all societies and all nations : I mean for instance the binding force of religion. At the present day I do not think in the whole world there is any other country which is so definitely irreligious as India is and on the excuse or on the fundamental principle of making our Constitution secular we have seen to it that there is not even a shadow of our religion reflected in our Constitution. I am not a very religious man myself but I think religion has and can certainly have a definite place in the life of every society and in the administrations of many States. I would not have minded if we had given some place to the noblest religion on earth, namely the Hindu religion, and even if we wanted that the Constitution should remain secular, even if we had declared that this shall be a Hindu State, I have not the slightest doubt that the Constitution would have remained as secular as we wanted it to be, because there is no religion on earth which is more secular in character than Hinduism (*Hear, hear*) I for one would have utilised, especially in a country like ours, the religion of India which our forefathers and ancestors have left us for the further unification and building up of the future Indian nation.

There is also another point of view from which I find the Constitution defective. This parliamentary democracy is essentially meant for maintaining the *status quo*. It is not meant to bring about a radical change from the existing sate of affairs. We are going to keep the various institutions intact. We want to keep the various layers of society where they were and from that point of view I would not be surprised if this Constitution does not last long, because it does not answer the aspirations of the man in the street at the present time. We have praised, many of my honourable Friends have extolled, the principles of equality, liberty and fraternity. Sir, after a period of more than two hundred years, I think most of these very high sounding words have lost their significance. Under these phrases it has been possible for various countries to maintain the upper layers where they were and to exploit the lower ranks to their hearts' content. And I think that if the present Constitution is worked in the right spirit, if the adult franchise makes a difference and we get the right people from the common and average men as their representatives, then alone will it be possible for the people to receive that benefit which they are aspiring for. Otherwise, what was good after the French revolution cannot be good in the year 1949 and there will have to be some sort of a rebellion or a revolution in order that the superstructure should not remain as it is perpetually and the proletariat coming into its own will have the powers of authority and the will-being of the country in their own hands.

From that point of view, Sir, having a parliamentary democracy is not answering the requirements of the present age. Unless the adult franchise itself is going to make a difference, unless the vested interests which will try to maintain the *status quo* find themselves powerless to maintain their own present hold under the altered circumstances of the future, then alone is this constitution likely to work. Otherwise the Constitution required under the percentage is entirely different, at least as different as Mahatmaji himself wanted it. After all, we have worked this very Constitution during the last three years and it is quite easy to see from this experience that there is not going to be much material difference between the way in which we have administered the country for the last three years and what we may do hereafter. And if we look back at it we will find that we have not been able to answer or to

satisfy the aspirations of the people. It is no exaggeration to say that there is, however imperceptible, a conflict arising between the Government on the one hand and the people on the other. It is no use consoling ourselves by saying that the discontent is not able to focus its attention or to organise itself in one single party so as to damage the administration of the present day. But that may very easily come about because the signs and the seeds are there. The people are thinking that this is not our administration because they have got so many grievances, so many items of discontent. So, from that point of view I am doubtful whether this Constitution really answers or satisfies either the genius of the Indian people or the requirements of the present age.

Sir, apart from that we have undoubtedly achieved very many things for which we ourselves deserve congratulations and the person who deserves the highest congratulation is the Iron man of India, Sardar Vallabhbhai Patel. It was he who brought about homogeneity in the sub-continent of India by liquidation of all the Sates. Then, the minorities and the various other impediments in the working of a proper democracy have also been removed largely by his wisdom, by his prudence and by his tactful handling than that of anybody else. So, from that point of view we have achieved a great deal. In giving adult franchise, in abolishing all special interests and representations, in abolishing the States and in also liquidating many of the vested interests, we have certainly advanced a great deal. But in discouraging or denouncing certain of the vested interests we have also strengthened some others. In times to come it must be our endeavour to see that these vested interests also do not remain as impregnable fortresses of conservatism and old-age philosophies and in that connection I would certainly like to express that the people of India should cultivate a sort of respect for this Constitution. If and when they find it wanting, it may then be time for them to change it. But there is no doubt that we have done our best to incorporate the essentials of a democratic Government in it.

Some people have objected that the President has been given too much power. I too agree that in some cases the President's powers are extensive but really speaking these are not the President's powers, they are the powers of the executive and the Prime Minister. I do not think the President will be able to act in any other way except as a constitutional monarch. He will have no initiative, he will have very little power to act arbitrarily; it is the Central Government which is clothed with more executive power. Sir, I had proposed that we should have a unitary form of government, but I have the satisfaction that although we have not incorporated a full-fledged and full-blooded unitary form of government, our Constitution is more unitary than federal and from that point of view I think it is a much greater improvement from the time we set about this task.

I have one or two complaints to make, but I do not think this is the opportunity when we should resort to any fault-finding. It is enough to say that the people who are known as the backward communities of India, have not been treated as fairly as I would have liked them to be. There would have been no harm if my suggestion in this respect were accepted, but if it was not found acceptable for incorporation in the Constitution. I hope the sympathetic attitude which many people have towards them will be reflected in the legislation that we may pass hereafter or the policies we may pursue. After all, the whole of India is economically and educationally backward. There are only very insignificant proportions of our people who have got either the wealth or the education or the various good things in life. The generality of the people are destitute, are ill-fed, their health is very little cared for. Therefore, the handicaps and the sufferings of the people like the Scheduled Castes and Scheduled Tribes are also, in a large measure, shared by vast communities which are in the Hindu fold itself. That being so, I would say that it would be very desirable that the sympathy which we show towards the Scheduled Castes and Scheduled Tribes should also, in a measure, be extended to these people who have yet to see any benefits accruing from the freedom that we have achieved, and the more sympathy we show, the better will it be for the homogeneity of the Indian society.

Sir, I again thank you for the lattitude you gave us from time to time and the way in which you have conducted the proceedings of this House. It has given immense pleassure and every satisfaction to every Member of the House and I for one would like to pay you this tribute once over again.

**Shri Sita Ram S. Jajoo** (Madhya Bharat) : Mr. President, Sir, it is a matter of great pride that

I stand here to support the motion of the Honourable Dr. Ambedkar. I have no desire of entering into the history of the idea of the Constituent Assembly, but so far as I am concerned, as a representative from an Indian State, I feel gratified at the development and evolution of the association of the Indian States people in the present Constituent Assembly. We the people in the Indian States, under the Presidentship of the present Prime Minister of India, the Honourable Pandit Jawaharlal Nehru, and later on Dr. Pattabhi Sitaramayya and Sheikh Abdullah, have tried and agitated for the association of the Indian States people with the Indian Union. We have wanted that there should be no distinction of any kind between the representatives of the people of Indian States and those of the then British India. We thought that racially, culturally, ethnologically and in every other respect we were the same people, we were the same race and we had all common interests with the rest of the country. Fortunately for us, Mahatma Gandhi, Father of our Nation and other national leaders realised it and with their blessings we achieved success and marched from one milestone to another and ultimately we have been associated in this Assembly under your very able guidance. Mr. President, Sir, you started the negotiations with the Princes which ultimately resulted in that there are now only a few handful of people who were their nominees and that the rest are all the elected representatives of the Indian people. As a matter of fact we fell that by a single stroke of the pen we have wiped off the history of 200 or more years during which period the foreign Government created various interests here with a view to perpetuating their imperialistic interests and their strangle hold on this country.

Sir, in this Constitution as regards the chapter on Indian States we felt that the control of the Centre over the Indian States was wrong; I was strongly of the opinion that such control was an insult to the people of the Indian States. With that view I with other friends of mine particularly Shri Balwant Singh Mehta, brought that matter to the notice of the Drafting Committee, its Chairman, Dr. Ambedkar, Shri T.T. Krishnamachari and others. It was very kind of them that they did hear us and told us that the circumstances in the Indian Sates were such that they could not take any different attitude. We reluctantly agreed with them, but still believed that there was no necessity of making this distinction in the Constitution. Later on we heard and we see it provided in the Constitution that the provinces also get the same treatment. That is a consolation for us, as the proverb goes 'that misery still delights in its resemblance with another's case'. But still we feel that we should not be treated like that.

Sir, there has been a change since the Partition in the political ideology of the country from provincial autonomy to the strengthening of the Centre and the desire to grab as much power to the Centre as possible is there. I am not going to criticise this change in the ideology, because that is perhaps the view of our leaders. They want to strengthen the country. After the Partition, other things have also developed. Those developments are not our own creation. We feel, however, that on the whole whatever has been done in the States is a grand achievement and further we have the assurance given by the Deputy Prime Minister who is also Minister for the States that there will be least interference with the administration of the States. I hope we will not be treated like Harijans.

Our greatest achievement is that the people in the States who were being treated as sub-humans with no civil rights or civil liberties are now granted these rights and have been brought on par with the rest of the people residing in this country. The old system has been obliterated and the systems of forced labour and other inhuman customs are not to be perpetuated any more. But it remains to be seen how far we will succeed in implementing the provisions in the Constitution. I have no doubt that under the able guidance of our Prime Minister and the Deputy Prime Minister we will see that our aspirations are fulfilled fully well.

Another thing we have achieved, concerns the minorities. Separate electorates had been the cause of discontent in the country and also the cause of partition of the country. We have now wiped them off. But there is one thing about which I would like to warn my co-religionists who are in a majority here. We have done away with reservation of seats and separate electorates except in the case of Harijans and that too only for 10 years. Now we have to remember that the treatment we met out to the minorities during the next ten years and the goodwill we show them should be such that at the end of this period we should be able to wipe off the reservations for the Scheduled Castes also. If we fail in this respect in this test, our failure will remain to our lasting discredit. We have to prove by our action that we are men of goodwill. This is the time for action. No provision in the Constitution will be equal to that. Not professions but actions are needed, and I hope we shall not fail.

Another point I wish to dwell upon relates to the financial integration of our country. I feel that by having financial integration we are strengthening the Centre. But we have to see that the Indian States which contribute much to our coffers are treated fairly. You are taking many things from them and do not become financial wrecks. in Madhya Bharat and other States particularly in Rajasthan, you have taken Bikaner, Jodhpur and Udaipur railways. In case they do not get a fair help and subsidy from the Centre, financially they will be only wrecks. You have to see that they get a fair chance to govern and manage their affairs well.

Administratively we have been hearing from our administrators that the Indian States people have been dubbed incompetent. I refute such statements about the Indian States. There are probably more glaring cases of maladministration in the provinces. We all know what is happening in certain provinces now. If everybody says that the Indian States are not sufficiently advanced for handing over power, I ask what has been happening in Madras Province, in West Bengal and in the East Punjab ?

**Shri L. Krishnaswami Bharati** (Madras : General) : What do you know of Madras ?

**Shri Sita Ram S. Jajoo :** If I do not know anything about Madras, I challenge those who come from the Provinces to say what they know of Indian States. There is no reason why you should dub the hundreds of Indian States as backward. We may be backward and yet we may get representation here. But there is one thing you should remember. We are human beings with the same aspirations and ambitions as others. We have all been slaves with you and fortunately for all of us we have been redeemed from that slavery. Thanks to Bapu. I do not see how you are superior to us. I will never concede that. So far as the administration is concerned, as it is under the able guidance of the Deputy Prime Minister, all the administrative services have been integrated and we feel we should have a fair chance and representation. One request of mine in this connection is that the people of the Indian State should not be given the cold shoulder.

Another thing is that people have been saying 'I am not going to defend this Constitution. There are more competent gentlemen like Dr. Ambedkar and Shri T.T. Krishnamachari for that'. I do not agree with them. They say that this Constitution does not go far enough. I do not agree with them also. This Constitution according to me, is suited to Indian conditions. I do not think in the present circumstances anybody could improve it. Everywhere we find that all man-made things are faulty and there is always room for improvement. And in the present circumstances we could not make a better Constitution than this. But I am confident that had the Father of the Nation been alive today he would have certainly approved of it, though he might have not entirely agreed with it. There are provisions in the Constitution which show that we have whole-heartedly followed the Gandhian philosophy. The Constitution contains the seeds of all that Gandhiji had taught us and these seeds would flower if the Constitution is worked properly.

Under the Constitution we have drown up we can fulfil all our election manifestoes and promises to the electorate provided we work it in the spirit in which it is conceived. It is not the letter of the law or the articles that we should look to for guidance. We should be guided by the spirit in which we have framed the Constitution. As for example, Sir, though it is not provided in the Constitution we have the assurance of our Prime Minister that so long as he is Prime Minister salt tax is not going to be reimposed in the country.
Another change is that this is a voluminous constitution, for that I have to draw your attention to the fact that there are certain things which, if you leave provisions relating to them as you find them in the Constitution, the result will be jugglery of the lawyers and the judiciary will interpret many of them in such a way that the people will be the sufferer.

Sir, now I will refer to tte question of property rights. It is provided in this Constitution, Sir, that the zamindaris, will be abolished only in provinces where Bills to that effect are introduced before the 26th January, 1950. This abolition should come into force throughout India on a uniform basis. Everywhere zamindaris should be abolished by the 26th January next. In the feudal or vested interests. The opportunity is there and we have full faith in our leaders Pandit Nehru and Sardar Patel that they will achieve this and lead the country forward taking one milestone after another. Our ambition to make a Constitution for ourselves has been fulfilled. Here we have ended one part of our journey to take up the greater task of fulfilling and implementing the aspirations underlying this Constitution. Now it has to be

judged how we are going to put it into practice and fulfil our promises to the electorates. We who have been swearing in the name of Mahatma Gandhi on every available opportunity have to show in actual practice that our actions will not be inconsistent with his principles. Particularly on Congressmen falls the duty of seeing that we are true to the Mahatma's ideals and do not fall victims to communalists or vested interests.

We should take a practical view of the whole thing and see to it that people are not victimised by vested interests.

We have to see that we get out of the clutches of the vested interests. We approve of the Constitution as worthy of the objectives and worthy of the (Objectives) Resolution that we have passed here. With these works, Sir, I support the motion which has been moved by the Honourable Dr. B.R. ambedkar.

**Mr. President :** Pandit Hirday Nath Kunzru.

**Shri Lokanath Misra** (Orissa : General) : I hope, those who gave their names on the first day will have their chance.

**Mr. president :** I am not calling the names in the order in which they came.

**Shri Loknath Misra :** None the less, I hope those who gave their names ought to have their chance.

**Pandit Hirday Nath Kunzru** (United Provinces : General) : Mr. president, no one who considers the Constitution as a whole can but approach it with a full sense of responsibility. It may not be what everyone of us would have desired it to be but I think that the wholesale condemnation of what is contained in it, which has been indulged in by some people here and outside is out of place. In this connection, Sir, we must all in fairness pay a tribute to the Drafting Committee for the efficiency and thoroughness with which it dealt with its task. Its members have had to work hard individually and collectively, and while it is impossible for anyone to say that all their recommendations are of such a character as to win the approval of all sections of the House, it must be admitted that they approached their duties, in so far as they were free to give effect to their wishes, with a desire to enlarge the bounds of freedom. In this connection, Sir, I should like to pay a tribute to the officers and staff of the Constituent Assembly whose duty it was to help the Drafting Committee in placing its recommendations before the House and honourable Members in obtaining information and understanding the various provisions of the Constitution. Perhaps I have proved more troublesome to them than any other Member of this House.

**Shri H.V. Kamath** (C.P. & Berar : General) : There are some others also.

**Pandit Hirday Nath Kunzru :** I should therefore, like on this occasion to pay my acknowledgments for not merely their efficiency but the splendid spirit in which they worked. I do not think that anything can exceed their sense of duty or their enthusiasm for the work with which they were concerned.

**Shri T.T. Krishnamachari** (Madras : General) : Hear, hear.

**Pandit Hirday Nath Kunzru :** I sincerely think we should place our sense of gratitude to them on record.
Sir, there are many points of view from which we can look at the Constitution but I think that the more distinctive features of the Constitution are those that relate to individual liberty and the relations that will prevail in future between the Centre and the component units. The main article dealing with the first point is article 22. I recognise that that article places certain restrictions on the power of the provincial Governments and the Central Government that did not exist before. For instance, under the public Safety Acts, many provincial governments had accepted the responsibility of supplying information to the detenus with regard to the charges on which they had been detained only if they were asked for it. Again, it has been found in several cases that there was undue delay in supplying the information. Another defective feature of the provincial Public Safety Acts was that they did not provide for the reference of the cases of detenus to an Advisory Board, so that even if no judicial examination of the charges was possible the public might feel that some impartial body had considered the

charges and judged whether the detention was justifiable or not. Under article 22 the case of every detenus will go before an Advisory Board composed of persons who have been judges of a High Court or are qualified to be appointed as Judges. Again Sir, the government concerned will be under an obligation to inform detention. It is further provided that no man unless he has been detained in accordance with the law passed by Parliament shall be kept in detention for a longer period than that prescribed by Parliament by law. article 22, therefore, removes some the defects that existed formerly. Nevertheless sour experience of the existing restrictive laws shows that scope is so narrow that it can not deal with some of the difficulties that have arisen in various provinces.

Sir, although the Public Safety Acts have given full power to the Provincial Governments to detain persons who in their opinion have committed or are about to commit acts prejudicial to the public safety, nevertheless the High Courts had intervened in some cases and ordered the release of detenus on the ground that the charges against them were vague, indefinite or incomplete and did not contain sufficient information to enable them to make the representations contemplated by the Acts. Some of the Governments following the leader of the Central Provinces Government amended their laws so as to prevent the High Courts from releasing anybody on these grounds. The Madras Government has recently amended its law in this sense and the Minister of law stated in the Madras Assembly that the change had been introduced at the instance of the Government of India. Dr. Ambedkar has placed before us an article that would impose restrictions on the powers of the Provincial Governments, but his Government, possibly his own Ministry, has advised the Provincial Governments to choose an indirect way of ousting the jurisdiction of the High Courts. Another illustration will also show how narrow the scope of article 22 is . In a case that came before the Central provinces High Court a few months ago the High Court found that the charges were groundless. The facts and the evidence placed before it by the detenus concerned showed that there was no ground for the apprehension entertained by the Provincial Government and that the facts mentioned by it and the grounds for arrest communicated by it to the detenus had no basis in fact. I suppose that the Central Provinces Government communicated definite charges to the detenus because it feared that the High Court might otherwise hold that the detention was not justified, but article 22, as placed before us and as passed by the Assembly, would afford scarcely any relief in such a case. Neither the Central Government nor the Provincial Governments would be under an obligation to communicate definite charges to the detenus and consequently the High Courts would be unable to exercise even the little supervision that they have so far been able to do.

Sir, there is one other feature of the Constitution.....

**Shri T.T. Krishnamachari :** May I point out to my honourable Friend that clause (1) of article 22 might probably cover the case he has in mind ?

**Pandit Hirday Nath Kunzru :** Clause (1) of article 22 does not relate to cases of persons who are detained under any preventive law. I am speaking of persons arrested under the Public Safety Acts and not of people arrested under the ordinary law. I do not, therefore, think that clause (1) of article 22 will apply to the cases of persons to whom I have been referring.

Sir, there is one other feature of the Constitution that I should like to refer to in this connection. The administration of a law is a matter of no less importance than its provisions. It is necessary, therefore, that the position of the judiciary should be strengthened and that every step should be taken to devise a machinery that would ensure that impartial justice was meted out to everybody, but I fear that the constitution will not promote what is necessary for this purpose, *viz*., the separation of the Judiciary from the executive. The form in which the recommendation on this subject was placed before us required that this reform should be carried out in three years, but the reference to this period was deleted when the recommendation was discussed by the House. Consequently the recommendation is only of a general character now. I know that in madras at least the scheme for the separation of Judiciary from the Executive has been put into effect in one or two districts and that in one or two other provinces schemes for carrying out this purpose are under consideration. But, the Constitution as it is, does not enable us to exercise any pressure on the provincial Governments to effect this reform as speedily as possible.

Again, take the position of the High Courts. It will be more than ever necessary in the future that the highest legal talent should be attracted to the High Courts and that they should enjoy a high degree of prestige. I fear, however, Sir, that provisions relating to the salaries and

pensions of the Judges taken in conjunction with the prohibition of private practice will not induce men with the highest legal qualifications to take up judgeships in the High Courts. It is still open to us to revise the law regarding the payment of pensions to the High Court Judges so that there may be at least one law that would induce really able men to accept Judgeships. I do not want to go into the details of this subject; but in my opinion, what is necessary is that the pension of a Judge taken from the Bar should not depend on the length of his service and that the pension given to such a Judge and perhaps even to other Judges should be as high as it is, for instance in England. At the present pension on their retirement. I think that the pension should in the future not be less than two-thirds of the salary.

Another way of strengthening the prestige of the High Courts and of creating confidence in the minds of the public in the efficiency and purity of judicial administration, would be to allow the High Courts to appoint and transfer District Judges. It was at first contemplated that our Constitution should confer such an authority on the High Court. But, unfortunately, the article that was placed before the House was revised so as to take away this power from them. This is a weakness of our Constitution which is deeply to be regretted. All these features taken together show that the Drafting Committee and perhaps the Central Government have not realised the importance of the provisions relating to the future judicial administration of the country.

Now, Sir, I shall deal only with one more point before I sit down. In judging the character of the provisions relating to the distribution of powers between the Centre and the Provinces, I shall not be guided by any theory. There is no uniform definition of federalism. Federal constitutions are of various kinds. What we have to see is whether the relations that would prevail between the centre and the component units will be such as to promote the growth of democracy and a due sense of responsibility among the provincial Governments. The experience of federal Governments in various parts of the world has shown that it is necessary to endow the Central Government with the power to deal with certain important matters which certain Constitutions have placed within the jurisdiction of the component units. Experience has also shown that it is desirable in view of the conditions prevailing now that the Central Government should have considerable power in the economic sphere, so as to be in a position to raise the standard of living of the masses and to bring about an increase in the production of wealth in the country. We know how important the economic factor has proved to be in various countries. The power conferred on the Union Government by this Constitution in regard to economic matters is then at once to be welcome.

Again, it is a welcome feature of the Constitution that the Central Government will be in a position to implement the treaties to which it is a party, or any convertions that it has agreed to. in my opinion and in the opinion of Indians in general, it was a serious defect in the Government of India Act, 1935 that the Central Government did not possess this power. Again, Sir, it is necessary that the Central Government which is responsible for the security of the country should be able to intervene effectively when the national security is threatened by external or internal causes. But there are certain powers given to the Central Government that in my opinion are not required either by experience in other countries or by the developments that have taken place in the world since the end of the last war.

Sir, the provisions that I have in view are those relating to the annulment of the financial relations between the Centre and the constituent units in an emergency and the control to be exercised by the Central Government over provincial budgets when the President is of opinion that a financial emergency has arisen there. I do not think that these provisions are called for. I have had opportunities of discussing these questions at length and I shall not therefore dilate on them now, but these two articles and the article No. 365 show that our Constitution is over-centralized. Even in the circumstances prevailing in India, it is not necessary that the Central Government should regard the Provincial Governments as its perpetual wards. Under the Government of India Act, 1935, the governor, I believe, was responsible among other things for the maintenance of the financial stability and credit of his province. Tthe Central Government under this Constitution will taken the place of the Governor. We have not been content with the re-introduction of Section 93 into our constitution in a slightly changed form but have also borrowed from that Act in respect of the control to be exercised over democratic provincial governments in regard to their finances. Article 365 in my opinion shows that the provisions of the Constitution relating to the distribution of powers between the Central and

State Governments are based on a complete distrust of the provinces. We are trying to usher in an era of full democratic government and yet we begin by distrusting the States on which it will ultimately depend whether democracy succeeds in this country or not. I fear that the Central Government has taken too much responsibility on itself and that the Constitution may, instead of making the State governments realize their responsibility, will discourage them in the performance of their task and make them feel that they are no more than agents of the Central Government. Such a feeling cannot promote the development of a full sense of responsibility nor can it stimulate the provincial electorates and the legislatures to exercise the supervision that they should in a self-governing country.

Sir, while speaking of the future Constitution of the States I hope you will allow me to say a word about adult franchise on the basis of which members of the Provincial Assemblies will be elected. There is no doubt that property is not a satisfactory basis of franchise. If a man does not pay a tax or does not live in house of a particular rental value, he does not thereby cease to be a citizen. On the contrary perhaps the neglect from which men like him have suffered for generations is a reason why he should enjoy the power to vote and to bring pressure on those on whom the improvement of his condition depends. But we have to consider whether the sudden expansion of the franchise that will be brought about by adult franchise will be helpful to the development of democratic ideas and that sense of discrimination and restraint on which the successful exercise of democracy depends. In the provinces I believe not more than 18 per cent. of the adult population is enfranchised at the present time. In the States the adult population is enfranchised at the present time. In the States mentioned in Part B of the Constitution there is hardly any franchise. In many of them there are hardly any local bodies. It seems to me therefore that to go at one bound from a greatly restricted to universal franchise is not the part of wisdom. Had we graduated the lowering of the franchise so as to bring about adult franchise within a definite period of time-say 15 years-and been content immediately with say, the enfranchisement of between 40 to 50 per cent. of the people, we should probably have allowed less room for demagogy and made it easier both for political parties and individual candidates to meet the electors and educate them; but under the conditions that will prevail under this Constitution, I fear that the education of the electorates will be a needlessly difficult task. All those that have had experience of the ignorance of the electors under the present Constitution will, I hope, agree with me in the view that I have taken of the sudden expansion of the franchise. As, however, it is not possible to change anything in the Constitution before us, let us hope that the political parties in the country and public men ardently desirous of enabling every person to become a responsible citizen will take all possible measures to enable the electorate to understand the duties that it will be called upon to perform and to provide the conditions that will make it possible for the elector to become a self-respecting citizen capable of thinking out, at any rate, the ordinary issues for himself.

Sir, the Constitution, judged from the point of view that I have placed before the House, one cannot but be received with mixed feelings. There are undoubtedly some features of the Constitution that deserve every praise. The Chapter on Fundamental Rights, though some of the provisions in it are open to serious criticism, confers substantial rights on the people of the country, and particularly on the oppressed minorities. It also gives assurances to the minorities that are of the greatest value. Take again the provisions relating to the manner in which the public servants are to be recruited in future. It is upon their honesty and efficiency that the future of the country will depend to no small extent. I think we can feel sure that in so far as the law can provide for it, this Constitution ensures that no man shall be appointed to a public post except on the ground of merit. That is undoubtedly a great achievement and our gratitude is due to the Members of the Drafting Committee and to the House for this feature of the Constitution. But there are several features of it to which one can not give one's full-hearted support. But support we must, the Constitution at this juncture. I do not think any one of us can cast his vote against it. But some of us at least will regret. Some of the important features of this Constitution and wish that it had been possible in accordance with the suggestion made by the Prime Minister some months back, to amend the Constitution for a few years, as if it were an ordinary law. (*Cheers.*)

**Shri Syamanandan Sahaya** (Bihar : General) : Mr. President, Sir, the present is a unique occasion in many respects; but above all, it is an occasion for prayerful thanks-giving to the Creator of us all, for the fulfilment of the ambitions and aspirations of our leaders who fought

valiantly, now for over half a century, and never considered any sacrifice too great for the achievement of the objectives the fruits of which we are here now to enjoy. How much we wish we had some of them amongst us today to bless us and to guide us in our onward march. I wish also that some spiritual background would have found place as an important feature of this Constitution. This would not have made this Constitution any the different from others, because we find such references in other Constitution also. In our case, however, this matter assumes greater importance because for once in the history of religion and politics, it was the great Mahatma who brought them together, and not only showed the place of religion in politics, but also laid truthful but also the means employed to achieve the end if the end is to be of any permanent good. Some of us, Sir, feel that it is not right to mix up politics with spiritualism. That in my opinion, is not the need of the hour. While speaking here, or even in other countries, do not our leaders express the importance of the spiritual background of this country ? And would it do, I ask, any credit to us, if we do not give expression to this background in the very first act of this Nation ? However, even if this does not find a place in the written constitution of this country, I trust that in carrying out the purpose of this Constitution, our countrymen and our leaders will keep God in front of them, and in their hearts, and then alone the Constitution will be really successfully worked.

This day Sir, is again a day for expression of gratitude to the Rishis of old who laid the foundations of this country, spiritural, economic, social and religious, on such firm grounds. The Grand old man of India, Dr. Sachchidananda Singh, while presiding at the preliminary stages of this Assembly, in concluding his speech, quoted the famous verse of the great Indian poet Iqbal-

*Unan o Misr Roman sab*
*mit gaye jahan se,*
*Baqi abhi talak hai*
*Hindustan hamara,*
*kuchh bat hai ki*
*hasti mitti nahin hamari,*
*sadion raha hai dushman*
*daure zaman hamara.*

The poet says there must be something inherent in us, that we are still existing. What is that inherent thing obtaining in this country as compared to others ? I submit, Sir, it is the spiritual background all through.
As I said before, the present is a unique occasion, and it is unique in many respects. It is unique in the annals of history, which depicts the past. If we look back to our history, it will be conceded that although we have had at one time milk and honey, flowing in this country under able rulers, and although we had what we are still striving for, *viz.*, Ram Rajya; but it was all the rule of a benevolent ruler, and not a law given unto ourselves by the representatives of the people. I therefore say, Sir, that this is a unique occasion even if you compare the present with our hoary past. Even the future, I submit, will have nothing to equal it. We may have reforms in this Constitution, and we may have better things in the future, but the originality that this Constitution will claim, would not possibly be available to any other.

It is unique, Sir, because we have been able to incorporate in this Constitution not only what was called British India but also the States which were under the administration of hereditary rulers. We can now visualise India as such with one type of administration from Cape Comorin to the Himalayas.
While thinking of this one cannot fail to have a feeling of remorse at the separation of the two wings of this country. Let us hope, however, that good sense will prevail on our countrymen wherever they may be and that we shall have India as we all considered India to be from times long gone by.

The entire credit for this unity that has been brought about must go, Sir, to that firm old man of India, Sardar Vallabbbbai Patel. We had read of a Latin saying : "vidi vini vici", and now we have seen it translated into action; because that is what the Sardar has done in the matter of the merger of the States. He went, he saw and he conquered. May he be spared long to serve his country is the prayerful wish uppermost in the minds of all his countrymen.

The present, Sir, is unique again from another consideration, because it ushers in independence to this country brought about by a method unknown in the past, the method of non-violent non-cooperation or *satyagraha*. The non-violent method of meeting your opponent without any ill-will towards him has already achieved wonders and will remain an abiding article of faith for the whole world. What a tragedy, what an agonising decision of fate that the man through whose *tapasya* alone this was secured is no more amongst us ! India needed him ever so much more today. The effect of that tapasya is seen by the results we have achieved in so short a time. But what really pleasantly surprising is that all that some of us talked about in the past regarding safeguards and reservations finds a very small place in this Constitution. What a pleasure that those who were enthusiats of such safeguards have willingly surrendered all that in the larger interests of the Nation and they deserve our best congratulation for this.

Last, though not the least, this Constitution is unique in another respect. Mahatmaji's methods once again proved how with goodwill towards opponents, one could win over and conquer the worst of critics and we now see a practical example of a high ideal translated into action, namely that the achievement of independence would go to the credit of Mahatmaji, and its codification to one of Mahatmaji's worst critics, viz., the great architect of our great Constitution Dr. Ambedkar. Dr. Ambedkar, Sir, deserves the gratitude not only of this Assembly but of this Nation. He and his colleagues on the committee have laboured to find out the best things almost all over the world and to suit them to the needs of this country. The masterly way in which they prepared the draft and the masterly way in which Dr. Ambedkar piloted it will ever be remembered not only by us but by the posterity with gratitude. many a defect has been pointed out in this Constitution. I do not think the framers of this Constitution claim any perfection for it, but it can not be denied that there has been a sincere and a genuine effort to bring about as large a measure of perfection as it was possible under present conditions. Some friends and critics have compared it with constitutions framed on a tennis court as in France, or with constitutions framed by thirty-nine almost self-elected representatives in America. Administrative problems and principles have gone far ahead since 1797 and it would not do for any nation or any set of people framing a constitution to ignore the onward march and the progress made during the last one and three quarters of a century.

This constitution, Sir, envisages a kind of Federo-Unitary system of Government, leaning largely towards the unitary system. The long list of concurrent and Central subjects in the field of legislation and taxation, the powers to take over the administration of states under certain conditions, the powers to issue directives to states even in executive matters, certainly make it more unitary than federal. I do not contend that there was no justification for it. But I have no doubt a feeling in my mind that it would have been as well that we had started with greater confidence in the people and the States than what we have betrayed in that part of the Constitution where we deal with the States and the Provinces.

In the matter of fundamental Rights again, Sir, my feeling is that it has been hedged in by too many conditions and that although we provide for all the liberties in the constitution, in the very following paragraphs we laid down conditions by which such liberty could be seriously restricted. In fact we have not even given a time-limit to such legislations which restrict the liberty of the citizen. As you may be aware, Sir, in the past every such legislation had a definite life but under this Constitution we have laid down that legislations could be introduced and passed without giving a time-limit to the restrictions they impose on the liberty of the citizen. Perhaps in the present conditions it may be considered as a safety measure; but I will contend again that it would have been better had we started with a little more confidence in our people and left it to the judiciary to punish those who wanted to convert their liberty into licence. After all what is it that the man in the street or the common man desires independence for ? He wants to find in the newly-won independence of the country something exhilarating, something new about his status, so that he may be able to start about without fear of the loss of his liberty. That feeling, I submit, will be found wanting. If we refer to clauses (2) to (6) of article 19 of part III it will be quite clear even to a causal reader that we have tried to place too many restrictions on the common man and too much powers in the hands of the administration. However, much will depend upon the manner in which this Constitution is implemented and I have no doubt, knowing as we do our leaders, that there will not be many occasions to exercise the powers vested in the Government.

In the matter of financial adjustments between Provinces and the centre I think that the

Provinces have not been treated as well as they should be. In fact I have a feeling that in this matter the Provinces are worse off than in the days of the 1935 Act. The responsibilities of the Provinces, their commitments and their sphere for introducing ameliorative measures for the people are for greater than even those of the Centre and as such they should have been given sufficient scope in the field of taxation. As you are aware, Sir, in Bihar alone although we have the biggest steel factory not only in this country but at one time it was supposed to be the second biggest in the Empire, although our coal resources supply coal to the entire country, although our mica is perhaps the best exporting material, yet because the head offices of all these concerns happen to be either in Bombay or Calcutta the province itself gets very little out of them even by way of income tax. The other day we heard an Assam representative putting forth the same grievance. Considering what we are up against in the matter of our financial resources it would be necessary that this matter must form the subject of serious consideration between representatives of the Centre, the Provinces and the States.

I feel that in the matter of framing the constitution we have superimposed a Constitution from above and have not made a real effort to start from village life. This matter, as you will remember, formed the subject of an important discussion in this House and I must admit that for once and for the first time I thought that Dr. Ambedkar was not only in the wrong but very much in the wrong. His idea of the village life in this country appeared to be highly inaccurate. It is the countryside that provides all tat we need in the towns. Whether you look at the military, the civil administration or the production of food, it is the village and the villager that supply the needs and it will not do to say that they are past redemption. After all they form the bulk of the population of this country. If they have not been up to the expectation of some people, who are to blame ? The Centre in the past did not given them the attention that they deserved. Do we propose to do the same ? If we do so I submit we shall do so at our peril. Unfortunately we have kept the 1935 Act very much in the forefront and hence the other aspects necessary for the uplift of this country have not been properly thought out and have not got the attention that they deserve.
Further we have made a written constitution but we know of countries which have not written constitution and yet they are functioning as well as if not better than many countries which have a written constitution. It therefore depends very largely on how the constitution is worked. There is no dearth of able men in the country and if a real attempt is made to harness their services without any consideration for their particular affiliations I have no doubt that we shall soon be able to show the real worth of the people and this Constitution.

Before I conclude, I must express the feelings which I and other members have with regard to the very able manner in which the proceedings of this House have been conducted by you, Sir, As far as I know you have never been a member of legislature before but the manner in which you have conducted the debates and upheld the best traditions of a legislature will do credit to some of the best parliamentarians that the world has produced. It is therefore, a matter of gratification for all of us.

I do not think I should conclude without saying a word about the great leaders of the opposition in the House-Messrs. Kamath, Sidhva, Naziruddin Ahmed and last but not least the veteran constitutionalist from Bihar M. Brajeshwar Preasad. The large number of amendments that the Drafting Committee had ultimately to propose does show that there was a great deal of substance in the proposals that these gallant Members were making from time to time. Prof. Shah, a valiant fighter, also gave way at the end when the battalion was joined by Mr. Brajeshwar Prasad and with the full enthusiasm of a neo-convert he carried on the fight to the best of his ability. In fact but for these men we might have been accused of hustling the constitution and to them is due our individual thanks for the way they have carried on the debates now for full three years.

Our Leader have secured the independence of the country, we have now given to ourselves a constitution but this is not the end of our troubles. It is, if I may say so, the beginning of our troubles. Let us keep before our eyes therefore the wise saying that "Eternal vigilance is the price of liberty" and let us behave in such a manner that it might not ever be said of us that :

Khola kafas to taqate parwz hi nahin
Bulbul tere nasib ko sayyad kya kare.

**Shri Rohini Kumar Chaudhuri** (Assam : General) : Mr. President, Sir, I am surprised that

some of my honourable Friends have even at this state of the proceedings chose to deliver serious and sombre speeches. To me it is a week of joy and rejoicing. Before this week is out, we shall have passed a Constitution which, in my humble opinion, will not only be the pride of India but also a wonder of the world. Sir, under your able guidance, under your distinguished guidance, we will have passed a Constitution which has avoided world and at the same time has culled the best principles of those Constitutions and embodied them in one single Constitution for free India. It has not only satisfied the aspirations of the liberty-loving young men and women of India, but it has also added to the past glory of India. It fills our heart of India, but it has also added to the past glory of India. It fills our heart with joy when we consider that once more this ancient land which was hitherto known as India only will be known as Bharat. It fills our heart with pride when we remember that Hindi is going to be the official language of this newly-liberated country. It fills us with pride when we see that Devanagri has been taken as the script for the entire country. Sir, I feel beholden to my Muslim brethren in this House who have unhesitatingly and in one single voice supported us in fulfilling this desire of India.

Thanks are due to many in this House for this Constitution, I would not like to repeat their names, but I can not help feeling that you, Sir, have laid us under a deep debt of obligation and gratitude throughout the proceedings. You have been a monument of patience for men like me and others. I take this opportunity of thanking you on behalf of Mr. Naziruddin Ahmad, Mr. Sidhva, Mr. Kamath and myself. I should have liked to add the name of Prof. K.T. Shah in this list but I refrain from doing so advisedly. He has been reticent, entirely reticent, for the last two sessions. It seems that while in the case of Mr. Naziruddin Ahmad the thieves have only taken away the copies of his amendments, in the case of Prof. Shah the entire original copies have been taken away, and it is for this reason that in the last session we did not have his speeches nor any amendments from him excepting a few.

Sir, I remember vividly the words which were uttered by that gallant gentleman, Dr. Sachchidananda Sinha who opened the proceedings of this House and who congratulated you on your election. He said that throughout the course of your life you had never stood second. You had stood first in the Calcutta University the territory of which had extended from the Punjab to the remote Assam. He also expressed the feeling that you had seriously disappointed him by refusing to become a High Court Judge. Sir, I say today, and I think the house will agree with me, that you stand first in piloting this Constitution of this country. you have enabled a subject nation- we were still a subject nation when we started making this Constitution-to become an independent nation in the course of the proceedings. I hope that though you have once disappointed Bihar, you will not disappoint the rest of India by refusing the position of honour and distinction which is justly your due under the new Constitution.

I had referred to the serious and sombre speeches which were made by some of my honourable Friends. But how is it that two important points had escaped their attention ? These points relate, according to me, firstly to protection against cows. We have in this Constitution cow protection to some extent but there is no provision at all for protection against cows. There is also no provision in this Constitution for protection against women. I should say protection against women is very essential. You have made some provision in the Directive Principles for protection of women and children, but you have entirely failed to take into consideration one very important fact, protection which is needed against women. I hope this House unanimously accepts the point which I am making now and regrets equally with me that there has been no provision in the Constitution for protection against women, and if there is any dissentient voice, if there is even any dissentient golden voice, let her come out and protest against this expression of opinion on my part.

**An Honourable Member** : Are you oppressed by women so that you ask for protection against them ?

**Shri Rohini Kumar Chaudhuri :** I would like to develop that point. It is not a new idea with me.

Honourable Members who had the courtesy to listen to my honourable Friend Mr. Nichols-Roy from Assam must have heard what he said about these cows in Assam. He said that unless the uneconomical cows at least are allowed to be slaughtered, they will be a great source of danger. I can amplify his idea and say that there is really such a danger in Assam because the habit of cow-keeping is not prevalent in that Province. Cows are brought to the homes only

after they calve; they calve sometimes in the streets and sometimes in the fields but never in the house of any human being. These cows who roam about freely for nine or ten months in the year and breed the calves become very dangerous; they are in a semi-wild condition and they begin to attack and gore any person who approaches them. Therefore, it is necessary to have some protection against them. There are also a number of weedy bulls in the Province of Assam as a result of which the breeds of cows are stunted. If you allow all this cattle to live as they like without any human care and attention then really the cows will be a sources of danger and it will be necessary to protect ourselves against them.
The idea of protection against women also is not my own idea. My honourable Friend Dr. Deshmukh had tabled an amendment for removal of the cursed system of prostitution, but he did not move it. I think Dr. deshmukh felt shy in the presence of all the ladies here to actually move that amendment, but I think that was a mistake. We really need protection against women because in every sphere of life they are now trying to elbow us out. In the offices, in the legislatures, in the embassies, in everything they try to elbow us out. They succeed for two reasons : one, our exaggerated sense of courtesy, and then because of their having some influence in the ear of those persons who have authority. One good thing there is about this Constitution for which I would like to congratulate Dr. Ambedkar and that is that he was not insistent on giving special seats for women. That is at least something saved, some achievement made. Now, even after seats for women have been abolished, if the feelings of man are such that he should push them forward. I would very much regret it. It is not Dr. Ambedkar who is responsible for it. It is the foolish man who wishes to give them votes and send them to the legislatures and thus create troubles like the trouble which they have created in the matter of the Hindu Code.

Now, Sir, I would like to refer to the speech of my Friend Shri L.N. Sahu. Hearing him one would think that there is nothing in this Constitution worth looking at. He repeated the language of those who said, and rightly said in regard to the Government of India Act, that it should not be touched with a pair of tongs even. That seems to be the idea of my Friend Shri L.N. Sahu. But may I ask him to push his memory back to the first week of December 1946 ? What was our position then ? The Muslim League had boycotted the elections and tried to boycott this Constituent Assembly. It was said that unless the grouping system was agreed to, the Constituent Assembly will not sit. When the Muslim League stood out in a body boycotting the Constituent Assembly, there seemed to be no use proceeding with this Assembly. There was, I remember, a voice even among the Members of the Constituent Assembly who did not belong to the Muslim League which said that we should better postpone the Objectives Resolution, allow the Muslim League Members to come to the House and then proceed with our work or postpone the sitting of the Constituent Assembly altogether. That was a very critical moment. If at that moment our leaders had hesitated and faltered, if our leaders Pandit Nehru and Sardar Patel had faltered, the hope of acquiring independence at early date would have completely disappeared. If on the other hand we took our seats as Members of the Constituent Assembly, if once the Constituent Assembly which is a sovereign body assembled in session, there was no power on earth which could obstruct the gaining of independence. In fact it has proved so. Pandit Nehru, with absolute determination, said "Let whatever happen, let grouping come or not, let the Constituent Assembly sit and decide the question." When once it sat the way to independence was clear and open, because whatever Constitution was made by the Constituent Assembly would be the constitution that will be enforced. So, Sir, victory in the fight for independence was achieved from the moment the Constituent Assembly sat. And today we must give all credit to those statesmen who somehow or other brought about the first meeting of the Constituent Assembly. Sir, when you remember those days, you remember also Mahatma Gandhi who had smashed the grouping system. Unfortunately, even the Congress Working Committee was not in a clear mood on that point. But for Mahatma Gandhi, and our Premier of Assam, the major provinces of Bengal and the Punjab and a large area of Assam would have become part of Pakistan. So, may I ask my honourable Friend Mr. Sahu to ponder over this and see what we have gained by carrying out the plan for the Constituent Assembly and the Constitution ? What is the position today under the Constitution and what was the position the other day wen he was in December 1946 ?

Sir, I had not the honour of listening fully to the speech delivered by my honourable Friend Mr. Kamath. I think he did not give his whole-hearted support to the Constitution. I am really very much touched by the recent activities of my Friend Mr. Kamath. I had undertaken certain

responsibilities on his behalf after completing the work connected with Constitution-making I am referring to my personal relations with him and his personal life. I am disappointed with him and I do not know if I will proceed with the work in connection with which I had given him an assurance. He has of late taken to saffron-colour robes. You have seen how he is going about in his saffron colour robes. He has been referring to God at all times. He wants the Assembly to commence its work with a prayer to God. All those ideas of his have stupefied me. I am afraid that a time will come, when he is in the spirit in which he gave up the Indian Civil Service for doing service to the country. It seems that he will give up worldly life even for the furtherance of his ideas.

**Shri A.V. Thakkar** (Saurashtra) : May I ask how this is relevant to the Constitution ?

**Shri Rohini Kumar Chaudhuri :** Sir, the relevancy is this : We have framed a Constitution for ourselves over which we must rejoice. We have done enough serious work. We must feel happy about this Constitution and when we are happy we should not be gloomy and brooding. I would say in the words of Byron : 'What is writ is writ. Would it we are wiser'. You can not undo what you have done, by making many serious speeches. But for the advice of my honourable Friend Thakkar Bapa I would now be saying something more serious than what serious-minded people could say. After all, Sir, it will not do to be grave and formal always as in the saying 'Can man the solemn owl despise ?' So, I say what is writ is writ. We have drafted this Constitution after considerable pain and anxiety, and that is there. I certainly admit that this Constitution is more detailed than any other Constitution. There is no doubt about that. It is perhaps because that we Indians who have been subject to slavery for so many centuries have faith only in written things and not in oral expressions. Therefore, our Constitution is unlike the English Constitution which is an unwritten constitution, but they too change it whenever there is occasion to do so. In our Constitution we have been more cautious, and put into our Constitution greater details which we could have afforded to leave to the collective experience of our countrymen. Instead of that we have utilised our own collective experience and put in more details into it instead of leaving anything to the future.
But it need not be supposed for that matter that I have nothing to complain against in the Constitution. My bitter complaint is that the Constitution is silent about death sentence. The world is civilised to such an extent now that the continuance of the death sentence is an act of barbarity. The civilised world does not want death sentence. The death sentence has no deterrent effect. I wish we had put in the Constitution that there should be no death sentence. There is no death sentence as far as I know in the Scandinavian countries of Norway and Sweden and in some of the States of America. The death sentence was abolished in Italy but was restored by the Fascist Leader Signor Mussolini and it is only the Fascist tendency in us which still want us to have death sentence in this country. Whatever has been done there is a liberal provision in the Constitution which enables us to revise the Constitution whenever we consider it fit to do so.

**Mr. President :** Mr. Chaudhuri, you are becoming serious.

**Shri Rohini Kumar Chaudhuri :** I am always serious, Sir, but others take me lightly. For myself, I am always serious, Sir, but I am always misunderstood. Those who have been in prison will bear me out when I say that transportation for life or detention for life is a much greater punishment than the death sentence. Death sentence gives glory to the recipient of that death sentence after the execution of that sentence. That glory should not be given to a criminal. Death sentence whether in non-political cases or political cases gives a sort of added affection from his relatives to the man who has been an ordinary villain, who might not have been remembered because of his villainy, who might have been hated by his family, when he is executed. The relations of the man might feel otherwise that the man has been rightly punished, but the moment the death sentence is executed, the sympathy of his family and friends goes to that criminal. Do you think that crime will be deterred by this sort of punishment ? By this sort of punishment only the praise, the commendation and sympathy of the family goes o the person who has been executed. After all, we are followers of mahatma Gandhi, who had adopted to some extent the teachings of Jesus Christ. You must not take eye for an eye. You must not take a tooth for a tooth. You must not take a life for a life. That should be the feeling of modern India; that should be the feeling of Gandhian India. I think we have made a mistake-which we might correct afterwards-in not abolishing the death sentence by our constitution.

I would refer to another matter about which I feel strongly. It is about the Arms Act. The Arms Act against which we fought for so many years under the British regime still remains on the Statue Book. Why ? Is it because there have been a multiplicity of crimes, you are not going to have this Arms Act repealed. Do not consider for one moment that those who want to committee violence and crime will be deterred for a single moment by your Arms Act. I is only those who want to protect themselves against robbers and criminals who will be deterred. It is only these honest men who are prevented from possessing arms under your Arms Act, and the criminal, the robber and the murderer would never feel handicapped by your Act, and therefore, Sir, I feel that it could have been better if we had abolished the Arms Act under this Constitution.

Then, Sir, there is another matter I would now like to refer to and to which I have been compelled to refer by the speech delivered by my honourable Friend Mr. Kher from Bombay, that is with reference to the separation of the executive and the judiciary .....We have been long crying for the separation of the judiciary and the executive, but we have made no provision for it in the Constitution, but I would not complain so much against that because there is nothing in the Constitution to prevent us from separating the executive and the judiciary, but I was surprised to find that a distinguished leader, a man who is responsible for the administration of a major province, *viz.* Bombay, saying the judiciary are not knight errants and the executive are not all so many fools or criminals and therefore the separation of the judiciary and the executive need not be made. It may be that in the executive today we have got some excellent men who would not tamper with the judiciary, but how can you guarantee for the future ? As a matter of fact, I consider, Sir, that when adult franchise is introduced, we must have some sort of protection and that protection can only be given by an independent judiciary and therefore the judiciary should be made independent as quickly as possible.

I regret also Sir, in this connection that provision should have been made in the Constitution for the transfer of the Judges of the High Courts from one High Court to another. In some cases, these cases may be penal transfers. For instance, if a High Court Judge from Bombay is transferred to Assam, he would sooner prefer Port Blair. He would never like the transfer from Bombay to Assam, or even a transfer from U.P. to Assam. He would consider it a sentence of transportation for life for almost an uncertain period. What he would do is that he would try to please the Governor or oblige the President in a way that would prevent his trasfer to a penal province like Assam or Orissa. There would also be Judges in Assam or Orissa who would be very glad to pay anything if they can secure a transfer from Assam or Orissa to the U.P. or Bombay. Now this method of patronage has been given in this Constitution to the President and the Governor. This is a new patronage, a new avenue of patronage, a new method by which even the High Court judges could be brought and by this way transferred. The old Constitution did not allow such a transfer. The new Constitution in allowing this transfer is, in my opinion, making a formidable mistake and it should be our duty to correct that mistake as early as possible.

(At this stage the President's bell began to ring)

Sir, I was the third person to give my slip here and the old rule applies to me and not new rules. The old rule is for 20 minutes and the new rules are for 15 minutes. The old rules apply to me.

**Mr. President :** Both together.

**Shri Rohini Kumar Chaudhuri :** Sir, I wish to join my voice with my honourable Friend Mr. Sa'adull in bringing to this House, to the pointed attention of this House the financial condition of our Province. If the situation is allowed to remain as it is, if there is no change immediately made about it, the administration of that Province will be impossible. I have heard that already a collapse is imminent and before the year is out, you will hear that the machinery which is running the Government in Assam will cease to work if for nothing else but for want of funds.
Sir, the other point which I wish to draw the attention of the House is the method of administration of justice in the Excluded Areas. What is the method ? The Civil Procedure Code, the Criminal Procedure Code and all the laws which are applicable to the other Provinces of India will not be enforced in the Excluded Areas. I would not have troubled over

it if I had known that all the people living in the Excluded Area were as simple as some of the Tribes are. But some people are most forward and in these hills where people coming from the rest of India lived and in places like Dimapur and Shillong if these people are to be treated as Tribals in the matter of administrate of justice, it would be a great misfortune. I would submit Sir, that there is a provision in the Constitution that the Governor can make rules for the administration of justice, he can lay down the law himself. 320 persons are required to frame an Indian Penal Code or amend an Indian Penal Code or the Criminal procedure Code or Civil Procedure Code but one single Governor will lay down the law for administration of justice which will not only be applicable to the tribal people but will be applicable to the most civilised people of the Punjab or Bomaby or Bengal. Is it not a misfortune, Sir ? Would it not have been better to say that all laws should be applicable there subject to such modifications as could be made by existing conditions. So, Sir, with these words I close. if I have not thanked anybody, it is not that I have forgotten them but the heartiest thanks are due to that dear Doctor of human ailments as well as of Political malady, *viz.,* Dr. Pattabhi Sitaramayya, who has practically forged this Constitution in our party behind the screen.

**Shrimati Hansa Mehta** (Bombay : General) : Mr. president, Sir, it is with a sigh of relief that we have come to our journey's end. I wish we had taken less time to cover this journey. Time is of the essence of things and once the psychological moment is past, the thing however good loses interest and so it has become with the Constitution. On the floor of this House and even outside questions have been asked whether the Constitution is good and how long it is going to last. It is very difficult to reply to this question. The goodness or badness of a Constitution depends on how it is going to work. If it works in the interests of the people, it will be a good Constitution; if it works otherwise, it will be a bad Constitution. It is for the future electors to elect the right kind of persons, who will work the Constitution in the interests of the people. The responsibility, therefore, lies with the people. One thing, however, I would like to observe and that is in the circumstances in which we were placed, we could not have produced anything better. With such divergent views in the Assembly, it is indeed a miracle that we have achieved this measure of agreement. At one extreme we had Seth Govind Das, the champion of the underdog, and in-between we had many variations; the last speaker would supply a good example.

In spite of all that and in spite of all the many complicated problems that we had to tackle, I feel that we have not done badly. The most difficult problem that we had to tackle was the problem of Minorities. Nowhere in the Constitution we have defined 'Minorities'. We accepted the definition that was given to us by the last Rulers. They created religious minorities, communal minorities in order to help their policy of divide and rule and that policy has culminated in the partition of this country. We do not want any more partions. What do the minorities what ? What can be their claims ? The Constitution guarantees equal protection of law, equality of status, equality of opportunity; the Constitution guarantees religious rights. What more can the Minorities ask for ? If they want privileges, that is not in the spirit of democracy. They cannot ask for privileges. The only exception, however, I would like to make is in the case of the Scheduled Castes. They have suffered and suffered long at the hands of the Hindu society and any exception in their case would be making amends to what they have suffered. In this connection, the abolition of untouchability is the greatest thing that we have done and posterity will be very proud of this.

While discussing this question in the Fundamental Rights Committee, we also raised another point. We were anxious to consider the abolition of purdah. It is an inhuman custom which still exists in parts of India. Unfortunately we were told that raising this question will hurt the religious susceptibilities of some people. As for as the Hindu religion is concerned, it does not enjoin purdah. Islam does. But, I feel that Islam will be better rid of this evil. Any evil practised in the name of religion cannot be guaranteed by the Constitution and I hope that our Muslim friends will remember that if now, later on, this question is bound to come up before the legislatures.

While the chapter on Fundamental Rights is a most important chapter, the chapter that follows, the chapter on Directive Principles of States policy is, also to mind a very important chapter. In this chapter, I would like to draw the attention of this House to two items. The first is prohibition. A reference was made the other day by the Premier of Bombay that what they are doing is according to the Constitution. I would like to draw a distinction here. Gandhi's name has been associated with the policy of prohibition. But, what Gandhiji desired

was that the State should not manufacture liquor, nor should the State sell it and that public bars should also be closed so that there may be no temptation for those who are susceptible to drinking. But, I do not think that Gandhihji ever desired that we should raise an army of police. Gandhiji never desired that we should spend good money on police. We are prepared to forego the tainted income; but is there any reason why lakhs and lakhs of good money should be spent on excise police ? It will only add one more source of corruption, and we have enough of corruption in this country. Another thing, it will perpetuate the sales tax and people who are already burdened with taxes are groaning under the sales tax. I therefore wish to make this distinction that while endorsing the prohibition policy in this Constitution, it does not mean that we agree with the method of introducing prohibition in the various provinces today.

The other item to which I wish to draw the attention of the House is the Common civil Code. To my mind this is much more important than even the national language. We have too many personal laws in this country and these personal laws are dividing the nation today. It is therefore very essential if we want to build up one nation to have one Civil Code. It must, however, be remembered that the Civil Code that we wish to have must be on a par with, or in advance of, the most progressive of the personal laws in the country. Otherwise, it will be a retrograde step and it will not be acceptable to all.

The world would have thought very little of the men if they had asked for protection against women in this Constitution; I am very happy to see that the Constitution does not include that provision. Otherwise men would have had to hide their faces before the world.

Sir, I have felt it a very great privilege to have been associated with he making of the Constitution of free India. I hope and pray that the Constitution fulfils the expectations raised by the Resolution moved in this House by our Prime Minister three years ago and passed, and which forms now the body of the preamble. It is only in the fulfilment of that promise that this country will rise to its pristine glory.

**Shri Lokanath Misra:** Mr. President, Sir, it is a regret for me that my contribution to this Constitution has been so small that even our President who has been fair and good to everybody does not know my name.

**Mr. President**: I am sorry.

**Shri Lokanath Misra:** That really indicates that I have not proved my worth. I am sorry for it and I do blame my President. But, then, Sir, I must say, as a matter of duty what are my reactions to this Constitution which we are going to give to the country for unborn generations to come.

It is my view and so it may be that this, our Constitution Act will go as a great civilized document of the modern world. But I would not like to indulge in any kind of self-praise, praise either for the Drafting Committee or for the honourable Members or for our honourable President or for anybody else. The reasons is, we have only done our duty, as best as we could and it is for the people to judge our labours. In fact, the test of the pudding is in the eating and when people will be eating it, they will know how it is tasting. Even, if it tastes, well, there will still be ground for complaint if it does not give us health and gives only good taste. Therefore, without eulogising ourselves, without praising ourselves, I must say that it has apparently begun with lofty words, but vial ideal, it promises to give us justice, liberty, equality and fraternity, securing the dignity of the individual and the units of the nation. But the individual ! the Nation!

Friends have already said that due to the magic wand of Sardar Patel, India has now become united politically and perhaps geographically. But, I do not find anywhere in this Constitution what is that nation, what is the individual, what is the individuality of the Indian nation that makes India India, that we are going to nurse. I do not find anywhere in this Constitution the individuality of India that makes it different from the other nations. I do not anywhere see in this Constitution what is the individual, his destiny and his purushartha for which he nation will be striving, for which the individual, the family, the country would be striving.

When we go to the Fundamental Rights, we find one thing; whatever they may be professing

in practice they will not give the desired result. They promise liberty, equality. I should say when we think in terms of equality of sex and its liberty one thing comes to my mind. If unfortunately on the emergence of the new woman, women claim freedom and equality in all respects with men and thereby becomes competitors and rivals to men, I am sure there will be an end of our civilisation on which we have been living all these years. I beg to say that India certainly has an individuality of its own. Gandhiji was saying that India has a mission for the world and it is for the fulfilment of that mission that he was living. If India forsakes that mission, my place will not be here. Now, I put to this House what is that individuality of the Indian Nation that we are going to build and give to the world, a message that will be our gift to the world civilisation. I beg to say that we have simply followed suit. Instead of calling this an Indian Constitution, I would call it an Anglo American Constitution Act for India. That is the proper name.

We have given adult suffrage - that sounds well but this sudden and direct application of adult suffrage is to harm to those very people who are going to exercise that suffrage. For instance, there will be about 20 crores of people voting at the general elections. At present they do not know what they are going to vote for, and they will simply be having their right. There will be different parties, rivals in the elections, who will be going to people and saying ' we will give this or that do not vote for them and vote for us'. That will simply engender in them a sense of right without a sense of duty and they will vote and be voting for a certain party which will never be in a position to deliver all the goods . Their appetites will only be whipped up. It can lead only to chaos and to no healthy growth. I therefore say that our adoption of the Party Government of England can do more harm than good as at present. But let us hope that our statesmen and our leaders will be responsible enough to educate the people in such a manner that best use may be made of this great leap.

I think as many friends especially the honourable Mr. Prakasam said, our Constitution could have been genuine only if we had built it on the solid foundation of panchayat raj which is still in our veins and still favoured by our people. That would have given us little democracies and enabled people who will be democrates to exercise their rights with a responsibility and with zeal and also with joy. But now under this Constitution, there will be two classes, a new ruling class at the helm of affairs and at the bottom there will be the common man exercising a vote once in five years. In the middle the middle classes will be crushed entirely and I would say if the middle class is crushed, the entire intelligentsia of the country will be crushed and then we will not known what is the future of the country.

Let us take another article of Fundamental Rights - article 31 relating to properties. Now in the whole Constitution this is perhaps the most absurd article. *Prima facie* this article says what is not justiciable upto 26th January 1950 will be justiciable afterwards. Supposing for instance the U.P. Bill now pending or the Bihar Bill now pending before the commencement of this Constitution Act is passed after the Constitution is passed, the provisions of that Act, under this Article will not be justiciable but if that same Bill or most of the clauses of it are incorporated in a Bill before the Legislative Assembly of Orissa, after the commencement of this Constitution and if that is passed, that might be justiciable . I do not understand how what is the justiciable now can be justiciable afterwards. And then again look at sub-clause (6). Whatever has been passed within 18 months before the commencement of this Constitution will not be justiciable and whatever was passed beyond 18 months will be justiciable. This discriminative provision is quite out of place in a Constitution, particularly on the Chapter of Fundamental Rights. Then again we do not say here what is the definition of property, what is possession and acquisition and what is 'public purpose'. For instance in Orissa our Land Revenue and Land Tenure Committee has come to the conclusion that abolition of zamindari does not involve any taking of possession or acquisition for public purposes. The reason is, every zamindar has two rights - the right to collect rent and the right to cultivate his own private lands. Suppose we leave his private lands to him and take away the right to collect rent, what property is he going to lose for which he will be recompensed? And suppose we abolish entirely feudalism, we abolish land revenue and instead we raise some tax, what is there to say that there is some property which is being confiscated or expropriated for which there will be compensation? These are anomalies we have chosen to bring in for nothing. It would have been enough if we had only article 31 clause (1) and nothing else. These will bring unnecessary conflicts and I think I am not blaming anybody a spirit of undue compromise has been responsible for enacting this article and this gives a clue

to the very mind that has been actuating all things in framing this Constitution.

I, therefore, submit that this Constitution has been framed to please as many as possible but it has been a medley of ideas and ideologies and I think there is no coherent, genuine substance behind it which can hold us on. The reason is simply this. We have been so much imbued with modern ideas - ideas with which we have been spoon-fed for years, that we have forgotten ourselves. Is there nothing genuine in this land which could be the solid foundation for our future Constitution? If you want to go in for a civilization which has not been tested in our land, and which is still on its trial, I think we are going to undo everything real and I do not know what the future will bring us to. Now, Sir, we have given adult suffrage. Well and good. After having done that, it is my submission that we should have raised the age of people who would be seeking election. In my view for the lower House it should have been not less than 30 and for the Upper House not less than 35. In that case we have somehow brought control over these matters and brought sense to our people.

Then again we should have given high rigid qualification for people who would be coming to Legislatures. We know what is in store for us. We know that this Constitution is founded on a Parliamentary System and any parliamentary system is founded on the members who will form the Parliament. If those members are not sober, honest, wise and able, I think the whole system of Parliamentary democracy will go down. But as I see, this Parliamentary system will go wrong for the simple reason that we have not given a rigid qualification for those people who will be taking this great responsibility. We should have advised rigid qualification for members, honest people, people not exploiting people, not encouraging black-markets and people who command confidence and selfless devotion. But shall we immediately see clash of interests, competition and no corporate existence? The result would then be that in the name of Parliamentary democracy, there will be chaos.

Now, Sir, a word about centralisation. We have, now in the name of a strong State, so centralised power, that I am afraid, due to its very weight, the Centre is likely to break. However good Pandit Jawaharlal Nehru may be, and however good Sardar Vallabhbahi Patel may be, they are more distant from me than is my home in Puri from Delhi. It is not possible for me to talk to them as my own man. In actual life, in fact, it is my family, my village, my district and my province, thus we go. And now think in terms of India in a great leap is simply absurd. In certain spheres, it might be good to centralise. But we have so empowered the Centre, and we have made the Provinces so powerless that in fact, I am afraid, there will be no initiative in the provincial legislatures or even in the provincial Ministers. In fact, this Constitution really tends to make the people irresponsible, and simply remain content with voting once in five years, and caring only for the Centre and cajoling the people in power at the Centre for this and that advantage. In this way, we have made this irresponsible Constitution in the hope of giving responsible government to our people.

With these words, Sir, I say that with great honesty and great labour and with the best of intentions, we have passed this Constitution, and it is for us now to see what shape it will take in practical working and it will be our bounden duty to maintain this Constitution, and to educate the people in the lines of this Constitution. That is a great task and I hope our country will be equal to that task, and that our leaders at the Centre will be equal to that task, because if they go wrong, the Centre is so strong that the nation will go wrong, and to me it seems there is more chance of going wrong than of going right. Jai Hind.

**Mr. President:** The House stands adjourned till three o'clock.

The Assembly then adjourned for Lunch till Three P. M.

.....

The Assembly reassembled at Three P. M. after Lunch, Mr. President( The Honourable Dr. Rajendra Prasad ) in the Chair.

.....

**Shri Jadubans Sahay** ( Bihar. General ): Sir, much has been said regarding the different aspects of this Constitution. I for myself do not agree with those who have shown a spirit of despair and disappointment over this Constitution as a whole. I think, Sir, we have nothing to

grieve over what we have done. It is only an exhaustion of spirit which has been shown by some of the Members when they have criticised this Draft Constitution out and out.

The fact is that we are a nation born new and we have to learn the arts of democracy. The lessons of democracy are not taught in any book, but they have got to be developed. It all depends upon the character of a nation, the integrity, the honesty, our love for democratic principles and our zeal to pursue and follow them which can make or mar a constitution. The Constitution of a country does not depend upon the cold letters, however, beautifully or brilliantly printed in a book. It depends for its growth and development upon the character of a nation. It is the soil - the character of a nation - upon which the seeds of Constitution have got to germinate. If the soil is rocky or barren, then certainly howsoever good the Constitution might be and in howsoever grand language it may be worded, it is sure that the Constitution can not lead us to our goal. But I have faith, Sir, in the innate genius of our country. I have faith also in the coming generation of tomorrow and we have nothing to despair over what we have done. I think that no amount go guarantees in the Constitution or the filling up of the omissions mentioned will carry us to the goal. It depends upon those who work the Constitution. It depends on how we develop the spirit of tolerance and not on the constitution or the letter of the law. It depends on the spirit of love towards those that are down-trodden and those who call themselves minorities. We may enact in the Constitution that untouchability is abolished in every hearth and home but that carries us nowhere. You should have love and sympathy for what we call the have nots. It does not depend on he Constitution or its articles. It depends upon our own character, our own vitality as a nation.

It am not one of those who share a feeling of disappointment and so I shall approach the Constitution with a dispassionate mind and touch on one or two points and no more.

We had our struggle for freedom and we have won the independence of the country. But it is political independence or political freedom. The predominant slogan for 25 or 30 years from the lips of every patriot, every soldier of freedom was the elimination of British rule. The economic slogan was not there. British rule has been eliminated and political sovereignty has been won. Therefore, in the Preamble of the Constitution we are going to declare that India is an Independent Sovereign Republic. Even though we are going to declare it on the 26th January we are already recognised by the nations of the world as such. During the last 30 years the struggle for economic democracy was not in the forefront and the result is that even in the Constitution we have glimpses of the challenge to the economic structure of society. The economic structure of society as it existed hitherto will exist hereafter and there comes the clash. There is today a crisis in our country. There is crisis in agricultural production, there is crisis in the production of industrial goods and we have not been able to solve it. We are taking all the measures we can and yet they are not bringing results as speedily as we want. What is the cause ? The cause is something which challenges the economic basis of our society and demands a radical change.

There is the property clause No. 31 in the revised Constitution. You will excuse me if I say that it is a hesitant, vacillating and insipid approach to the vast problem facing us. On one side in China, Burma and other countries' subversive forces, alien to the genius of this country, are knocking at our doors and coming like an avalanche. Communism will flourish and it will flourish in Burma. How are we going to tackle it? We are out to abolish the zamindari system. In article 31 we find that the advantage which we have reluctantly given to provinces like Bihar, U.P. and Madras can not be shared by Bengal, possibly Assam and Orissa also. These provinces have not been able to bring a bill in their assemblies till now. Do we think that we can challenge Communism in this way? Communism can not be crushed by bullets, neither by our military nor police. It has to be tackled in a different way. The root cause has to be diagnosed. The disease lies in the discontent of the oppressed and hungry millions of the country. We hear of bombs, bullets, acid bulbs and the burning of tramcars in Bengal. The Bengal Government is for the time being engaged in her domestic problems. They have not been able to bring any Bill for the abolition of feudalism in their province. After the 26th January they will be deprived of the benefit which we have given in clauses (4) and (6) of article 33 of the Constitution. Not only in Calcutta and other big towns but we find communist influence growing in the rural areas also. It is there among the Sanathals, the aborigines and the kisans. They are all becoming victims to the Communist slogans and propaganda. You can not stop it by sending the police to the villages. In the very nature of

things it is impossible. In the Constitution we have tried to approach this problem in an insipid manner. There is a clash of ideology. There are two schools of thought clashing with each other, one trying to maintain the old economic structure of society and stabilise it and the other trying to destroy it and reshape society on a new economic basis. I would invite attention to article 31 which is a compromise formula born out of the tug-of-war between the two schools of thought. We have not been able to touch other interests than agricultural interest. Even the zamindari or feudal interest has been touched in a very lukewarm manner. The economic structure of a country is responsible for its political development. On one side we are going to give adult franchise to the vast millions of our countrymen. We are going to clothe them with political power - those who do not have two square meals a day and those who are almost beggars in the streets, and those who remain unemployed for nine months in a year; on the other hand you are going to stabilise the present economic structure of society. You want to maintain the status quo. Here is a problem which won political freedom and which shaped to a very great extent the Constitution of the country, if we run away from the problem, the problem is not going to run away from us and it will pass into the hands of others for solution. It will be solved by those who will bring in foreign slogans and a foreign sphere of influence into the country. Are we going to leave the solution of that problem, to them? It is a challenge which we have not been able to answer in this Constitution.

But I will not harp on this point because the Preamble is enough guarantee if we want to work the Constitution honestly, vigorously and with integrity. It is enough guarantee for those who are down-trodden, for the kisans, for the labourers and for the mazdoors. If we do not work it in the proper spirit, then what is meant by economic justice ? What is economic justice to a man who has not enough food to eat, who has not an anna in his pocket? You will say he has got the right to stand for Parliament. Is that economic justice? It is a farce. You will say that your schools and colleges shall be open to all the sons of Kisans and mazdoors. Is it giving them education? How many sons of kisans and labourers are there in the science colleges of the different Universities ? Very few. So, it is a farce. Let us not in this age, when practical problems demand solution at our hands, run away from the realities of life. Times are changing and we have got to adapt ourselves. The greatest virtue of the Congress was this' and it was the greatest virtue of the Father of the Nation also, that he used to adapt himself or rather he used to keep his fingers on the pulse of the time and when he found that we were fit for such and such a thing he used to dictate the remedies to us. But what are we doing today? We are in an economic deadlock with devaluation, export and import questions and the problem of Produce more or perish' facing us. We are appealing to the industrial magnates for their generosity and charity in connection with the sugar scandal.

I would have been glad if we had incorporated in the Constitution at least the hope of a classless society for the people of this country. it is not a socialistic thing, it is not born out of the philosophy of Marx. They were the very words said by Mahatma Gandhi. If he had been alive today he would have practised and brought it to reality. Sir, some people run away from the idea of this classless society and say that it is a thing which the Socialists and the Communists proclaim and that therefore we should not touch it. But no, it is rather the voice of those who have got vested interests in this country. It is the voice of those who want to keep down the millions of this country. Mahatma Gandhi who was the greatest lover of the down-trodden not only in India but over the whole world had clearly said that India wanted a classless society. But what are we doing today? What to say of a classless society, even the words nationalisation of property are not there either in the Fundamental Rights or in the Directive Principles. What does are there for the millions in this country? The only hope is that our leadership in this country certainly is very sound and is sensitive to public opinion and I have every hope that if we try, under this Constitution we can do all those things, we can bring about a classless society, we can bring hope to the doors of the teeming millions, we can bring solace to their huts and homes. All this we can do out of this Constitution if we proceed honestly, if we proceed with the knowledge that democracy does not mean anything if it does not mean economic democracy. Democracy of the few, of the few edcuated persons, who live in the houses of Delhi and who come from the various Provinces, is no democracy at all. Real democracy means that we are the servants of the people, the real representatives of the people. Let us say that this is the greatest experiment in the history of India because this type of democracy did not exist before however much you quote the Shastras and the Puranas. This greatest experiment will fail not because of this Constitution but because those of us who have been charged by destiny to represent those who are not here, those who are

hundreds of miles away from us do not really represent them.

With these words, Sir, I will again say that the success of a constitution depends upon not only those who work the constitution but also upon those for whom it is worked. This Constitution is a real of our national character and I hope that we will do nothing to hang our heads down in shame.

A lot has been said about civil liberties and such like things. I am not concerned with those things. Civil liberty in the abstract sense does not appeal to me. If the country does not exist, where is the civil liberty? What we find today is a handful of persons trying to misguide people. We call them communists and we call them by other names but they try to misguide a large number of the people of this couantry. Fighting for civil liberties at this stage will be endangering the very life of the state. We have got various problems knocking at our doors, some from Pakistan, others from the Western world. At this stage civil liberties of the type envisaged by jurists and written in the books which we have read in the colleges will not do for this country. If the educated people want to have civil liberties of the best type, they will have them in spite of the hedges grown around by this Constitution. The sedition law was there but it was changed in course of time. A few words said twenty-five years agao used to come under the sedition Act, but in 1942 even the Quit India slogans and all the other criticisms were nto consdered seditious. So, it does not depend upon the cold letters of a book, it depends on the growth of a nation, upon its ability to grow and overcome all these diseases. So, I am not very much apprehensive about the civil liberties about which so much has been said.

I have only one more thing to say and it is about the Provinces. It is all right to have the political power in the Centre, but the Provinces, at least those agriculturally backward Provinces like Bihar, C.P., Assam and Orissa where the seeds of Communism can grow at any time, have been robbed I will say you will excuse me for saying so, Sir, of a very large portion of the income which they used to have at least from the sales tax. We find in the Constitution guaranteeing the freedom of trade, freedom of commerce and other things in order to sanctify and perpetuate the existing economic structure of society. In matters of sales tax we find that the Province have been deprived of their due share of collection. The benefit has not gone to the Centre but given to the middle class who try to purchase a things and sell it at another place. Take the case of Bihar. We will lose more than Rs. 2 crores by this amendment relating to sales tax. You want to have a welfare State, not a police State because police states will not do in these days. If you want to have a welfare State, if you want to have schools and colleges and education for the children of the mazdoors and kisans and the down-trodden, hospitals and medicines for them where will the money come from? You will have to run to the Provinces for that. But their budgetary position will be uncertain, the budgets of these Provinces can not be framed with any amount of certainty. These financial difficulties for the provinces should not have been created. They should be allowed to be economically free, free to raise money at least from sales tax so that they can function as a welfare state.

Sir, with these words, I again commend this Constitution for the acceptance of the House.

**Shri Gopal Narain** (United Provinces: General): Mr. President, Sir, during the last three years when the Constitution was on the anvil I remained a calm and silent observer except twice when I broke the monotony. But at this final and Third Reading stage I wish to record my views plainly, openly and courageously.

At the outset I congratulate Dr. Ambedkar, the Chairman of the Drafting Committee and the members thereof for producing such a voluminous Constitution in which nothing has been left out. Even the price control has been included in it. I venture to think that if they had the tine they would have even prescribed a code of life in this Constitution. A word more for Dr. Ambedkar, Sir. There is no doubt he is lucidity and clarity personified. He has made a name for himself.

Some months back the Honourable Shri Sampurnanand, who came here in connection with a conference asked for my opinion about this Constitution. I had told him plainly that it was more or less based on the Government of India Act, 1935 with certain additions taken from the Constitutions of America, Canada, etc. Taking that cue, he has described this Constitution in his convocation Address to the Agra University as a Scissors and paste affair. I fully agre

with him. But I do not agree with my Friend Seth Damodar Swarup who has called this Constitution as a Constitution for jagirdas and capitalists. My opinion of this Constitution is that it does not come up to our standard. It does not even touch the mark. Those Congressmen who ahve been fighting the battle of freedom for the last thirty years.

**Shri Jaspat Roy Rapoor** ( United Provinces: General) We wish you had given us a timely warning.

**Shri Gopal Naraian:** I was calmly listening when Shri Jaspat Roy Kapoor was delivering his speech. I never interrupted him. I hope he too will not interrupt me. I know more of the Congress than Shri Kapoor. I was saying that this Constitution does not come up tothe mark. Those Congressmen who have been fighting the battle of freedom for the last thirty years had a different picture in their minds. They envisaged something different. It has not come up to their expectation.

There is no doubt there are some good points in it. There is bound to be some good points in a voluminous text. I shall refer to them presently. Certainly they have done away with separate electorates. They have included adult franchise. They have also included prohibition. These are very good points no doubt. Also certain amenities have been provided for the backward classes. Their status has been raised. I congratulate the members of the Drafting Committee for providing these good things. These are very good points in the Constitution. But there are certain bad points also.

Articles 21 and 31 are instances of bad points. Article 21 which concerns the life of a man has been made non justiciable while the right to private property has been made justiciable. These are very bad points that have been included in the Constitution.

One more point I want to emphasise. There has been over-centralisation. The local legislatures have been reduced to the status of local bodies, municipalities, local boards and the like and, as a necessary corollary, the provincial legislatures will turn the local boards and municipalities to nullity. Though Panchayats have been given some powers, I fear they will not have any scope for working. This, in my opinion is not good.

One more point I wish to stress. There is no room in this Constitution for amalgamation at some future date of this divided India. The doors have been barred and baged against such a possibioity by the adoption of Hindi as the official language. This bangs the door against Western Pakistan amalgamating with our country. Though this has been done, let us hope that Hindi will be much that it will have some room for this amalgamation at some future date. Otherwise there is no room in this Constitution for the amalgamation of the two countries. This is a very bad aspect of this Constitution.

In conclusion, Sir, I congratulate you for so ably conducting the proceedings of this Assembly. You have been very accommodative . You have not given any Member a chance to say a word against you. I conclude.

**Shri Ajit Prasad Jain** (United Provinces: General): Mr. President, Sir, it is but once in life that a nation decides to give a Constitution unto itself, and we who have participated in framing this Constitution have a good reason to be proud of our lot. In the history of India there have been periods of greatness and glory, there have been periods of great empires and expansion and of benevolent and good kings, but never did we have Constitution framed by the people for the people. Before proceeding further it is necessary that we offer our thanks to Dr. Ambedkar and the Drafting Committee who have sat day after they incessantly and worked hard.

About three years ago this Constituent Assembly started to function under very different conditions than those of today. India was then undivided, but the Muslim League which was then a rival political party of the Congress had refused to participate in constitution making. Everybody was asking, "Could we frame a Constitution with the Muslims absent almost *en bloc* ?" Then came the Partition which we had to accept with a heavy heart. None among us can be happy with a partition of the country, but nevertheless it must be admitted that this has smoothened our work of constitution making. In particular the question of minorities which had been our headache and which thwarted all our efforts for the solution of national problems has ceased to be a live issue. Maybe that we have not so far succeeded in

establishing a fully united and harmonious society, but much of the old rancour has disappeared and we are on the path of achieving a real national unity.

The Constitution which we have framed cannot be, on the political or economic side, said to be a revolutionary measure. It has not only accepted the general framework of the Government of India Act of 1935 and repeated its phraseology, but it has continued the old laws and institutions. All the laws in force immediately before the commencement of this Constitution except those which come in conflict with the Fundamental Rights enumerated in Chapter III, shall continue to be laws under the new Constitution. The Federal Court will function under the new name of Supreme Court with some additional jurisdiction which had hitherto vested the Privy Council. The Judges of the Federal Court will become the Judges of the Supreme Court and the provincial High Courts and their judges of the Supreme Court and the Provincial High Courts and theri judges will be the High Court and High Court Judges in the corresponding States. The Advocate General, the Comptroller and Auditor General shall perform the same functions and be the same persons as were discharging those functions before the new Constitution. The Federatl and the State Public Service Commissions will have the same personnel and essentially the same constitution. The services appointed by the Secretary of the State or the Secretary of State in Council under the Government of India Act shall under section 314 " be entitled to receive from the Government of India and the Government of the State, which they are from time to time serving, the same rights as respects disciplinary matters or rights as similar thereto as changed circumstances may permit as that person was entitled to immediately before such commencement". Thus, it will be seen that it is not even the case of pouring old wine into new bottles, but of old wine and old bottles. Both the laws and the administrative machinery, under the new dispensation will not be much different than the old.

Economically one has to look to article 31 of the Fundamental Rights. It says, " No person shall be deprived of his property save the authority of law and that no movable or immovable property.....shall be taken possession of or acquired for public purposes.....under the law provided for compensation for property taken possession of or acquired". Except for the exception provided in the case of zamindari rights in certain provinces and a few other comparatively minor changes this article reproduces section 299 of the Government of India Act. It maintains the capitalistic structure of society with its inequalities of wealth and income. Perhaps under the existing state of our economic plight much of it is inevitable but in the ultimate analysis this state of affairs cannot continue for long. As the Honourable Mr. Gadgil said the other day, we shall have to make a fundamental change in the Constitution of our society. We shall have to nationalise many industries which today are held by private enterprise. Without that, there cannot be any solution of our economic problems of national well-being.

Sir, the Britishers had left us in a highly precarious condition. Overnight on the 15th August 1947 mroe than five hundred Indian Princes, big and small, became their Majesties. Travancore and Bhopal were showing truculence. Junagadh had acceded against the wishes of the people with Pakistan and Hyderabad adopted an attitude which might well be termed hostile towards us. Under these condition, the spectre of disunity which has beean a remarkable feature of our history, as also the history of many other Asian countries, was staring us in the face. It is no small achievement that within the breif space of less than two and a half years we ahve attained complete geographical unity, the Indian States disappearing as political units. A glance at Part B of the First Schedule will show that what was formerly known as Indian India, and divided into more than 500 States, has been transformed into nine States, Chapter VII, in my opinion, is the brightest feature of this Constitution as it places the States constituted of the old Princely India *pari passu* with the States in Part A which represents the Indian provinces. Nevertheless, we should not forget that what we seem to have achieved thereby appears more on paper.

I have said that mostly the new Constitution is not much of a departure from the existing Constitution, but in some respects it has inaugurated what may be rightly called a revolutionary era. In future every adult,, man and woman, who has attained the age of twenty-one shall enjoy full and equal franchise. Our political institutions, Parliament and Legislatures of States, will be elected on the basis of adult franchise. This indeed is revolutionary. We are going to have the brightest electorate in the world, bigger than than of

the USA, and USSR . Such an experiment can not be free from danger but let us hope that with the intimitable leadership which India possesses, we shall stear clear the ship of the State.

In Part II, which defines citizenship, all persons born in India or who are *bona fide* residents of India or who have migrated from Pakistan and made India theri home ahve been given equal recognition as citizens without distinction of religion, race, caste or class. Citizenship constitutes the rock foundation of our Constitution. All the rights in the Constitution are equally guaranteed to all citizens. Every citizen of India shall have the right to freedom of speech and expression to assemble peacefully and without arms to form associations and unions, to move, settle and acquire property in any part of India and to practise any profession or trade or business. It must be admitted that these rights to freedom are fundamentally restricted by certain clauses that follow. For instance, the right to assemble peacefully and without arms is restricted by that infamous section 144 of the Criminal Procedure Code. It is bad but perhaps not too bad to have this kind of restrictions until we the citizens of India have learnt the virtues of self-control which flow fromt he exericse of true freedom. Nevertheless our success will be judged not by the frequent use of these restrictions but by the infrequency with whichw e make use of these section.

Every person has also been given a guarantee of equality before the law. No person shall be deprived of his life and property except according to the procedure laid down by law. There is a provision for preventive detention, perhaps it is a necessary evil under the present conditions, but I must repeat again that our success will be judged by the infrequency with which we use this provision for preventive detention.

Our Constitution provides that there shall be no discrimination against any citizen on the ground of sex. Women have been given equal rights with men to get services and offices under the State and no one shall be debarred from employment or office on the ground of religion, race, sex, or descent. It is one of Directive Principles of State Policy to secure equal pay for equal work for both men and women. In our history there have been women who have attained glory and greatness, sometimes, outshining men, but there was never a formal recognition of the equality between men and women in the sense that this Constitution has established. Untouchability, which has disfigured the entire history of thousands of years of this country, has been abolished and its practice in any form has been forbidden. It has been declared a penal offence. Everybody has been guaranteed equal rights of access to shops, public restaurants, places of public entertainments and to the use of tanks, bathing ghats, and places of public resort. We have already achieved reasonable success in removing untouchability under the inspiring leadership of the Father of the Nation and these provisions in the Fundamental Rights will accelerate that process. But untouchability is essentially an economic disease. In order that those who have been left behind in social and economic matters, more perhaps on account of the oppression by others, may come up to the general level, the Scheduled Classes, Scheduled Tribes, and other backward classes, Scheduled Tribes, and other backward classes have been given reservation of seats in Parliament and Legislatures of States and Services until they attain a status equal to others. This protection will in the first instance extend to ten years.

The question of minorities has been another difficult and perplexing question for us. In future no minorities shall be recognised either for reservation of seats in the Legislature of Services excpet the Scheduled Classes. Scheduled Tribes and other backward classes, which again is not a concession bases on religion or caste but on the comparative backwardness of those people. The minorities have been guaranteed freedom of religion and freedom to develop their culture, language and script, but in matters of political rights, there is no discrimination either in their favour or against them,. The minorities therefore should have nothing to fear or be apprehensive about their future. It is in that sense that we have established what is popularly known as a secular State.

The Fundamental Rights guaranteed in the Constitution are mostly justifiable, that is, any person who feels aggrieved can have resort to a Court of Law. But it is not always easy to go to law courts, and I am not sure whether the spirit which has inspired the Britishers to preserve the rights and privileges secured under Magna Carta, actually informs our people. External vigilance is price of liberty which nations as well as individuals have to pay. And, therefore, the responsibility of the State is even greater in our case. It must in practise secure

for our citizens rights conferred upon them by law.

A great achievement of this Constitution is the agreement on the question of language. India has for ages been a multi-lingual country with 13 or 14 major languages and numerous minor ones, some having the scripts and others none. Under the British rule our languages had been neglected and English was forced upon us. In free India English could have no place, but to come to a common agreement about one language and one script all at once was not an easy matter. Fortunately for ourselves, we have arrived at what may be termed to be a happy compromise. Hindi and Devanagari script shall be theState language of India but for the first fifteen years English shall enjoy a privileged place and be the State language for official purposes of the Union for which it was being used immediately before the commencement of the Constitution. Power has, however, been given to the President to authorise the use of Hindi language in addition to English language for any official purpose of the Union even before the expiry of fifteen years. Article 351 provides that " it shall be the duty of the Union to promote the spread of the Hindi language, to develop it so that it may serve as a medium of expression for all the elements of the composite cutlure of India and to secure its enrichment for all the elements of the composite culture of India and to secure its enrichment by assimilating without interfering with its genius, the forms, style and expressions uised in Hindustani and in the other languages of India specified in the Eighth Schedule ". The law about language thus laid down is elastic and it will depend upon our efforts as to how soon or how late within these fifteeen years English is repalced by Hindi. But now that we have taken a decision to substitute Hindi for English the sooner we do it the better. Yet we must be cautious that those who speak languages other than the languages of Sanskritic origin should have no feeling of oppression or depression, for Hindi will thereby suffer more at the hands of its supporters than others. Hindi has come by the goodwill of all and with goodwill on all sides, let us hope that Hindi will soon become the medium of expression not only for the Union and for the purposes of communication between the Union and the States and in between the States, but also the medium of culture and higher education and training.

Permit me to say a few words about the general make-up and drafting of the Constitution. It has been a general complaint that we have taken too much time and have made the Constitution too cumbrous. I share that opinion and many things which could have been provided for by ordinary laws made by Parliament and rules and regulations have found a place in the Constitution. May be that the Drafting Committee was too much obsessed with the idea of giving too much and too many safeguards, but let us not forget that paper safeguards would come to nothing unless the future generation is preapred to respect them. I have yet to come across a Constitution of a free country which provides safeguards for the services as we have done. I do not mean that we should break any of the guarantees that we have given to the services but surely Constitution is not the place where those guarantees should be provided. We could as well have left law making on the comparatively less important matters to the good sense of the generations to come and I am sure that none would have been the worse for it. But at this late stage it will not serve any useful purpose to lay too much stress on that aspect of the question.

Finally, there is nothing novel or striking about this Constitution. It has freely drawn upon the experience of others, and whatever my other friends might think, in my opinion it is essentially bad to be conservative in the matter of constitution making provided the Constitution does nto bar or block the passage to progress and new departures. I think there is ample scope for development in this constitution as will be seen from the various articles giving Parliament the power to make laws even against some express provisions of the Constitution without amending the Constitution. In fact there are parts of the country, particularly the States representing the Indian States, where the constitutional and political progress and the adminsitrative machinery have not attained a stage fully in conformity with the conditions laid down in the Constitution. I am told on good authority that great efforts will be needed before those parts are ready for the first general election. Naturally, therefore in a constitution mad for units in the various stages of progress, some justification exists for a halting manner of approach. Then there is nothing to stop us from doing that.

Before, I conclude, I must thank you, Sir, for the patience and forbearance with which you have conducted the business of this Hosue even when things became dull and listless. But for your vigilance and guidance the progress of this Constitution may have been slower. Yet you

have given no opportunity or occasion to anybody to feel that he has not been given the fullest opportunity to express himself. With these words, Sir, I conclude.

**Shri S. V. Krishnamoorthy Rao** (Mysore State): Mr. President, Sir, I deem it a great privilege to have had an opportunity of being associated in the framing of this Constitution under your able guidance and I stand before you to add my humble need of praise to the Chairman and members of the Drafting Committee for making an excellent job of the work that was entrusted to them. Sir, I submit that under the heavy stress and strain of time and circumstacnes under which they had to undertake this task, no other committee or no other body would have given us a better Constitution.

Many are the charges that are levellwed against this Constitution I would like to enumerate some of these charges. One of them is that the Constituent Assembly has taken too long a time nearly three years. Let us not forget that the American Constituent Assembly took nine years to frame the Constitution. Australia and Canada and Africa took more than two years. Another objection is that it is too lengthy, that it is three times the length of the Soveit Constitution and nine time the length of the American Constitution. Some members said that the civil liberties embodied in this Constitution are a farce, that this Constitution is a jumble of the various sections from various other Constitutions of the world, that the Centre is too strong and the States have been crippled, that adult franchine that we have embarked on in this Constitution is a great risk under the circumstances prevailing in the country that the Gandhian ideals have been given the go-by, that this is a capitalist constitution and that the socialist principles have been sacrificed. Some constitutional pandits have objected that the Directive Principles embodied in this Constitution like prevention of cow slaughter, encouragement of village industries, establishment of gram panchayats, abolition of untouchability, separation of the judiciary from the executive, these are all administrative matters and need not have been burdened in a Constitution like this. Objection has also been taken that no provision for referendum and initiation has been included in this Constitution.

As against this, what are the things that we have provided for in this Constitution? For the first time, after a dependence of more than 1,000 years India, Bharat has emerged as a Sovereign Democratic Republic. We have embodied justiciable Fundamental Rights which any citizen, when they are violated, can take up the Supreme Court and have his grievance redressed. We have embarked upon the great experiment of adult franchise and nearly sixteen to eighteen crores of the population of India will be going to the polls when we hold a general election. We have adopted parliamentary democracy. Take any section we find that the supremacy of the Parliament has been embodied in the Constitution. For the first time in the history of India, there is integration, political integration, financial integration, economic integration and judicial integration and also defence integration. Today, under this Constitution, there will be no more petty armies; we had a bit of that army in Hyderabad. Under this Constitution, there will be only one army and that will be under the command of the President of India. As regards political and economic integration. I would only quote from the London Times. In a leading articles on 7th Februrary, 1949, the London Times wrote:

"The operations by which Bismarck unified the German Reich were on a much smaller scale than those by which the Government of India in a short time has transformed the patchwork of State jurisdictions that made the political map of India a crazy quilt. The transformation has been profound but peaceful."

Sardar Patel can look back with pride and satisfaction at the achievements of his Ministry and the nation pays its homage to the great leader. We, have done away with differentiation between the States and Provinces, today, under the Constitution all are States. I am glad, Sir, that much of the sting that was contained in the original article 306-B, which is now article 372 has been taken away and article 365 is made applicable to all the States. Nobody likes this article 365, much less do I. But, I hope that this article will remain a dead letter and there will be no occasion to make use of the provisions of this article. Under this Constitution, the words minority and untouchables have been abolished. Separate electorates have been abolished. Untouchability has been made an offence. The fundamentals of socialism have been embodied in the Directive Principles of the governance of the State and all titles have been abolished.

As regards the discretionary powers, Sir, I have gone through the Constitution as carefully as

I can and I hardly find any discretionary power vested in the Governors except when he had to make a report to the President regarding the proclamation of an emergency or under Schedules V and VI regarding Scheduled Tribes and Scheduled Areas. As regards the emergency powers these emergency powers are subject to parliamentary control and the least period possible, namely, two months has been prescribed during which this emergency can last and it has got to be brought before Parliament at its earliest session. Even these emergency powers can be exercised only under very limited circumstances when there is a threat of war or when there is external aggression or interanal disturbance, or when the Governor or Rajpramukh reports that the Government cannot be carried on according to the Constitution, or when the financial stability on credit of a State is, in the opinion of the President, in jeopardy. Even then, Sir, these emergency legislations have no come under the review of Parliament and if the Parliament passes a resolution that the emergency should cease, the proclamation becomes void.

Under this Constitution inter-state trade and commerce is free. Special provisions have been embodied in the Constitution for the independence of the judiciary, for the independence of the Auditor General and ot the offices of the legislatures. Elections are placed above executive interference. We have all India Commissions like the Finance Commission, Inter-state Council, the Public Service Commission and the Election Commission which can function without any interference from the Executive. I submit, Sir, that these provisions which have been embodied in the Constitution are no mean achievement.

I submitted that the Drafting Committee had to work under very great stress and strain. If we can find any parallel at all, we have to go back to the history of Constitution making in Amercia. I would like to quote a passage from a book called the Great Reherarsal by Carl Van Doren. In his book he has stated:

".....State loyalties were deeply entrenched in the hearts of the people of Amercia of those days. Loyalty to a new central authority was not easy to create. Many compromises were necessary and many political gadgets had to be invented before a general measure of agreement could be reached, among the delegates to the convention in regard to the shape of the new constitution. With the return of peace, the States had drifted apart. Many of these States could hardly resist the temptations to read the path of narrow self interest. If the financial interest before the country was grave, the chaos which had evertaken it in the domain of commerce was graver still."

Mr. Justife Bengamin Cardozo observed:

"that the people of the several States must sink or swin together and that in the long run prosperity and salvation are in Union and not in division"-

Washington, in 1786 had written-

"There are combustible materials in every State which a spark might set fire to".

Carl Van Doren opens his book with the Chapter, "Commander and Philosopher". The Commander was George Washington who ahd led his country to victory. The Philosopher was Benjamin Franklin whose signal services to the nation had made him a legend in his own time. He says :

"That dignity and poise of the Commander, the broad humanity and mellowed wisdom, of the philosopher contributed in no small measure to the success of the convention."

Speaking of the two great leaders, Carl Van Doren says :

"They had borne the two heaviest buirdens of the revolution . Washington at home, and Franklin abroad, each of them too honest to feel suspicion,, too great to feel envy."

I submit that these remarks of the author apply to India with hundred times greater force. The two great leaders who have been piloting the affairs of the State have borne a very burden and this Constituent Assembly has also functioned as a Parliament during this interim period.

We have crossed many hurdles these two years and under the stress and strain of the

stupendous problems that the country had to face, I submit the time that we have taken is too small and in other Assembly placed under similar circumstances could have taken lesser time.

As regards the limitations that have been placed on the Fundamental Rights, I would only submit against the charge that we have borrowed freely from other Constitutions. After all no written Constitution is final in this world. We have to borrow from the experience of other nations. If we take either the pre-war period or the port-war period or the period during the war, and study the working of Federal Constitutions we find the trend towards a strong Centre in every Constitution. The Centre is being made strong today because we are in an atomic age. Let alone a drought in Gujarat or a flood in Andhra Pradesh to day if there is a drought in Canada or a bumper crop in Australia the economic set up of the world is upset and we hear the distant echoes even in our country and when we had to face thewe stupendous problems would submit, nothing but the height of folly. If these provisions were embodied, it is by way of an abundant caution. I do not think even the Members of the Drafting Commtitee like these provisions. I am sure though no occasion will arisewhen these limitations int he Fundamental Rights of the Emergency Powers will be used in working this Constitution,.

Then there was a charge that Gandhian principles have been sacrificed. I already submitted that we have embodied provisions for removal of untoucability for national language, for communal harmony and for goodwill and gurantees to minorities, encouragement of Gram Panchayats and village industries and for protection of mulch cattle. These are the planks on which Gandhism flourished in this country and it created a non violent revolution in this country. If these principles have been embodied in the Constitution, I want to ask how Gandhism has been sacrificed in this Constitution. I submit that enough provision has been made for the carrying out of the programme that was enunciated by the Father of the Nation. This Constitution is a harmonious blending of the best Indian traditions - the political and constitutional experience of other countries and the Gandhism ideals. A great sense of reality pervades the whole structure the Constitution. Given the goodwill and the will to serve the country and the spirit of self-sacrifice that prevailed in us when we struggled for independence, this Constitution can bring happiness to this country. It is time that we settle down to constructive work and I hope under this Constitution if we have the sense of goodwill that has prevailed in this Assembly in solving many problems like the language problem, minority problem the citizenship problem, compensation clause etc., I am sure this Constitution will usher a new era in this country.

Regarding the language question, I may bring to the notice of this Assembly that we are already implementing the Resolution that was adopted in this Assembly. I am glad to inform the House that the Government of Mysore has passed an order making Hindi compulsory in all High Schools in the State but I am sorry to find a similar response is lacking from some of our Hindi friends. The Hindi Sahitya Sammelan has criticised the agreed resolution that was passed in this Assembly. I appeal to our Hindi friends to work in the same spirit of give and take and to take us with them so far as the language question is concerned. Given the goodwill I submit once again that this Constitution will pave the way for the happiness and contentment of this ancient land of ours.

**Shri Upendranath Barman** (West Bengal : General): Mr. President, this Constitution has been criticised by many Members on account of this defect or that I shall not enter into any controversy over the arguments advanced by them. As I judge it from the point of view of a common man, I find that this Assembly has given enough for the common man to develop and to rise out of the present hopeless state of affairs. There is no doubt that most of the articles in this Constitution have been taken from the 1935 Act but there is one fundametnal change that has been made by this Assembly and that it the adult franchise. It is this right that has changed the whole outlook of the 1935 Act, in this sense that the real democracy will today, tomorrow or the day after come into power. Today the under-privileged class of our country, in spite of all the provisions made in the Government of India Act, 1935, can not have any power in their hands becuase of the fact that many of them have not got franchise. They have really no voice in the administration of the country but when this Constitution will come into operation and first election held under this Constitution, I dare say that the whole aspect will change. The 1935 Act gives power to the masses only to a certain extent but because our masses are ignorant, even that part of it cannot exercise it because of class

domination and domination by those who are propertied, or who are now in the upper strata of intelligence. But tomorrow when this Constitution will come intop play and throughout the length the breath of this country the masses of the country who form 85 per cent of the population of India will have the final say or a greater say in electing our legislatures and ultimately in the constitutional heads, the cabinets in the Provinces and also in the Centre. I dare say that their voices will be heard. Otherwise they can choose the next time their own friends. So there is that fundamental difference which has been introduced by which, though the provisions difference which has been introduced by which, though the provisions of the Constitution might by in many parts borrowed from the Constitution of 1935, the conditions will be entirely different.

Now, Sir, it has been said that we have taken too long a time in framing this Constitution. I do not know, but my honourable Friend who has just spoken said that the American constitution making had taken nine years. May I ask the honourable Members who have criticised this Constitution to remember one thing. What was the condition of the country before the commencement of the work of framing of this Constitution ? What were the pledges that were before the framers of this Constitution those who had guided the destinies of this country, and what were the problems that they had to tackle? I should like to mention two things. First of all there were five hundred and sixty two native States, and when the British Government had been withdrawn, they were really besides the provinces, five hundred and sixty two parts of India.. If this Constitution had been framed in a hurry, would the Constitution have been the same as we have it now? We can very easily realsise that our Constitution would have been quite different from what it is now, and we owe gratitude to the Honourable Sardar Vallabhbai Patel and to other leaders of our country for the way they have tackled this problem of the State. They have tackled it in such a way that in spite of the fact that India was left by the British in such cahos, they have merged India into one within the course of this short period, and for the whole of India we have got one Constitution. There is some little difference here and there, but we must remember the success that we have achieved by this time, and when we do that, we are left in no doubt that these differences also will soon disappear.

The second point, that I may mention is that within our body politic, whoever may have been responsible for it, our country was divided into several communal divisions, and when the British left India, so far as my impression goes, the British before transferring power, took solemn words from our eladers that all the privileges of the minorities would be honoured by them. Our leaders have honourse those pledges and in spite of that, we find that our Constitution today is free from many of the evil things that existed at that time. it is not that the majority has, by the simplified this matter, and removed those evil things from this Constitution, but it is the minorities themselves who have willingly consented to it, when they found that there is really no cause for any apprehension and that for the good of India they should give them up. As regards my own community, I confess that we thought that at least for some time to come, we should be given some privileges, and I with gratitude thank the Members of this Constituent Assemnbly and also the leaders for conceding those privileges for a certain period. Now, I would ask, if our Constitution had been framed hastily, do you think this Constitution could have come out in its present state? Therefore, though there has been some delay but as I have said, I do not admit it-yet this delay has been all for the good of the country as a whole.

Coming to the point of view of the common man, as I observed at the very beginning I find that the common man, or the masses of this country, will be having a great voice in the future administration of our country. After all we are wedded to democracy and there are no two opinions that we should have adopted any other system of Government. Having accepted that the only system of democracy that we find successfully working in the world is the parliamentary system of democracy. We have, therefore, necessarily to look into the constitutions of those democracies which are working successfully and in my opinion, the genius of India has accepted the best parts that it could gather from all parts of the world wherever the parliamentary system of democracy works. In this very system, I would stress again, the regeneration of the masses, the down-trodden part of humanity, lies. According to parliamentary system as we have accepted it here, the country is to be governed by an elected House, and though there are two parts, two Houses at the Centre, it is the House of the People wthat has the final say in matters of money Bills, in matters of expenditure and in matters of ways and means Budget, which concern the masses of the country vitally. They are

the economic ills that really lie at the bottom of all ills of the masses of this country. In the proper working of this Constitution that we have framed, the masses must be alert, and if they are alert enough or wise enough, they will choose the right leaders who will riase the masses, and they will be masters in this House of the People and also in the legislative assemblies in the Provinces. It is for them to devise in what way the conditions of the masses could be bettered. What more cna be done under the parliamentary system of democracy I can not imagine. If there is any defect in the Constitution, as many honourable Members have already indicated, there is enough scope within the Constitution itself to amend any of the provisions that required to be amended.

Coming next to the actual structural part of the Government, that will be set up in the near future, I would only ask the honourable Members of this Hosue to take notie of one Directive principle that has been inserted in this Constitution. I mean the Village Panchayat Organisation; and alongwith that the directive principles of educating our children up to the age of Fourteen by giving them free and compulsory education. If these two directives are properly observed by our future Government, then I think the condition of this country will be bettered in the near future and that will be to the good of the whole country. A centralised system of Government in a country like India with thirty-five crores of people and with a vast areas which is perhaps more than Europe will be no remedy for these evils. No centralised Government, with an adminsitrative machinery more especially the one that has been handed over to us by the British will be able to remove these evils that are now eating into the vitals of the rural areas and of the under-privileged. When we have given adult-franchise when we have trusted each and every adult citizen int he country to be the masters in the forming of the Government, it would be a folly if we delay even for a single day the constitution of these panchayats. When you have trusted them to the extent of giving them a voice in the composition of the Government, it is but natural that you should trust them with some responsibility. Once you do this, that will relieve us of a lot of burden of adminsitrative responsibility, at least in regard to day to day affairs. So long as you expect the Government servants to take charge of the masses, the masses will remain irresponsible and will go on complaining against the Government. But once you entrust them with certain responsibilities for local administration, they will be keen on taking charge of their affairs.

Of course criticisms have been made that the village panchayats cannot work, because our villagers are ignorant, and that there will be scramble for power. But a glance at the daily papers will convince us that in most of the provinces there is a scramble for power even on the part of the provincial leaders. So, it would be an absolutely silly argument to say that the masses are not yet fit to govern even in their local adminsitration and the interests that concern them the most. My only submission is that as soon as possible we should form these village panchayats and transfer the bulk of the powers that concern the villages to these village panchayats, so that many of the problems of governing this country will be solved.

Last of all, I have to pay my homage to the great Mahatma whom I remember with gratitude. It was in the year 1938 that I had the privilege of meeting him at Calcutta and of discussing with him several problems about the under privileged scheduled castes. Amongst many other points, I agreed with him that so long as the British were in power they ( the scheduled castes ) could not expect any privilege by going against them. The Mahatma replied that when the Congress come to power, they would give the Scheduled Castes the privilege they require. After a decade I find that the words of that votary of truth and non violence have come true. India has become independent now and I with devotion remember those words of the Mahatma. I am also grateful to all Members of this August House for the privileges that they have extended to the scheduled castes of India. I bow down with respect to that great soul who had always the interests of the Scheduled Castes at heart.

**Shri P. Kakkan** (Madras. General): Mr. president, Sir, I stand here to support the motion moved by Honourable Dr. Ambedkar. I also want to express my heartfelt thanks to you and the Drafting Committee for giving all kinds of help to the Harijans by this Constitution. As you know, Sir, Gandhiji, the Father of the nation, changed the mind of the Caste Hindus and showed a way to abolish untoucability by joint electorate system. Now we have achieved our goal by the joint electorate system.

I believe, Sir, that the Congress Party is the only party which is working for the uplift of the Harijans; not any other party. So from , this August Assembly, I appeal to the Harijans of the

Union to join the Congress and work for the uplift of the Harijans. In this connection, I would also appeal to Dr. Ambedkar to join the Congress and work for the uplift fo the Harijans, within the ten years.

I am very glad, Sir, that the Panchayat system has got a place in this Constitution.

I hope that the Government of India will take necessary steps to bring the panchayat system into every nook and corner of this vast country and develop grama swaraj according to the wishes of Mahatmaji without any distinction of caste, creed and colour.

Lastly, Sir, we have given power to the villagers by the introduction of the adult franchise system. I hope the voters in future will not misuse their voting power. I also believe Sir, the people of India will not foreget Gandhism which is not only for India but for the whole world. I would pay my trubute especially to the Honourable Mr.Gopalaswami Ayyangar, Shri Alladi Krishnaswami Ayyar and Mr. T. T. Krishnamachari who have come from Madras Province because they have done a great service to this country as members of the Drafting Committee.

**Shri M. Thirumala Rao** ( Madras: General): Sir, I feel it is a matter of personal privilege to add my voice in the chorus of tribute that has been paid to the labours of all the people that have given their time and energy in drafting this Constitution. Therefore, I do not stand here merely to derive the satisfaction of speaking something but, with a human frailty that I am also one of those that has played his little part in evolving the Constitution, to say my last word during the last stages.

One can not but remember with gratitude the great personality that has moulded this nation out of mere clay, enthused it with the idea of freedom fired it with a dertermination for action and saw during his lifetime that the ideal has been realised. It may be said that the visualisation of an ideal is something different from actualisation. The enchantment of distance to an ideal which inspired us in those days has gone today, because we have reached our ideal and we are now in a practical position to see what the difficulties are in the actual situation.

I thought that the framers of this Constitution and the leaders that have inspired the draftsmen would have incorporated with gratitude the name of Mahatma Gandhi as one of the founders of our nation, the real father of Modern India, who had given a new message to the whole world, I do not know what influenced them not to include his name in the Draft Constitution which would have been in keeping with our traditions, with the traditions of ancient India, for we ahve always humbly and with gratitude remembered our ancestors from morn till evening on every auspicious occasion. It would have been in the fitness of things if we had incorporated in the articles of our Constitution the name of Mahatma Gandhi but our leaders willed otherwise.

We are on the even of epoch-making events. The West has been in a turmoil. It has had its days of freedom for some years and the Eastern nations are now falling one after another for new ideas. India today is the crossroads between the East and the West and we are now being planted on the road to future self government in the shape of this Constitution.

I want to say a few words with regrd to the merits of this Constitution, because it is a thing to get away from the realities of the situation. In the beginning when this Constituent Assembly was addressed by Pandit Nehru he said that our aim should be to draft a constitutionn which will give us an independent sovereign republic. The word independent has been given the go-by and in its place the word democracy has crept in. This has enabled us to remain within the Empire and not to snap the link with the British Commonwealth. It ist he result of the momentum of events and it is the logical inevitability of 150 years of British rule. India has to stay in the British Commonwealth for some more time until we are in a psoition to discard all sorts of shackles including the Commonwealth. True, the logic of events has compelled us to remain. From a debtor nation we have turned out to be a creditor nation to whom our erstwhile masters now owe to the tune of 1200 crores. Until we are able to recover the amount from Great Britain, until we are able to shed all our previous commitments in the way of the British connection, it will not be in the interests of the country to snap the British connection. That is the only consideration I think that has influenced our leaders and that is

the only consideration that has influenced this House to agree to remain within the British commonwealth for the minimum period that is required.

With regard to the Constitution itself it is a piece of achievement of which our leaders may be justly proud. The British had established their hold firmly on this country by having a strong unitary government and at the same time dividing the country into compartments in which the people had no control. They had created 630 native states called Ulsters, kept them in a most backward condition and they always dominated their policies from the Centre. They had created vested interests in the Muslim community and given them separate electorates. They had allowed them to join hands against Indian nationalism. They had created an all India administration whose loyalty was purchased at every turn, at the cost of India freedom which many of us know to our costs. With these three weapons in their armoury the British had founded a unified centrally controlled government in this country which they thought would last as long as their empire. It was perhaps Lord Morley who said that within the purview of human ken he could never imagine the day when the British Empire would be dissolved. The British statesmen have carried on but they never though that between them and their destiny rose a humble man in this country ( who was derisively called the 'Naked Fakir" by the prince of imperialists Mr. Churchill) to upset all their plans and dissolve the empire with the breath of his Satyagraha. With the legacy of a divided India left to us it is the practical wisdom of Sardar patel which saw through the game and he rose on the occasion and met it with an equally powerful strategy. The British had left and therefore we have to act exactly as the British had acted in dealing with the situation. When the British left they thought that the States would rise against the Congress government. But Sardar Patel and his advisers rose to the occasion with the strength of the Congress and the country behind them. He has worked the miracle of dissolving all the States and given them a new shape by incorporating them with provinces or creating unions,. My friends from the Native States need not feel any inferiority complex that they are being treated as inferior brothers. Not at all. History tells us that the native States have been the happy hunting ground of reaction, oppression and backwardness. To overcome all these difficulties in a year or two is not an easy task, but the Constitution has ensured once for all that their status is not inferior to those of the British Indian Provinces that have had experience of the political leadership under the Congress for the last 70 years. Therefore, the Native States have been brought on a par with the Provinces.

With regard to separate electorates Sardar Patel had again played a notable part by being the Chairman of the Minorities Committee. With the able assistance of a genuine patriot, a selfless patriot like Dr. H. C. Mookerjee who has been our Vice President and has filled the place with equal worth as you yourself, Sir, with his assistance and selfless devotion to the united nationalism of this country, Sardar patel has been able to abolish the separate electorates for all the minorities and once for all erased from the pages of the Constitution the last canker of British imperialism.

With regard to another item for bringing about the unity of the country, we have been able to integrate the whole of the army into one single Army. Also, we have maintained the tradition of an all-India service in the Indian Administrative Service which will be avle to uphold certain standards of conduct, rectitude and incorruptibility so that this country may carry on its policies through this efficient service. By these three agencies which have been created under the able guidance of Sardar Patel, this country has been unified and all those questions dealing with these matters have been incorporated in this Constitution.

The Indian National Congress has been responsible for winning freedom and it has been responsible mainly, if not chiefly, for drafting this Constitution. The Constitution has got the indelible impress of the Congress ideology on this. Many friends have complimented you, Sir, that you have risen to the occasion of parliamentary practice by presiding over these deliberations. Perhaps they were not in the Congress, perhaps they have not had the personal experience of your leadership, being the President of the Congress twice and conducting m,ore boisterous meetings of the All India Congress Committee several times. The efficiency, the capacity, the patriotism and the parliamentary calibre of the All India Congress Committee is reflected in this House, and, Sir, when you were the President of the Congress, we need not specially compliment you because it is no new task for you in conducting this Body efficiently as its President. Nor are our statesmen new to the task of Government because our Prime

Minister and our Deputy Prime Minister and several other Congress Ministers have more than justified their existence as Ministers owing to their experience as public men and leaders of public opinion.

Sir, I want to say one or two things with regard to the Andhra Province for which I should like to express my gratitude. I want to draw the attention of the House to this fact. When we went in deputation to the Congress Working Committee in 1938 when Babu Subhas Bose was the President, led by the late lamented Deshabhakta Konda Venkatappayya Pantulu, the deputation consisting of some other Congress leaders, the Congress Working Committee solemnly assured the Andrhas that they will get the Andhra Province as soon as the question of Indian independence was solved. We have not hitched our wagon to the star of reactionarism. The Andhras have always implicity trusted Mahatma Gandhi's leadership and the Congress leadership. They had not flirted with the Simon Commission, they incurred the greatest displeasure of Lord Simon for having boycotted him at every stage of their stay and the British Government though that we were severely punished by not creating the Province. But we have always trusted Congress and Congress leadership and we are grateful today for having received fulfilment of the promise made by the Congress Working Committee in 1938 in their resolution. Do not understand that the question of the Andhra Province is any 'depressed class' or any subsidiary movement. It is an essential movement of our nationalism. They say the administration should be carried on in the mother tongue or in the regional language, but in Madras the administration has to be carried on in English because the province consists of four different linguistic areas. If every Province in India were to develop fully and our democracy is to work effectively, then you must remove this artificial importance of the English speaking man between the so-called man in the street, the real taxpayer and the Government.

With regard to adult franchise, I am not very enthusiastic about it. I am afraid it is a weapon whichcuts both ways; but fortunately or unfortunately our leaders were committed to it in their earlier stages of agitation asking for a Constituent Assembly based on adult franchise. Adult franchise enfranchises nearly 17 crores of our people and all of them have to be put on the rolls. Without proper education, without the proper development of patriortism in this country, I am afraid this is a dangerous weapon. The Gandhian satyagraha movement has not really permeated the masses. It has touched the fringe of the villages. After all, only four to five lakhs of people have gone to jail, that is the intelligentsia and the intellectual middle class have been the mainstay of the Gandhian movement and with that experience we must see how far the sense of patrioritsm has gone down. You saw the spirit of narrowness in one of my honourable friends, a member of this House when he stated that his vision does not go far beyond Orissa. He loves his home, his village, his district and then his Province. His vision does not go far enough to assess the real worth of the leadership of Pandit Jawaharlal Nehru or Sardar Patel. If an enlgihtened Member of this House has not got a patriortic vision extending beyond the frontiers of his Province, what about the uneducated millions who are led to think by interested politicians in the name of their communities and sub-communities? During the last District Board elections the leaders of our Provinces had come out with statements that sub-communal feelings have been exploited in the elections and peoplel must be careful about it. As a matter of fact, when these constituencies are being divided, interested leaders are already scanning the constituencies are being divided, interested leaders are already scanning the constituencies to see whether a particular constituency contains the majority of the voters of his own community or not, whether a political adventurer will be able to come out and succeed in that particular constituency by raising slogans against the interests of the country. That is my genuine feeling about the adult franchise. Not that I am less enthusiastic than any of our friends here who are swearing by adult franchise. By all means have it, have it within the next four or five years or within the next ten years on a graded basis. Today the total voting strength is about 3 ½ crores; make it ten crores by the next elections and 17 crores in the elections after that. But when you are playing with this so called democratic weapon it presumes two sides to the question. It is not merely the question of the electorate, it is not merely the question of the members of the legislature that are returned on that adult franchise, but it is also a question of leadership. The country must be able to provide leaders of sufficient calibre experience patriotism and disinterestedness in carrying out the real principle of this Constitution.

Situated as we are, we wanted to have a federal Constitution but we have produced a

Constitution that is mostly unitary. We have delegated all the residuary powers to the Central government and we are trying to make it as strong as possible. No doubt, with all the States, with a cancer like Hyderabad in the stomach of this country - recently eliminated, with a danger zone on our frontiers in Kashmir, with the Communists trying to grab power by any means and all means at their disposal and with the RSS people with a popular slogan of Indian culture and Hindudom on their lips trying to capture political power, it is a dangerous thing to trifle with the Central government. Seeing all these things, our leaders with a foresight born of experience of the past and a proper appraisement of the future, have said that the residuary powers of this nation shoudl rest with a Government which is strong in the Centre. Not only that, there is another personal element on which the whole effectiveness of this Constitution rests, namely, the prime Minister of this country is amde all powerful. You have given every power to the leader of the majority group in the Central Legislature to work this Constitution, to work this democratic Constitution whuch you have prepared and it all depends on the personality of the Prime Minister exercising enormous powers. The Congress, though it obtained independence for this country, though it is the majority party running the Government of this country, it was not mean or had the intriguing nature to incorporate in the Constitution any provision that would perpetuate its power for some time to come. They have divested themselves of such selfish motives and created an instrument in which any party that has got the largest support in the country can take power and run the administration of the country and fashion it as it likes. But still we believe that the personality of our Prime Minister and our Deputy Prime Minister are indelibly impressed in the Constitution and it is the fond hope of millions of people that they will be spared to us for many years to come to see that the power that is gained by your Nation is consolidated in the best interests of the poorest man in the street whose protection this Constitution envisages.

With regard to Fundamental Rights I need not say much, since every right is not an absolute right. Every right wherever it is enjoyed is always hemmed in by considerations of public policy and public conduct and also by the safety of the State. If every man wants to exercise his right and take advantage of it without taking any responsibility for the welfare of the State, he must be shown the place to which he should rightly go. That is the only exception. Where with regard to Fundamental Rights has this Constitution not made full provision? This Constitution enables all loyal citizens to carry on their avocations and professions peacefully and gives them a guarantee against the meddlesome elements in the country who want to exercise undue absolutely rights at the expesne of others.

In this connection one happening has to be mentioned. I was surprised sometime ago to find a reputed ex-Judge of the Patna High Court presiding over a Civil Liberties Conference held in Madras and attacking all the Congress Governments from the Centre down to the provinces. He almost ran amuck in his attack of the Governments in the name of civil liberty. His speech was full of abuse of constituted Governments and it was quoted by communists. Even the communists would not have indulged in civil liberty in a more extreme manner than that ex-judge of the Patna High Court. That is not civil liberty.. Every citizen must have some sense of responsibility for maintaining tranquillity in the country. That alone will enable the people of the country to enjoy the fruits of freedom. Under the cloak of civil liberty, you should nto allowe even these champions of civil liberty who retire after a lifetime of service under a foreign slave-master and now come in full glory and vigour in support of civil liberties to speak as they like. It must be pointed out to them that they have a responsibility to the State.

Sir, I do not want to take much of the time of the House, though I want to say one other things. Situated as we are, we are in possession of a Constitution which can be turned to best account by the persons that work it by the legislators and by the Ministers that these legislators would choose. I, say that it depends mostly on the Prime Ministers for the next few years of this country to see that the greatest benefit is derived from this Constitution. We have rightly selected, Sir, the Chakra as our emblem, as the historic reminiscence of the period of Asoka. Describing the meaning of this Chakra, Rhys David the famous orientalist has said that this Chakra is intended to send rolling the Royal Chariot wheel of universal empire of truth and righteousness. If any country which departs from the essential moral principles on which it professes to stand it has no future. But this country in keeping with the ancient traditions and ideals has rightly chosen that Chakra which is called the Dharma Chakra of Asoka and Mahatma Gandhi has blessed this Chakra. With his spirit hovering over this nation

and with this emblem on our flag, it is the duty of this House and the leaders of the future to uphold the Congress principles and fulfil the destiny of this Nation.

The Assembly then adjourned till Ten of the Clock on Wednesday, the 23rd November 1949.

---

# CONSTITUENT ASSEMBLY DEBATES (PROCEEDINGS) - VOLUME XI

**Wednesday, the 23rd November 1949**

---

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

---

DRAFT CONSTITUTION---(Contd.)

**Shri Ari Bahadur Gurung** (West Bengal : General) : Mr. President, Sir, I associate myself with my colleagues in congratulating the Chairman of the Drafting Committee for having brought this stupendous task to a successful conclusion. I have only a few observations to make. Firstly, the criticism of the Constitution that it does not provide for the establishment of Socialism is as irrelevant as the complaint that it is likely to open the way to dictatorship is futile. The real test of democracy is to give the right to the people to decide for themselves the nature of the Government they would like to have. The question of dictatorship or Totalitarian Communism will depend entirely upon the manner in which the people will work the Constitution. The Constitution will be subject to a continuous series of modifications according to the will of the people. Such are the provisions already provided in the Constitution. Sir, I personally feel that a Constitution is something of sacred character which inspires future generations. It is the embodiment of the living faith and philosophy of life of those who framed it. To judge this, one has only to look the reflection of the supreme will of the people as to the form of the government they want. Although the Constitution will become the law of the land, there will be nothing sacrosanct about it because it will be subject to modifications as I said before. For all intents and purposes, under the existing circumstances, this Constitution is a model one to suit the various needs of the people living in India.

I would now like to refer to article 5 relating to Citizenship. The community to whom I belong consider this of vital importance, and I feel it is my duty to mention here that one-third of the total population of Gurkhas have come and settled down in India. According to census figures, out of one crore, about 67.5 lakhs are in Nepal and the rest have settled down in India and the Gurkhas remaining here are most of them descendants of those soldiers who fought in many battles in India. We claim the same right of citizenship under article 5, provided we fulfil all the obligations laid down therein. Sometime ago in the beginning of the year when I spoke about the Gurkhas, I said that they have been a special provision for the backward classes of people with regard to the service, but unfortunately under the Constitution such privileges are given only to the Scheduled Castes, the Tribals and Anglo-Indians, even though article 16, para (4), provides that "Nothing in this article shall prevent the State from making any provision for the reservation of appointments of posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State". In other words, it gives by one hand and takes away by another. This is the greatest injustice done to people who are very backward, though they do not have the privilege of being classed as Scheduled Castes or Tribals. I sincerely hope that the future Parliament, whose members will be elected on adult franchise will amend this omission. About ninety per cent, of the total population of India are backward and these people in future, through their representatives, will see how his Constitution works.

There have been strong criticisms about the Constitution providing a strong Centre. I feel that under the existing circumstances there is no other alternative than to have a strong Centre.

With regard to article 3 and 4 read with article 391 of this Constitution, I have some observations to make on West Bengal. As you know, Sir, after the Radcliffe Award the two Districts of Darjeeling and Jalpaiguri have been entirely cut off from West Bengal. In view of the defence of the northern frontier of India, this is a matter taht calls for immediate attention of the Government of India. With the imminent fall of the Kuomintang Government in China,

Tibet, the next-door neighbour of India, is according to reports, becoming the scene of Communist intrigues. The State of Sikhism and the District of Darjeeling connect Tibet with the Indian Union, and Assam, the eastern-most frontier of the Indian Union, is linked with the rest of India by a narrow strip of land consisting of portions of Darjeeling district and Jalpaiguri. These areas as also the State of Cooch Bihar, in view of their strategic importance need to be strengthened and consolidated.

The Districts of Darjeeling and Jalpaiguri which are the northern-most districts of West Bengal have no contiguity with the rest of West Bengal, East Pakistan having come in between. This circumstances gives rise to many administrative inconveniences in ordinary times and more so during a period of emergency. Being a Frontier region such inconveniences if allowed to continue longer are fraught with grave dangers. My object in making this observation with regard to these two districts of West Bengal is this that if we look at the map of India, we find that there is only a narrow strip of land, connecting Bihar with Assam, that is the districts of Darjeeling and Jalpaiguri. Pakistan points like a sword towards the heart of India. If there is to be any trouble, unfortunately, God forbid, especially between Pakistan and India, Assam can be isolated within a very short period, the northern parts of Himalayas being inaccessible; and these are the territories that need the immediate attention of the Government.

**Shri K. Hanumanthaiya** (Mysore State) : Air travel is available.

**Shri Ari Bahadur Gurung** : Thank you very much for your suggestion but that all depends on the strength we have. As a matter of fact in modern warfare the air has played a very important part in bombardment. The last battle has been fought and won on the land. If you read the history of all wars, especially the first war and the last war, it was actually the infantry which decide the whole fate. In the last war it might be the atomic bomb on Hiroshima that decided the fate but that was a cruel thing and if a war has to be fought, it must be fought on the land. I feel Sir, that should an emergency arise the Commission that is likely to be appointed should look into these matters stated above, because these two districts of Darjeeling and Jalpaiguri have been completely isolated from the rest of West Bengal. Now sending goods to Darjeeling from Calcutta one has to send through Bihar. Due to devaluation another difficulty has arisen, namely the fare (1st Class). From Calcutta to Siliguri is about Rs.50 but from Siliguri to Calcutta one has to pay Rs.72 and there is lot of difficulty in the transport of goods from Siliguri down to Calcutta. Within the same province we have such difficulties, I, therefore, suggest that something has got to be done with these two districts; either they have got to be linked with the rest of West Bengal or some separate arrangement has got to be made. These are the observations that I have to make. Thank you very much, Sir.

**Giani Gurmukh Singh Musafir** (East Punjab : Sikh) : *[Mr. President, I endorse the views of my friends without any reserve and hesitation that this Constitution of our free India is undoubtedly a grand document. To me it is an ocean and I believe that it is difficult for every driver to bring out valuable pearls from its depth and to know their intrinsic value. Taking into consideration the circumstances under which this document has been formulated, it is necessary to point out that it was very difficult to frame such a fine Constitution. Many questions had cropped up and it was very hard to solve them. For instance Minorities' problem was of utmost importance. Under the conditions prevailing in the country the solution of this problem was an uphill task. But in the manner in which it has been decided is certainly praiseworthy. Separate electorate was a curse which had blocked the path of our country's progress. Whenever the solution of this question was taken into consideration, it created an embarrassing situation and each effort for solution made the problem more and more complex. The disease increased with treatment.

Doctor Iqbal, the well known poet of our Punjab has said:-

*Mazhab nahin Sikhata apas main bair rakhna*

*Hindi hain ham watan hai Hindustan hamara*

It means : "Religion does not teach to quarrel among ourselves. We are Indians and India is our motherland".

But the principle of separate electorate shattered the dream of the poet. Nay even those who

opposed it were forced by the circumstances which the principle of separate electorate had engineered in the country--to support the schemes of separatism. In this concluding lines the poet (Dr. Iqbql) being confused and confounded gives an opportunity to the Britishers. He says:-

*Nishan-i-barg-u-gul tak bhi na choar is bag main gulchin*

*uri qismat sai razim araiyan hain baghanum main.*

It means: "O'flower-picker, what to speak of the flowers of our garden, do not leave even a single leaf because you are so lucky that we gardeners are ourselves flying at each other's throat. Therefore you have got an opportunity to make our garden desolate and rob it all its leaves and flowers". In our country, separate electorate had always been the source of disruption and religious feuds. Now separate electorate has been removed with great courage and to my mind it is one of the fundamental virtues of this Constitution. Separate electorate has been withdrawn from the Constitution and no reservation has been given on religious basis. I think that these steps will help us in making our ideal loftier. I have no hesitation in saying that the solution of this problem appeared to be perflexing because the minorities were suspicious and obviously the solution of this problem appeared to be very difficult. Yet it was solved because of the personal influences and decisiveness of our Prime Minister, Pandit Jawaharlal Nehru, our Deputy Prime Minister, Sardar Patel and Shri Rajendra Prasad, President of our Assembly. Moreover it is the result of the influence of our Maulana Abul Kalam Azad and all those leader and this is the result of their joint efforts in solving this problem. The curse of separate electorate has been removed from our Constitution. Moreover the problem of reservation has also been solved. Sardar Patel was Chairman of the Advisory Committee which was appointed for the solution of minorities problem. Sardarji's influence; his hold; his statesmanship; his firm resolution got the upper hand and the problem of separate electorate was solved. I repeat that this is one of the greatest virtues of this Constitution. It has made our Constitution much more brighter.

I would like to add a few words more regarding this Constitution.

It is the Constitution of free India and as such it is connected with the people. Therefore this should not be considered as a mere Constitution; Because we have also to raise the morale of our people through the Articles of this Constitution; hence the difference between this Constitution and the constitutions of other types is necessary. Englishmen had their way of dealing with such problems. If they did not like to confer a right on the people then in that case, they used to give from one hand and take away from another after making verbal changes here and there. At the end of substantial Articles they used to add such proviso and conditions which rendered them ineffective. If there is any such defect in our Constitution, then it should be removed. Some Members have criticised the Fundamental Rights and their provisos. I think, perhaps due to official reasons certain provisos were considered unavoidable. But I would like to say that such provisos should not find place in the Constitution. For instance the right of acquiring, holding and disposing of property has been conferred in the main clause but according to the condition which has been laid down in article 5, it shall not affect the operation of any existing law. Whether this clause affects any province or not, but it does affect our Punjab. Land alienation Act is prevalent in the Punjab since a very long time. According to this Act if a man actually tills the soil but does not belong to the zamindar class, he can not acquire lands. It was proper that this restriction should have been removed. But this has not been done. The proviso attached to this Article have created confusion and it is not clear whether this restriction has been removed. On this point clarification is necessary. Punjab and the zamindars of Punjab have been very much affected by this clause; for those who have money cannot acquire land due to this restriction. The result is that those who want to dispose of their properties do not get reasonable price. Punjab is the home of middle class zamindars. Due to this law there is possibility that small zamindars will become smaller and big zamindars will become bigger. I can not dilate on this point, because the time at my disposal is short. All that I can say is that this state of affairs is unnatural, and this restriction should have been removed.

There is yet another point. In article 22, clause (3), sub-clause (B), which relates to Fundamental Rights, system of detention has been retained. To my mind, in the Constitution of free India as has been pointed out by Pandit Hirday Nath Kunzru--the system of detention

should not be retained. We want to inspire the people with confidence. We want them to feel that the Constitution of free India is quite different. But such steps shall not inspire them with the beliefs that now situation is altered. They shall not believe that they are free and that a Constitution of free India is being framed. To my mind none should be detained unless he has been tried in a court of law. Now, I would like to say something regarding Directive Principles. These are great principles and they are consistent with the high principles of our Congress Government. The pledges which we had been giving to the people, have been incorporated in this Constitution. But in Article 37 they have not been made enforceable in a court of law. If owing to the expediencies of State, retention of Article 37 is essential, then it is better not to include the chapter on Directive Principles in the Constitution. If it is not possible, then I would like to say with all the emphasis at my command that these Directive Principles should be inserted under the Chapter on Fundamental Rights. I would like to say one word regarding education. The provision for "free and compulsory education for all children until they complete the age of fourteen years" given in the Directive Principles should form the part of Fundamental Rights. There is yet another provision in which children of tender age for whom avocations are unsuited to their strength are protected. This is important and should be inserted under the Chapter of Fundamental Rights.

Lastly I would like to say something relating to language. The language question was held over for long. I am glad that at last it was settled and we succeeded in taking a decision. I do not think after this decision, it is proper to retain English for 15 years. To my mind it is the manifestation of our slave mentality. We have achieved our freedom; but we are like that bird which has lost its sense of freedom due to its long confinement in a cage. Now the cage has been torn into pieces, but as we have lost our sense of freedom, we are still under impression that we are in prison. I am not opposed to English because it is a bad language. I am opposed to it, because it does not look nice that we should retain this emblem of slavery in our country for long. After we have decided to have one national language, retention of English for such a long time would mean, paying a very high price for the consent of those countrymen of ours who have accepted one national language being compelled by persuasion, reasoning and love. Hindi has already been declared as our national language and duration of 15 years can be regarded as the life of a generation. I agree with Seth Govind Das that our Constitution should be in our national language and it should be regarded as authentic. In this connection Babu Ram Narain Singh has asked a pertinent question "Is this Constitution being framed in India or in England?". To my mind, the Constitution should be framed in our own national language. We should use this language from now and if it is not possible to do so, then the maximum period for its adoption should be reduced to 5 years. Such a course shall be source of consolation for us and it will help us in getting rid of our slave mentality quickly and it will enable us to do everything through the medium of our national language.

I would like to add one word more. Sardar Hukam Singh and some other friends have said that deletion of the provision relating to reservation in services has created dissatisfaction among the Sikhs. As I have said, the minorities have given their common consent to the abolition of separate electorates but I must confess that the Sikhs and other minorities in some places are dissatisfied because reservation in services has been removed. But to incorporate such a thing in the Constitution would have been contradictory to other articles. Now when the reservation has been abolished, every man shall be appointed on his merit and thus everybody will be inspired with the desire to make himself accomplished. This step has placed a responsibility on the shoulders of the Majority Community, and minority communities also shall have to feel the necessity of acquiring capability and capacity.

One word more and I have finished. In preparing the draft, Dr. Ambedkar and members of the Drafting Committee have worked very hard. They deserve our congratulations for preparing this Draft within such a short time and under adverse circumstances. We shall be failing in our duty, if we do not pay our debt of gratitude to our leaders and comrades. I mean our greatest leader Mahatma Gandhi and those innumerable unknown warriors who have made sacrifices for the freedom of this country---those who have left behind their wealth, their homes and their all in Pakistan and thus did their best for the freedom of this land. I agree with Shri Jaspat Rai Kapoor that attention should also be paid to the refugee problem, the services rendered by them for the cause of the country is praiseworthy. We cannot succeed in enforcing this Constitution unless they are satisfied. With these words, I support this Constitution and I think it will be acceptable to all. In the circumstances it was

not possible to frame a better Constitution.]

**Shri R.V. Dhulekar** (United Provinces : General) : Mr. President, Sir I am here to support the Resolution that has been placed before this House by Dr. Ambedkar. The Constitution has been discussed at very great length in these three years and therefore, it is now too late to point out all the defects and the great points that are in the Constitution. I am satisfied that the Constitution on the whole is a very good one. Everybody knows that milk contains more than 75 per cent of water and if the balance is good, it maintains our body and strengthens it. It gives a longer life. Therefore I shall not try to dilate upon the defects. They may be more than 75 per cent---I do not mind---but I only mind that if the balance left is on the credit side and if the Constitution that we have prepared contains all the substances that are necessary for the living being, that is India, then I believe that it is good Constitution. I shall, therefore, give attention to the different points that are in favour of the Constitution and I lay on record that these points that I am going to submit before you are sufficient to guarantee to this country a long life of prosperity and happiness in this world.

The first point is this, that we have cleared the ground for establishing a Secular state. I believe that religion as followed in India has always been secular. It may seem contradictory but I shall say that in India we have never followed any Book. We have never followed any cult; we have never believed in any 'ism'. The Vedas and Upanishads all declare that never follow any single person or a Book. Even in the Vedas wherever we find Manthras, holy scripts, we find that any person who has ever visualized any great truth--that manthra goes by his name. We have never been bigots in this country and we have never been fanatics. I may say that people say that Buddhism was turned out of India. I say no-Buddhism as an 'ism' only walked out of India but all the good points in Buddhism remain. Animal sacrifice to a great extent had crept in Hinduism. The influence that Buddha left was that animal sacrifice and bigotry disappeared from India. I hope, Sir, that with the march of time, Islam will also walk out of India in the sense that no fanaticm will remain in India, and bigotry will disappear from amongst the Muslims of this country, and so I am happy at the thought that we have laid down the principle that this country will not be governed by any person, religion or cult or any ism at all.

The second point which is a very great achievement is adult suffrage. Every person who is twenty-one years of age, who does not possess any of the disqualifications enumerated in the Constitution, has an opportunity of rising to the Presidentship, the highest honour that this country can give. And that is a great thing. A man walking in the street can rise to the greatest height that India can give him.

The third point is that we are going to have village panchayats, which is an extension of democracy to the lowest ground. For some years we had democracy in India, but the common man never felt that he possessed any democracy. As we extend our democracy to the villages and establish the village panchayats, and ask the common man to govern himself, I believe that India will be far better than England or America.

The fourth point that I am going to say in favour of the Constitution is the introduction of joint electorate. The minorities question has been washed away. There are no separate electorates. Every human-being living in India, who is born in India, is born equal, and because he professes a particular religion or cult, he cannot claim any favouritism from the State. I am happy at the thought that the great blemish, the blasphemy left by the British has been washed away.

Then the fifth point is that the Indian States have been washed away. I am happy that the princes, the ruling princes, have been magnanimous enough, and have been great enough to sacrifice themselves. I know that but for that sacrifice, our Honourable Patel would not have been so successful, and therefore, I say that when I praise the sagacity and firmness of Sardar Patel, I also praise those sons of India, the rulers, the princes, who sacrificed themselves and came into line with the common man of this country.

Then, Sir, the sixth point is international peace. We pray for international peace. We have always believed in it, and I am proud of it when I say that India has never invaded any country outside its own boundaries, and I am happy at that thought. Like Alexander the Great or the great robber, no king of India marched on another land. Like Nadirshah or Mahmud

Ghazni or Mohammad Ghori, no king of India stepped out of this country for any conquest or territory. I am happy at that thought. Therefore, when we lay it down that international peace is our ultimate aim, I may say that the whole world must believe us. When England or America says that they want peace, they are not believed. Everybody is suspicious of them, because these people have never proved in their life that what they said was true. England and other countries have gone out of their countries and invaded other countries raided them and robbed them. Therefore, when they say today in the U.N.O. that they love peace, they are not believed. I say, Sir, that India will be believed. I say, Sir, that India will be believed and every man in the world will believe when we say that we want international peace. When Pandit Jawaharlal Nehru went to America, why was he given such a great ovation? Whey did people throng in thousands and lakhs to greet him? It was because he had a great history behind him. They knew that he was coming from a country where Yagyavalkas, where Mahatma Gandhi, Ramkrishna Paramhansa and where Swami Vivekananda and Sir Rabindranath Tagore were born. These men went outside India with the mission, not of the sword, but with that of peace. And therefore, when Pandit Jawaharlal Nehru went to America, and he said that we stand for peace, he was believed.

Now the seventh point in favour of the Constitution is that the residuary powers will now rest in the Centre. That is a very good thing. In the beginning, there were the words "India shall be a Union". I say that the word "Union" is not a happy word. Union always means and connotes that there was previous disunion, and therefore we are going to unite now. I say that it is not a happy word. But when we came to the residuary powers, and our good-sense prevailed, we put that the residuary powers should be concentrated in the Centre. This means that we will have a strong centre and India will always remain undivided and strong.

Then, Sir, the eighth point is the adoption of Hindi language as the national language of India. Some people may say that for fifteen years English language is going to rule. Others say, that there has been injustice, because Hindi language has not been introduced from today. But I say that the resolution that has been passed by us, is a great triumph. The British walked away from India although they had remained in India for over two hundred years. Similarly, I can assure all my friends, the lovers of Hindi, that the English language will also walk away from India within one or two years, and after five years it will be very difficult to find a letter read in the mufassils or in the districts written in the English language. I am quite sanguine about it and therefore, I feel that whatever restrictions have been placed, they are not such that Hindi will not rise to its rightful height.

The ninth point that I urge is that some people say that there are no points in favour of socialism or communism. I tell you, Sir, that any 'Ism' however good it may be, creates fanaticism. Every 'Ism' is only a synonym for fanaticism and bigotry. If our Constitution had placed that socialism was our aim, if our Constitution had placed the communism was our goal, I assure you, Sir, that within four or five years, thousands of fanatics would be going about the country and saying that anybody who oppose this Constitution will be killed and murdered. Why do not you go to Russia and see? Anybody who opposes Communism stand condemned and he could be killed by anybody. So by not placing any ''ism'' in our Constitutional aim, we have done a very wise thing; India is no believer in any "ism". Therefore, I am happy that we have walked clear of these "isms". We do not believe in any "isms". We believe in our personal wisdom, in our combined wisdom, in our nation's wisdom, on our world's wisdom. We always feel that if we 20, 50 or 100 people sit together, we shall create something which will be better than any "ism"--it may be future, past or present.

The tenth point is this. This Constitution gives a full play for democracy. What is democracy? I define it, in one word. Democracy is accommodation. Any person who does not understand this small definition of democracy, can not be a democrat at all. Any person who feels dissatisfied after going out of a Committee and harps upon the fact that he was not heard and and keeps a grievance going on, I say that he is not democratic. When 10 persons sit together and apply their mind, they either agree or disagree. If they come to a certain conclusion, I think and believe that it is a democratic resolution and it must be obeyed. . Therefore, I say, when we 300 and more persons sat together, applied our mind and produced a Constitution--I may not have had my resolution passed and other people may feel that their resolution has not been passed, that is not the point at issue-it is then the result of combined attention and as such it must be obeyed. It is sacred.

Then there is the post of the President. This is a very great thing. In our olden days also and in our religious books we always find that whenever we perform any religious ceremony, we first of all always invoke Ganapati, the Mighty Lord of the Universe and ask him to sit down and watch our functions, guide our deliberations and our religious ceremony. Then we perform the ceremony and in the end we say:

*gachha gachha sarashrestha*
*ishta karya prasidridooyartha punaragamanayacha.*

Translated it means : You have performed the desired work, kindly go, but come again.

So following the holy tradition, I say, Sir, that you, Mr. President, have guided our deliberations and you have given us this Constitution and now I pray, Sir, that as the President of the Constituent Assembly you go, but as the President of this Constitution, you please come.

I believe what the whole House is with me that you will be re-elected to this high post.

**Mr. President** : You had better not to refer to such matters.

**Shri. R.V. Dhulekar :** In the end, I have to place my heartfelt thanks on record to you, Sir, the President and Dr. Ambedkar. The work that was before us was a very great risk. Dr. Ambedkar has performed a very great work. I would not say Herculean because that is a very small word. He has performed a task worthy of the great Pandava Bhim and worthy of the name that he has-Bhim Rao Ambedkar-. He has certainly justified his name-Bhim Rao and he has performed the task with clarity of vision, clarity of thought and clarity of language. Throughout, he was very clear. He always tried to understand the opponent's view and he always tried to accommodate him, and he always tried to put his own views in the most clear language. We are very grateful to him.

I am also very grateful to our Congress President - for some time our Mr. Kripalani and later on our Honourable Pattabhi Sitaramayya. As a Congress party man behind the scenes he had to conduct so many meetings and he conducted them so well that the Congress people could come together and produce a constitution for the acceptance of the whole of this House in such a beautiful manner. Therefore, I am personally beholden to our Congress President, Pattabhi Sitaramayya, and our grateful thanks are also now due to all the Members who have co-operated with us.

In the end, Sir, I wish to place my obeisance to the great Mahatma Gandhi, the Father of the Nation. With these words I shall finish:

Om shantih, Om Shantih, Om Shantih!

**Dr. P.K. Sen :** (Bihar : General) : I feel that I owe it to myself and to this August Assembly to offer a few humble observations at this momentous stage when we are ushering forth the Constitution to the nation and to the world at large.

Up to now, the Constitution has been a paper document and it will remain so until the 26th January, 1950. Then will be the moment when it shall spring into life, for it is not the Constitution on paper that will rule and regulate the lives of the nation, individually and collectively, but it will be the spirit of the people behind it that will really regulate, that will really bring about the democracy which we are all trying to attain.

A great many things have occurred on the floor of this House which may seem to indicate that there has been a departure from that spirit of union, which alone can lead to success in democracy. I beg to differ. The bitter controversies that have taken place on the floor of the House, the great disputes which have arisen from time to time, only show that there are differences of outlook, of views and opinions, but they do also point to the fact that all have united together in a spirit of mutual understanding "compromise" if you like so to call it and they have evolved together in a spirit of harmony, this Constitution of 395 articles. When it springs to life, when it starts operating, it shall become a live being and therefore, as all living organisms are, it shall be subject to growth and development. Let us hope that it shall never be subject to decay, but that this growth and this development will go alongside of the growth

and development of the people. The people and the people alone can make good this Constitution, can make it really applicable to the needs and requirements of the people.

A great many things have been said here in connection with this Constitution. But I do feel that at the back of all that, one can find that there is more or less accord and not discord. It has been called a "compromise" Constitution. Well, "compromise" is really the essence of wisdom. If you can see things from the opposite point of view also along with your own point of view, it is only then that you can possibly unite not only to frame the Constitution but to regulate the lives of the nation. Therefore, if it is a compromise Constitution, I regard that as a matter of pride. You feel that there so many things that have been done which are entirely of a revolutionary character. You feel that you are on new ground altogether and if you have been able to agree on those fundamental points, then the journey will be a triumphant march.

First of all, we have abolished untouchability by law.

Then comes the disappearance of the Princely Order and the wonderful work of integration of all these States.

Then comes the abolition of special electorates, the abolition of reservation of seats and the wonderful phenomenon of the willing surrender of the rights of certain minorities with a view to abolish reservation of seats. The reservation of seats, no doubt, has been maintained in certain specific cases and for a limited period, but that is understood and accepted by all of us unanimously as a just and good provision.

Then comes the adjustment of the relations between the Centre and the different units or provinces or States, and we find that there again, there is a triumph, although there may be differences of view-point; some people are inclined to think that the Centre has been given too much power, and that it might really end in dictatorial supremacy; some on the other hand are inclined to think that more power should have been given to the Centre.

But we have, as I understand it and as I submit earnestly, arrived at a point when, again, it is the working of the thing which will really justify the content of the Constitution. One after another, honourable Members have come forward on the floor of the House to testify to their belief and faith in that proposition, namely, that it is not the Constitution alone that can possibly justify itself, but it is the Constitution and the people acting and reacting upon each other that will lead to its ultimate justification or condemnation.

Then, Sir, I shall draw special attention to the determination of this House, notwithstanding certain points of difference, unanimously to adopt a common language for the whole of India, may be with due regard to mother tongues, may be with due regard to other languages prevailing in certain particular tracts of the country; but the determination to have a common language and a common medium of expression for the whole of India is absolutely unanimous.

We come next to adult franchise, and before we launch our bark on the uncharted ocean of adult franchise, we have to be careful as to how to proceed. After all, ours is an infant democracy and we have yet to know the shoals and sand banks and all the risks and perils of the voyage. We have yet to know how to find out our coastline when we are in danger and therefore, it is extremely necessary that there should be on the part of the Members of the Constituents Assembly and also of all others a desire to work in such a manner that this Constitution, based upon adult franchise, may really not only turn out a success but may be an example to all the world.

Reference has been made more than once to the fact that the Panchayat system should have been the basis, that the old idea which the Father of the Nation had expressed very explicitly, namely, that there should be the panchayat at the bottom and therefore the democracy broadbased in panchayats should rise to a cone and that cone will be the perfection of democracy, that this idea should have been followed. I do not see any reason why that should be barred even now. Adult franchise is a thing, as I have said, uncharted and it is by proper navigation that we have got to find out where the haven of safety lies. Gradually, it is this panchayat system which I doubt not will come, in order that it may be the basis of the democracy that we are going to usher forth.

Lastly, there are several things, a great many details, that come up to my mind, but I know the time is valuable and I shall try to be as brief as possible. What, after all, should be our guiding maximum? What should be the armour of safety with which we shall fight the world on this basis of democracy? There again, the Father of the Nation has more than once, throughout his whole life, in fact in every act, in every word that he uttered has laid down the lines- Truth and Freedom. We cannot be true to ourselves if we are not true to others. We can not be freely individually unless every individual regards and respects the freedom of his neighbour. If we realise truly the essence of wisdom in this maxim of truth and freedom, it is only then that we shall succeed, it is only then we shall be able to make this Constitution a live Constitution. As reference has been made to it, I cannot help repeating that there are trained soldiers in truth and freedom amongst us. There are men who have sacrificed their all who can be our guides, our pilots, who can therefore steer us to the right haven of safety. I do not exclude from these those who in name belong to a different party as it were -- there is no party here. I include in this band of soldiers the Drafting Committee headed by Dr. Ambedkar. These honourable Members have worked unstintedly and have in every possible way served the Constituent Assembly in a manner which entitles them to our utmost gratitude and I cannot help expressing those sentiments at the present moment. Thanks are also due, Sir, to you, as have been expressed every time by every Member --- it may sound a repetition, nevertheless it is unavoidable. The manner in which you have given perfect freedom frankness and opportunity for every man who wishes to contribute to the debate, entitles you to our sincere gratitude.

There is one thing with which I shall conclude. It has often been referred to here as a blot on the Constitution, namely that all contact with God or religion has been as it were abandoned by it, as if it is a godless Constitution, as if by calling it a Secular Democratic Republic it has actually become secular or godless. I beg to submit that this is a misconception. We have not banished religion by which I mean the innermost faith of man in a Providence that shapes our ends and our personal relationship between us and our Maker. It has not banished religion in that sense. I has banished religions, that is to say the conflict between one religion and another. But if once it is believed, once it is truly appreciated that all religions are true, that not only is there an essence of truth in all religions but that all religions are divinely sent and dispensations of God, can there be any difficulty whatsoever, can there be any conflict whatsoever between one religion and another? And if that comes to pass, when the nation realises that, the word "secular" may in due course even be removed from the Constitution. For then it will be no longer necessary in the exigencies of the case in order to imply, in order to proclaim that there shall be no preference given to any religion, any faith, any belief, any form of worship, it has been found necessary to call it secular. But I truly believe that the Providence that shapes our ends is over us and will guide the destinies of the nation through this very Constitution which is called secular only in name. If there is the sense of mutual understanding, of compromise, if you please so to call it, of mutual accommodation, we shall go together. If there is difference in fundamentals, it were better that there should be conflict between the two parties-without that perhaps there can be no good coming out of it. And if there be conflict unavoidable on fundamentals, on essentials, on unavoidables, if there be conflict we need not worry for even between the fight of the gods and demons, as we call them Suras and Asuras, even out of that fight came up ambrosia and nectar and the poison that came out was sucked up by Nilakantha in order that he might make his creation poison-free. Do we not believe that today when we are on the point of ushering forth this Constitution the same Providence which is hovering over us is present here, and if there be any danger, if there be anything untoward, there is He to take up the poison, to make this poison-free.

**Shri B.P. Jhunjhunwala** (Bihar : General) : Mr. President, Sir, there have been various criticisms of this Constitution and one of the criticisms levelled against the Drafting Committee is that they have done nothing more than adopt the Government of India Act of 1935. If this criticism can be levelled against the Drafting Committee, I should say it is most uncharitable. On the other hand, I would say that before adopting any article the Drafting Committee has taken great pains to go through all the Constitutions of the world and looked into all the amendments with great care both from the point of view of theory as well as from the point of view of their practical application. If they have not accepted any theories it is not because these were not in the Government of India Act of 1935, through those theories were applicable and right, but because they could not be practically applied here under the present

condition. I have heard people talk that nothing will come out from the administration under this Constitution because it is nothing but the Government of India Act of 1935, such a conception is due to their wrong approach, very wrong approach. Why should we give them up if there are good things in anything the British Government had done? They might have had different objects, but whatever they did, outwardly, there was nothing much to be said against it. We have simply to change our approach and object and then work the Constitution and we shall find that all that is provided in our Preamble will be attained, but if we proceed with some sort of prejudice then it will be difficult. Sir, the Drafting Committee has taken great pains in going through, as I have said, all the Constitutions of the world and have presented to us a Constitution under which we can carry on most conveniently as we are accustomed to.

The other point that is being discussed and criticised is that much more power has been given to the Centre than necessary and that all talk of provincial autonomy has been forgotten and power has been taken away from the provinces. This is also very wrong. Under the existing conditions and circumstances of the country and the world forces which are working at present it was very necessary that this much power should have been taken by the Centre. Sir, behind the framing of the Constitution we had our leaders who had effaced themselves and who never thought that in this life they will realise their dream of independence and see that the people of India gained what was necessary for their happiness and future prosperity. Sir, such people are now at the helm of affairs. If they have decided to give more power to the centre it is not because of their love for power. They have kept only one thing in view and that is the good of the country and the happiness of the people. Sir, it is not the form of Government that matters. The thing that matters is as to how the country is administered. When we have got such people at the helm of affairs who, as I said before, had effaced themselves, had never thought that in this life of theirs they will have any power or that they will see their country in this prosperous condition, we should have no apprehension that anything will be done by the Centre which will be against the interests of our country. History shows that even under the monarchical form of Government we had monarchs who respected the feelings and liberties of the people. Therefore, there is no reason why we should have any apprehension that anywhere in the provinces or in the Centre our liberties will be curtailed. If any restriction is imposed on our liberty at any item I have no doubt that will be for the good of the people that it will be so imposed and not for mere satisfaction of exercising power.

Sir, I do not believe in the theory propounded here that that everything should be centralised and that the whole country should be governed from the Centre. But I agree that powers should be given to the Centre so that in times of emergency they can be utilised for the benefit of the people. Sir, the Centre should have only such power as is necessary and cannot be exercised by its component governing parts, for the preservation of the unity and integration of the whole of India. Every other power should be, as much as possible, decentralised and given to the unit of a village or groups of villages what to say to Provinces. With that purpose in view, I had given notice of an amendment to the Preamble that 'after the word "Republic" the words "to be worked on the basis of autonomous village units or groups of villages organised on the principle of self-sufficiency as far as practicable" be added. The other thing I had said in the Preamble was that the noble idea of self-restraint, simplicity and selfless work inculcated by the Father of the Nation, Mahatma Gandhi, should be introduced by means of an amendment to the Preamble. The object of the amendment was that when we are going to have a democratic form of Government we should have as real democracy as possible by giving as much power to as small as unit as practicable so that the individuals composing the unit have easy and ready remedy which is possible under village republic. By other amendment I wanted to introduce in the Constitution, guiding principles and forms of gratifications for our people to cultivate and possess, in the absence of which gratifications the other objective given in the preamble of the Constitution cannot be achieved. But this was not accepted.

Sir, regarding the village republic, I want to draw the attention of the House to one matter. I do not know whether it is the opinion of the Honourable Dr. Ambedkar or of the Drafting Committee as a whole that Dr. Ambedkar voiced while introducing the Draft Constitution for second reading:

Another criticism against the draft Constitution is that not part of it represents the ancient

polity of India. It is said that the new Constitution should have been drafted on the ancient Hindu model of a State and that, instead of incorporating western theories, the new Constitution should have been raised and built up on village panchayats and district panchayats. There are others who have taken a more extreme view. They do not want any Central or Provincial Governments. They just want India to contain so many village governments. The love of the intellectual Indian for the village community is of course infinite if not pathetic". Then Dr. Ambedkar has given a quotation.

"It is largely due to the fulsome praise bestowed upon it by Metcalfe who described them as little republics having nearly everything that they want within themselves, and almost independent of any foreign relations. The existence of these village communities each one forming a separate little State in itself has according to Metcalfe contributed more than any other cause to the preservation of the people of India through all the revolutions and changes which they have suffered, and is in a high degree conducive to their happiness and to the enjoyment of a great portion of the freedom and independence. No doubt the village communities have lasted where nothing else lasts. But those who take pride in the village communities do no care to consider what little part they have played in the affairs and destiny of the country; and why? Their part in the destiny of the country has been well described by Metcalfe himself who says:"

Then further on, Dr. Ambedkar says:

"Such is the part the village communities have played in the history of their country. Knowing this, what pride can one feel in them? They have survived through all vicissitudes may be a fact. But mere survival has no value. the question is on what plane they have survived. Surely on low, on a selfish level. I hold that these village republics have been the ruination of India. I am therefore surprised that those who condemn Provincialism and communalism should come forward as champions of the village. What is the village but a sink of localism, a den of ignorance, narrow-mindedness and communalism? I am glad that the Draft Constitution has discarded the village and adopted the individual as its unit."

Sir, I only say that nothing can be more uncharitable and unjust to the villagers than what Dr. Ambedkar has said. Sir, it is not only uncharitable but it is not based on facts. Dr. Ambedkar himself admits that they have survived and they have kept the independence of India. He says that mere survival is not enough, mere survival has no value. What is the position today? We have to go about begging even for our food-stuffs. We would have been nowhere even with this Independence, but for preservation of village economy at least in matters of food, and it is only by introduction of village units in matters of economy that we shall be able to keep up our independence in real sense of the term and survive. It is because of the preservation of the villages that we survived and lived happily. This has been admitted by Dr. Ambedkar. Today we can not produce what we want. Whatever wealth in the villages there was has been either taken away or whatever wealth in the form of land or in the form of cattle was there has deteriorated and vanished. The land which was there has become barren. Why? Whatever manure was there, the land, was being exported because of the foreign trade. All the bones and all the dead animals, whatever was there, used to be left in the fields and used to decompose very slowly and keep up the organic value of the land and the fertility of the soil. Regarding cattle, when Lord Linlithgow came, he started at campaign for bullocks breeding, i.e. for good breeding. This lasted for about a year or so, but what happened during the war was that all the best cattle of the country were slaughtered for the military, for the preservation of the British empire. When Dr. Ambekdar says that the villagers and the village republics did not take part in the preservation of the country, I would enquire of him as to whether he has read the history of the non-cooperation movement. If he has read, he will know that the villagers responded very well to the call of our able leaders who effaced themselves and who sent to the villages thinking that is the villages who will bring independence to the country The villagers played the most important part in the freedom struggle. It is most uncharitable to say that the villagers and the village republics have done nothing and that they have brought about the ruination of the country. It is not the village republics who have brought about the ruination of the country, but is the other way about. It is the centre under the British rule which brought about the ruination of the villages which comprise 90 per cent. of the population of the whole of India; and has reduced the whole of India to a beggar's condition for their requirements. At that time of course at the Centre were

not there. There were other people. They had some other purpose to serve. Now the people of the country are at the helm of affairs and things should be different now. Sir, I would say that the if we have to improve the economy of the country, if we have to see that the people are happy, we have, not only from the pint of ideology but as a practical proposition, to organise the villages on the ancient basis. The village panchayats should be organised on the basis on which they used to work in the past. The economy of the country should be decentralised as soon as possible. The sooner we do it, the sooner we give attention to this, the better it will be for us. Sir, though it is not mentioned in the main part of the Constitution and the Constitution is not based on village republics as units of the Centre: in the directive principles. It is provided that village panchayats should be organsied with us much powers as possible, and I would request our leaders that this thing should be given effect to as soon as possible in a way as if it were incorporated in the Constitution itself. It is only then, Sir, that we shall be able to realise our real independence. With these words, I support the motion.

**Shri Alladi Krishnaswami Ayyar :** (Madras : General) : Sir, in supporting the motion of the Honourable Dr. Ambedkar for the adoption of the Constitution, I crave the indulgence of the House for a short while. This Constitution has been settled by the Constituent Assembly in the light of the recommendations of the various committees appointed by this House and the draft as originally submitted by the Drafting Committee and as revised later. In the course of my remarks, I should like to draw the attention of the House to what I consider to be salient features of the Constitution by some of the members. The Constitution as it has finally emerged, I submit, truly reflects the spirit of the Objectives Resolution with which this Assembly started its work and the Preamble of the Constitution which is mainly founded on the Objectives Resolution.

Firstly, in spite of the ignorance and illiteracy of the large mass of the Indian people, the Assembly has adopted the principle of adult franchise with an abundant faith in the common man and the ultimate success of democratic rule and in the full belief that the introduction of democratic government on the basis of adult suffrage will bring enlightenment and promote the well-being, the standard of life, the comfort and the decent living of the common man. The principle of adult suffrage was adopted in no lighthearted mood but with the full realisations of its implications. If democracy is to be broad based and the system of governments that is to function is to have the ultimate sanction of the people as a whole, in a country where the large mass of the people are illiterate and the people owning property are so few, the introduction of any property or educational qualifications for the exercise of the franchise would be a negation of the principles of democracy. If any such qualifications were introduced, that would have disfranchised a large number of the labouring classes and a large number of women-folk. It can not after all be assumed that a person with a poor elementary education and with a knowledge of the three Rs. is in a better position to exercise the franchise than a labourer, a cultivator or a tenant who may be expected to know what his interests are and to choose his representatives. Possibly a large-scale universal suffrage may also have the effect of rooting out corruption what may turn out incidental to democratic election. This Assembly deserves to be congratulated on adopting the principle of adult suffrage and it may be stated that never before in the history of the world has such an experiment been so boldly undertaken. The only alternative to adult suffrage was some kind of indirect election based upon village community or local bodies and by constituting them into electoral colleges, the electoral colleges being elected on the basis of adult suffrage. That was not found feasible.

Realising in full that the communal electorate and democracy can not co-exist and that communal electorate was a device adopted by the British Imperialists to prevent the free growth of democracy on a healthy and sound basis, this Assembly under the able leadership of our Prime Minister and Sardar Patel, has done away with communal electorates while making some special provisions to Scheduled Castes and Scheduled Tribes on the basis of joint electorates for a temporary period. As Sardarji has rightly pointed out in his memorable speech on the occasion, we have to demonstrate to the world, to the class of people who have flourished and who have been nurtured on communal claims, our genuine faith in the fundamental principles of democracy and in the establishment of a secular state without distinction of caste, creed or class.

Closely allied with the principles underlying the articles of the Constitution dispensing with

communal electorates are the provisions in the Chapter on fundamental rights that every citizen shall have equality of opportunity in matters relating to employment or appointment to any office under the State, that no citizen shall on grounds of religion, race, castes, sex, descent, place of birth etc. be ineligible for or discriminated against in respect of any employment or office under the State. I am leaving them out of account the special provision in favour of backward classes of citizens. In this connection it may be interesting to note that there is no such declaration in similar terms even in the Constitution of the U.S.A. The Fourteenth Amendment in the United States Constitution which was intended to remove the disability of the Negroes, has not, as experience has shown, served the purpose in the United States and the Fifteenth amendment deals only with the right to vote. Therefore, we may well claim that our Constitution is much more, democratic, much more rooted in the principles of democracy than even the advanced Constitution of America. The abolition of untouchability is another notable step taken by this Assembly.

The liquidation of a large number of Indian States scattered like islands over the length and breadth of this land, their merger with the neighbouring provinces, has been effected under the able leadership of Sardar Patel. In the result the States have been considerably reduced in number and either as individual States or as comprising groups of States they have been brought into the orbit of the Indian Union. Their Constitutions have been brought into line with the Constitutions of States in Part I and they have become units of the Indian Union on the same terms as the States in Part I and they have become units of the Indian Union on the same terms as the States in Part I so that we are in a position to say that all the units of the Union occupy the same position in regard to it excepting for certain specific transitional provisions. The Constitution does not permit the States which have acceded to the Union to secede from it. Their association with the Union is inseparable and they have become an integral part of the Indian Union. There is no going back. The magnitude of this achievement can not be overestimated when we remember that the existence of a large number of such States has been put forward always as an excuse by the British Imperialists for the withholding of freedom from India. The Act of 1935 far from abolishing this distinction served to perpetuate the distinction.

After weighing the pros and cons of the Presidential System as obtaining in America and the Cabinet system of Government obtaining in England and the Dominions, taking into account also the working of responsible Government in the Indian Provinces for some years and the difficulty of providing for a purely presidential type of Government in the States in Part II, (now part IB) this Assembly has deliberately adopted the principle of responsible Government both in the States and in the Centre. At the same time the Assembly was quite alive to the fact that a good number of States in Part IB were unaccustomed to any democratic or responsible Government and with a view of ensure its success and efficient working the early states of the Union Government is entrusted with the power of intervention while there is a failure or deadlock in the working of democratic machinery.

My honourable Friend Prof. K.T. Shah in expatiating upon the merits of the Constitutional system based upon the principle of separation, did not fully realize the inevitable conflict and deadlock which such a system might result in a country circumstanced as India is. The breakdown provisions in the Constitution are not intended in any way to hamper the free working of democratic institutions or responsible Government in the different units, but only to ensure the smooth working of the Government when actual difficulties arise in the working of the Constitution. There is no analogy between the authority exercised by the Governor or the Governor-General under the authority of the British Parliament in the Constitution of 1935 and the power vested in the Central Government under the new Constitution. The Central Government in India in future will be responsible to the Indian Parliament in which are represented the people of the different units elected on adult franchise and are responsible to Parliament for any act of theirs. In one sense the breakdown provision is merely the assumption of responsibility by the Parliament at Delhi when there is an impasse or breakdown in the administration in the Units.

In regard to citizenship, the Constitution deliberately adopts the principle of single citizenship for the whole of India and departs from a dual citizenship, a common feature of may Federations. In this respect the Indian Constitution is in advance of some of the Federal Constitutions. It is hoped that that will lead to the consolidation of the Indian Union. The

Constitution does not purport to enact a detailed law as to citizenship, but leaves it for the future Parliament of India to frame such a law.

The Constitution has accorded the proper place to the Judiciary as it should in a written and especially in a Federal Constitution. In the language of the Federalist, in America the complete independence of the court of justice is particularly essential to the proper working of a Federal Constitution. The limitation on the different organs of the State can be preserved in no other way than through the medium of courts and according to President Wilson, the courts are the balance-wheel of the Constitution. The Supreme Court in India under the Indian Constitution, as this House is aware, has wider powers than the highest courts in any other known Federation including that of the U.S.A. where the Supreme Court is not a general court of appeal. The Supreme Court is a court of appeal in all civil cases from every High court including the High Courts in the States in part IV. It is the ultimate arbiter in all matters involving the interpretation of the Constitution. It has a very wide revisory jurisdiction over all tribunals even if they be not courts in the strict sense of the term. Unlike the United States Supreme Court, it has an advisory jurisdiction similar to that exercised by the Supreme Court of Canada under the Canadian Supreme Court. It has original jurisdiction to issue prerogative writs throughout the length and breadth of India. It is an interstatal court competent to decide questions *inter se* as between States. Even in regard to criminal matters, the Supreme Court is in a position to grant special leave and can also exercise criminal appellate jurisdiction in certain specific classes of cases. The criticism, if at all, can only be, not that the powers of the Supreme Court are not wide enough, but that they are too wide.

The provision relating to the High Courts are in the main modelled on the existing provisions except for the fact that certain inhibitions on the jurisdiction have been removed. They have henceforward jurisdiction to issue prerogative writs throughout the areas subject to their appellate jurisdiction. The anomaly of the High Courts not having any jurisdiction in matters relating to revenue has also been removed, and the powers of superintendence over subordinate courts and tribunals have been restored. Care has been taken to see that in the matter of selection to the highest court, the President has the benefit of the advice of those most competent to advise him on the subject. With a view to keep the High Court outside the range of provincial politics, the High Courts have in important respects been brought under the jurisdiction of the National Government. While there can be no two opinions on the need of the maintenance of judicial independence, both for safeguarding of individual liberty and the proper working of the Constitution, it is also necessary to keep in view one important principle. The doctrine of independence is not to be raised to the level of a dogma so as to enable the judiciary to function as a kind of super-legislature or super-executive. The judiciary is there to interpret the Constitution or adjudicate upon the rights between the parties concerned. As has been pointed out recently in a leading decision of the Supreme Court, the Judiciary as much as the Congress and the Executive, are depending for its efficient and proper functioning, upon the co-operation of the other two.

The criticism in regard to Fundamental Rights has been that the exceptions strike at the very foundation of the rights. This criticism is entirely without foundation. The exceptions and qualifications introduced into the articles reproduce in statutory form the well-recognised exceptions and limitations on the Fundamentals Rights dealt with in the article. Similar restrictions have been read by the Supreme Court in the United States Constitution which in general terms provides for these rights. Our Constitution instead of leaving it to the courts to read the necessary limitations and exceptions, seeks to express in a compendious form the limitations and exceptions. It is common knowledge that freedom of speech and of the Press has been interpreted by the Supreme Court of the United States as not to prevent legislation prohibiting intimidation by speech or writing or preventing the publication of indecent matter, or prevent the enactment of laws in the exercise of the police power of the State if the State can find a sufficient social interest for so doing. Similarly, religious liberty has been held not to protect the citizen against unsocial acts. The privilege of Assembly and public meeting does not stand in the way of the United States or the individual States exercising social control of assemblage of people in the interests of the common good. In the final form in which the article has emerged, this Assembly kept in view the need for drawing a line between personal liberty and the need for social control. While not departing from the principle that a person is not to be deprived of his property without compensation, the Constitution has invested the Parliament with the power to formulate the principles in regard to compensation with due

regard to the nature, history and incidents of the property concerned. Being fully alive to the need for urgent agrarian reform affecting a large mass of tenantry, this Assembly, after due deliberation, has inserted certain special provisions to prevent the legality of the measures undertaken being questioned from court to court while at the same time providing the necessary safeguards for protecting the interests of the parties affected.

In the chapter on Fundamental Rights, there is one other matter which requires more then a passing notice. Clause (4) of article 22 has been animadverted upon as if it were a charter to the Executive to detain a person for three months. There is no such thing. The whole of article 22 is designed to secure against any abuse of the provisions of article 21 which says in general terms that "No person shall be deprived of his life or personal liberty except according to procedure established by law". If article 21 stood by itself, it may authorise an indefinite detention if only it conforms to the procedure established by law. Article 22 has been put in to prevent any such indefinite detention. The Constituent Assembly which was quite alive to the dangers confronting the new State could not rule out detention altogether.

The Directive principles of State policy, I should think, are also an important feature of the Constitution. Having regard to the wide nature of the subjects dealt with in these articles and the obvious difficulty in making the subjects dealt with by these articles justiciable, they have been classed as directive principles of state policy. The principles of Social policy have their basis in the preamble to the Constitution and the Objectives Resolution. Article 37 in express terms lays down that the principles laid down therein are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws. No ministry responsible to the people can afford lightheartedly to ignore the provisions in Part 5 of the Constitution.

In regard to the distribution and allocation of legislative power, this Assembly has taken into account the political and economic conditions obtaining in the country at present and has not proceeded on any a *priori* theories as to the principles of distribution in the constitution of a Federal Government. In regard to distribution, the Center is invested with residuary power, specific subjects of national and all-India importance being expressly mentioned. A large list of subjects has been included in the Concurrent List to enable the Centre to intervene wherever there is necessity to intervene and override State legislation, though normally when the coast is clear, it would be open to the State legislatures to legislate. The existence of a large list of Concurrent subjects is calculated to promote harmony between the Centre and the units, and avoid the necessity of the courts having to resolve the conflict if there is to be only a two fold division of subjects. In order to meet unforeseen national emergencies and economic situations, special provisions have been inserted providing for Central intervention. In this connection, it has to be remembered that the whole concept of federalism in the modern world is undergoing a transformation. As a result of the impact of social and economic forces, rapid means of communication and the necessarily close relation between the different units in matters of trade and industry, federal ideas themselves are undergoing a transformation in the modern world. The Rowell Score Commission in Canada and the Royal Commission appointed to report on the working of the Australian Constitution suggested various remedies to get over the difficulties in the working of a federal Government. The problem is one to be faced by each country according to the peculiar conditions obtaining there, according to the particular exigencies of the particular country, not according to *a priori* or theoretical considerations.

In dealing with a matter like this, we cannot proceed on the footing that federalism must necessarily be of a defined or a standard type. Even in regard to the Constitution of Canada, two such authorities as Lord Haldane and Lord Watson were sharply divided, the former holding that the Constitution is not federal and the latter expressly laying down the opposite view. The crucial question to consider, shorn of all theories, is, "Are the National and the State Governments related to one another as Principal and Delegate?" So long as they can exercise full authority within the orbit of their established jurisdiction, there is no reason to deny the federal character of the Constitution.

I do not subscribe to the view that the Centre has been made too strong at the expense of the Union. In the legislative sphere there has been not much change in the list of subjects allotted to the units. The units have unrestricted executive power in the provincial field. Even in regard to the Concurrent subjects, the executive power continue to be vested in the units though there is a power of central intervention when the exigencies of the State demand it.

The emergency powers vested in the Union can not by their very nature be of normal or ordinary occurrence.

In regard to the taxing power, while the final allocation is open to further examination as the result of the report of the Statutory Commission to be appointed under the terms of the Constitution, the articles in the Constitution relating to the taxing power taken into account the general economic condition and financial position of the different units and the tendency prevailing in most modern Federations of the Central Government acting as the sole taxing agency in the interest of the country while provision is made for the division or the distribution of the proceeds to the different units, as also for the grant of subsidies.

The Constituent Assembly has spent considerable time and attention over the subject of inter-state trade relations. The Assembly while adhering to the principle that freedom of trade between the different units is indispensable to the proper functioning of the Union, has made the inter-State relations much more elastic and flexible in our Constitution than in some of the known Federal Constitutions, to suit the exigencies and economic conditions of a vast continent like India.

The Constituent Assembly being thoroughly alive to the importance of a State language for the whole of India with a view to consolidate and unify the nation and recognizing the importance of regional languages in so vast a country, has evolved a plan for Hindi becoming the State language of India as early as possible. At the same time the Constitution has not lost sight of the need of English for legal purposes for some time and for scientific and international purposes in the world as constituted today.

The criticism that the Constitution as it has emerged is far too detailed and elaborate does not merit serious consideration. If as in other Constitutions the constitution and powers of the High Court and of the Supreme Court have been left for normal ordinary parliamentary legislation, if the provisions, for electoral machinery are dropped out, if the guarantees provided in the matter of salaries to judges and civil services were omitted, if the existing administrative machinery which has been working is ignored, if no special provision is to be made for Scheduled Areas and Scheduled Tribes, there would be absolutely no difficulty in cutting down the provisions of the Constitution and reducing the number of articles. But for the smooth and efficient working of a democratic machinery, it was felt that unless these provisions were contained in the Constitution itself, an infant democracy might find itself in difficulties and the smooth and efficient working of the Constitution might be jeopardised. There has been insistence on the part of various interests and sufficient safeguards must be inserted in the Constitution itself and even some of the members of this Assembly who, as a matter of abstract principle, are willing to subscribe to the principle of a few main provisions alone being inserted in the Constitution, not a little contributed to the detailed provisions.

In the course of the discussion during the Third Reading, there has been some reference to the subject of India's position as a member of the Commonwealth. On this subject I have already stated my views when the matter came up for discussion before this Assembly. It is unnecessary to remind the House that there is no article in the Constitution referring to this matter. The membership of the Commonwealth depends on the willing co-operation and consent of the two countries, independent in every respect of each other.

Mr. President, I have omitted one point while I was on the subject of Fundamental Rights and I should like to refer to it. While religious freedom is guaranteed to every individual and every religious persuasion, the State does not identify or ally itself with any particular religion or religious belief. There is no such thing as State Religion in India.

Altogether it may be claimed that the Constitution gives sufficient scope for the achievement by the Indian Republic of all those great objects which are contained in the Preamble to the Constitution. The Constitution contains within itself the necessary elements of growth, flexibility and expansion. While it is not committed to any particular economic reorganisation of society, the people are free to adjust and mould the economic conditions for their betterment in any manner they choose. To a large extent any Constitution depends upon the people who work it. It is the human element that after all is the most important in the working of any institution. It is common knowledge that when the final Constitution of America was adopted there was very little enthusiasm for it and several communications had to be

addressed in the 'Federalist' to commend the Constitution to the American people. And yet at the present day the Constitution is looked upon with the same spirit and reverence as the Ark of the Covenant in the Bible. Similar is the experience in Canada and in Australia. The experience of other countries has shown that Constitution which have been hailed with universal acclamation have proved utter failures. Our Constitution is much more flexible than many written and Federal Constitutions. An easy and flexible method of amendment has been provided for. But that does not mean that amendment must be undertaken lightheartedly. The people will then have no other work to do but mending and amending, the Constitution.

Before I conclude, I would be failing in my duty if I do not express my high appreciation of the skill and ability with which my friend the Honourable Dr. Ambedkar has piloted this Constitution and his untiring work as the Chairman of the Drafting Committee. Latterly I know he was ably assisted by my friend Mr. T.T. Krishnamachari. I would also be failing in my duty if I do not give my tributes to the services of Sir B.N. Rau and to the untiring energy, patience, ability and industry of the Joint Secretary, Mr. Mukherjee and his lieutenants.

In the end, you will pardon me, Sir, if I make some reference to your work in this Assembly as it may savour of flattery. You have given your whole life to the service of this country and this is the crowning act. There is none who is held in greater esteem and in love than yourself and you have showed yourself to be the worthy President of the Assembly. I am particularly grateful to you because on account of my state of health you have been pleased to permit me to address from my seat and I am also thankful to the Members of this House for the indulgence they have extended to me in that respect. It is some consolation to me that I might have been of some little use in the work of the various committees and in the work of this Assembly. (Cheers).

**Mr. Hyder Husein** (United Provinces : Muslim): Mr. President, Sir, I rise to lend my shoulder to the great wheel of progress which is depicted on the National Flag empanelled all round this Hall and which is reflected in this monumental work which is to adorn the Statute Book of free India in a few days' time. It is a landmark in the Indian renaissance, and a symbol of progress in political thought. The French slogan of liberty, equality and fraternity, brought about a revolution in human minds and carried the torch of freedom far and wide. That great nation laid the foundation of modern democracy in their own country and supported it in other freedom- loving countries. Their magnificent gift of the statue of liberty, presented to the American nation bears testimony to their love of freedom. The Americans, with their characteristic thoroughness, have treasures it and installed it on one of the islands on the south of New York, and it has become the object of great attraction to the visitor. The world can not remain static, and with the development of the human mind, there is the evolution of political ideals as well. We have gone beyond the French conception of democracy and added justice to their trio, and given it the first place in the Preamble to our Constitution. The preamble is the key to the meaning and the scope of a statute and we find the spirit of the preamble pervading all the provisions that claim our Constitution to be an improvement on the existing constitutions of the world, consistently with our indigenous requirements. The mass of literature collected and circulated amongst the Members bears testimony to the wide field of investigation into the Constitutions of the countries spread all over the globe. The proceedings of this House constitute an eloquent record of the full use of those materials by the Drafting Committee and the honourable Members of the House. My esteemed and learned Friend Shri. Alladi Krishnaswami Ayyar has just before me given further proof of it in his masterly resume of the entire Constitution, and it will be presumptuous on my part to repeat the process again before this House.

It is true that a good deal of criticism has been levelled against the Constitution and I consider it only right that it should have been so. These criticisms and long discussions have resulted in a great improvement on the original draft. Such differences as still exist in the minds of some of us have to be consigned to the cold storage, at least for the time being. We much realise that the time for criticism is over, and the time for implementation has arrived. It is our duty to make a united effort to give effect to it, both in letter and in spirit. It is then and then only, that our country can march forward with long strides.

Our Constitution is fairly flexible and I am certain that it could be worked with any known ideology before the Government. Constitutions are not made for any particular party or any fixed programme. A written Constitution is a reflection of the aspirations of a nation, and a

message to the world as to what we are about. Our Constitution has given us the base, and we have to build an edifice which would be worthy of our ancient heritage. Let us all join in this great task. The country demands the services of every man, woman and child who calls himself an Indian. It is then and then only that the dream of some of us can be realised, the dream of the great Architect of New India who is, alas, no more with us, but whose portrait sheds light on our proceedings.

We have reached this stage after tremendous sacrifices. We should not while away in Scholastic discussions and parliamentary debates. Our struggle has been long and tedious. The honourable Member from Bengal, Mr. Maitra mentioned that period to be two generations. He is right in a way. But I would like to take it further backward to the middle of the last century. At that time it took the form of a revolt after a century of exploitation by the foreign bureaucrats. It was a part of the great nationalist movement of the nineteenth century. It failed and was followed by such repression that it took a generation for the Indian genius to re-assert itself. This time it took a more systematic and organised shape under the name of the Indian National Congress. This was the beginning of the era to which Mr. Maitra referred. The struggle was fraught with difficulties and the path was full of pitfalls and the task hazardous. But our great leaders followed it resolutely and courageously. The pace was considerably accelerated by the new turn that the Father of our Nation gave to the Indian Politics. Blessed be his name. Within the short space of a generation we reached the stage of acquiring freedom even before it was granted by the foreigner. This Constituent Assembly was formed in 1946 to frame a Constitution for the undivided India. Enormous changes took place during this period. With a view to the early recognition of our freedom, our leaders went the length of agreeing even to a partition of the country. But no one at that time realised that this would be a signal for man to turn a wolf to brother man, as the great English philosopher Hobbes said two hundred years ago--*Homo Hominis Lupus*. This is not the place to describe those horrible atrocities, but the misfortune is that some of its baneful effects still persist and affect even our daily life. The country has succeeded in solving much more complicated problems and I am sure it will rise to the occasion and get over this hurdle which stand in the way of national advancement.

This is not the stage, nor the time for criticising the various provisions of this Constitution. There has been a good deal of it, both inside and outside this hall. My answer is that this is the best that the available talent in the country could produce, and if we expect anything more, we have to produce men of greater intellect and scholarship in the land, if that is possible in the near future. I am however, bound to say that the product is one of which any nation can be proud. Let us then, pledge ourselves to give it our unstinted support, without any mental reservations whatsoever. We have attained political freedom, and the need of the day is the economic uplift of the country, as for this alone freedom was worth fighting for. This requires greater labour, greater work and greater sacrifice than even the fight for freedom. It is not so difficult to destroy a thing as it to construct it. With the termination of foreign domination in the land, we have full opportunity for constructive work. Let us then strive to build our India which will be worthy of its past and a pride for the future.

In these days of internationalism we cannot isolate our country from the rest of the world. We have to march forward in keeping with every other nation on the globe and then only our country can occupy its rightful and honoured place in the comity of nations.

Unfortunately my own contribution to the framing of the Constitution has been practically nil. I came in at a stage when nothing substantial could be done. It is my luck to be associated with the Indian Constitutional advancement only at the stage of the Third Reading. I happened to be in England on my way back from the United States of America when the Indian Independence Act was before the House of Commons and there also I could attend only the last stages of the Bill. The Bill was passed in my presence and I got the thrill a few hours before my countrymen got it here. I have been treasuring it as a memorable day of my life. Likewise it so happens that I am associated with the framing of the Constitution also in its final stages. I am here on the bidding of one who is held in universal love and affection in my province, and one who forms the most stable government in the largest province of the country. I am grateful to him for making the suggestion and I consider it a great privilege and honour, indeed, to be a Member of this August Body even at this late stage.

The time-limit and the occasion do not permit me to say more. So I have the honour to

support the resolution placed by our Law Minister.

**Shri B.M. Gupte** (Bombay : General) : Mr. President, Sir, this Constitution, made up as it is of a series of compromise decisions, contains certain features of which we may well be proud and others also which many of us would have liked very much to avoid. Because of this attempt at unanimity, the Constitution has perhaps lost something in consistency and coherence, but it has gained in strength and stability. I am sure this Constitution would have been more progressive but the extraordinary times in which it was framed. The world is out of joint and India cannot escape sharing that fate. The unrest, the unsettlement, the turmoil around us, both in this country and abroad- have materially influenced the framing of the Constitution. Nevertheless, it is a fully democratic Constitution and establishes social equality.

Many critics basing their objection on the emergency provisions, have denounced this Constitution as dictatorial and Fascist. But these detractors forget that even under an emergency, the House of the People, elected on the widest possible franchise, remains in control of the situation. I do not see how this can be compatible with dictatorship or with Fascism. I know that Provincial Assemblies can be suspended but the franchise of the Provincial Assemblies is just the same as that of the House of the People, and therefore, the Provincial Assemblies cannot claim a more representative character. Of course, our Parliament is not as sovereign as the House of Commons in England. It cannot be because in a Federal State it is the Constitution that is Sovereign and not any one organ of the State.

The Fundamental Rights and the small field of provincial subjects impose certain limitations on the sovereignty of the House of the People, but those limitations are not of the dictatorial or Fascist character. Naturally, therefore, the proposition that even in an emergency the Constitution remains fully democratic is, I think, amply justified.

Then the social equality. No discrimination between man and man on any ground is either permitted, or tolerated and untouchability is declared an offence. It is a matter for great sorrow that the Father of the Nation is not alive to witness the inauguration of the new Constitution, but it is some consolation that he lived to see the triumphant constitutional fulfillment of a mission that was dearest to his heart, namely, the removal of untouchability. Another highlight of the Constitution is the abolition of communal representation, a canker that was eating into the very vitals of our body politic.

We have taken nearly three years to complete our task. Some people wrongly believe that this was an unduly long period. But I invite their attention to this consideration that a hastily improvised Constitution in a rapidly changing situation would have ultimately caused greater trouble and cost. Suppose we had finished the work within one or two years: then communal representation would have remained and at least the first elections would have been held on that principle. I, therefore, think that the delay, if at all it is a delay, is well justified because we have thereby avoided this undesirable thing.

Then coming to the economic side, I must confess that it is not as progressive as it is on the political or on the social side. The Constitution is certainly not socialistic but there are unmistakable leanings towards socialism; and what is more important there is no bar no impediment to the establishment of socialism if the electorate really wants it.

Some of our critics have said that this Assembly is not representative, because it is not directly elected on the adult franchise, and therefore, the Constitution is not as socialist as it otherwise would have been. I contest this proposition. Theoretically it may be correct but I am sure that if at the time when this Assembly was constituted the elections were held on the adult franchise, the Congress would have swept the polls and therefore, there would have been hardly any difference in the character of this Assembly. I, therefore, submit that this Assembly is adequately representative and this Constitution substantially reflects the public opinion of the time when it was framed.

Coming to certain defects--of course I can mention only certain defects--I can point out that I do not like the provisions about relations between the Units and the Centre. Speaking on an earlier occasion, I had described that our State was not a Federal State but a decentralized Unitary State. Subsequent provisions, namely article 365 and article 371 have vindicated any description. As far as States in Part B, C and D are concerned, avowedly and admittedly the

powers of superintendence and control are vested in the Centre and therefore to that extent the State becomes unitary. The only question of doubt or dispute is with regard to States in Part A. At the time that I spoke on this point, I mentioned a number of marks of subordination to the Centre. I need not repeat them. The domination of the Centre is there. But my grievance is that it is secured by indirect means. I would not have minded it if it was done avowedly, openly and in a straightforward manner. The units are kept completely dependent in financial matters on the good graces of the Centre and it is this kind of semblance of independence with complete dependence upon the Centre for finances that is in my opinion the most objectionable feature.

Then I had also voiced my grievance that the same 'State' was quite anomalous. The inequality in the powers and functions of the units is one of the unique features of this Constitution. This anomaly about the name is another such feature. The first one was of course due to historical causes and we could not have avoided it. The first one was of course due to historical causes and we could not have avoided it; there were already different kinds of units like Provinces, States, Chief Commissoners' provinces and so on. But this uniform name of 'State' we could have avoided. As I had shown on that occasion it is anomalous, because there is no residuary power in any of the units. The States in Part B, C and D are definitely subordinate to the Centre and yet we have given to all the units the glorified name of 'State'. This may result in giving them a very inflated idea of their prestige. Because of this glorified name, they may think they have some independence, but their hopes are bound to be dashed to the ground. This name has laid us open to the charge that our label is not according to the contents or that the contents are not according to the label. In my opinion, this anomalous name should have been dropped.

This brings me to the defects of drafting. I certainly think that drafting could have been improved, although as far as verbal improvements are concerned I do not wish to blame the Drafting Committee. We were always running a race against time, setting before us one deadline date after another. The hustled Drafting Committee had no item to look to this aspect. I also do not share the opinion expressed on so many occasions by so many critics that this Constitution is a paradise for lawyers. This is not a novel feature of our Constitution. It is a feature of all modern Constitution and for that matter of every piece of legislation. The world has become so complex that a perfect draft is impossible, and the ingenuity of the lawyer will always outpace the assiduity of the draftsman. Moreover in this Constitution owing to detailed provisions comparatively much less is left for interpretation or convention and nobody can therefore say that the lawyer members of the Drafting Committee, because of partiality to their profession, had created paradise for lawyers in this Constitution.

My objection to the drafting is, however, more fundamental. In my opinion there is a very important defect about the convention of responsible government. We have in this matter copied the Irish Constitution though similar provision is not found in the Canadian or Australian Constitutions. In the Constitution of Ireland there is provision that the Ministry shall be responsible to the legislature; we have taken this but at the same time, we have not copied what is provided in it, namely, that the President is bound to accept the advice of the Ministry. We have left that out. I really do not know why. It has given rise to great misunderstanding and many people think that the President is likely to be a dictator. According to convention, he would certainly be a Constitutional head only. This was provided for in the Instrument of Instructions. But later on we dropped that instrument also and it has clouded the position in respect to this matter.

Then again, with regard to the President we do not mention any discretionary powers, but with regard to the Governor the discretionary power is mentioned. I do not see why there should be this difference. Of course, there are conventions and the strength of democracy lies in the character of the people and their representatives. If our representatives are strong enough, they will see to it that inspite of the doubtful nature of the provision, the convention shall be observed. But what I say is that I do not like that this important matter should have been lacking in clarity.

After all, a Constitution cannot be judged merely from its text or on paper. The Canadian and Australian Constitutions contain a number of provisions giving powers to the Governor-General, but in practice those powers have never been exercised. The Weimar Constitution was said to be a model democratic Constitution, of the time but it was soon wrecked by Hitler

and out of its ashes arose a terrible dictatorship which plunged the world into a devastating war. So it is not the Constitution that matters nor the people who make it, but it is the men who work the Constitution and the spirit in which they work it. Any Constitution may be good on paper, but its success depends upon the manner in which it is worked.

In this connection many people have apprehensions about the adult franchise. Their apprehensions are partly justified, but we must have faith in our principles and faith in the common man. Like other infants, our infant democracy will of course have teething troubles and its adolescence may be marked by mischievous pranks; but in spite of the initial trouble and occasional lapses, I hope generally and ultimately the commonsense of the common man will triumph. It was for us only to fashion the instrument. It is for others to work it. As far as I can see, we can certainly make the claim that we have fashioned it to the best of our abilities and according to the best of our lights. It is an instrument fairly workable and fairly flexible. It ensures security and stability. If we study the provisions of this Constitution, we find that the one dominating concern of the Drafting Committee was the security of the new State. Therefore, this Constitution ensures security and stability without impeding progress. It promotes collective good without stifling the development of individual personality. But in my opinion, the real test of the Constitution would be whether it is able to bring about any speedy improvement in the miserable lot under which the common man has been suffering for generations past. If this Constitution brings him some solace I shall certainly feel very proud of my association in the framing of it.

**Shri Balwant Sinha Mehta** (United State of Rajasthan) : *[Mr. President, I consider it a great privilege that I have got this opportunity to speak in this Assembly. It is the first time I am going to speak here but it is at a time when the free Constitution of free India is going to have an existence of its own after having been adopted by this assembly. It is a matter of great pleasure for me to be able to stay a few words of my own at such an suspicious moments as the present one.

Several friends have already given us their analysis of this Constitution. While some have praised it others have adversely criticised it. But so far as I understand it appears to me that their sense of modesty has made the critics adopt this course. Our people are modest by nature. Besides it has been almost a bit with us that we usually underrate ourselves while foreigners by praising us enable us to realise our achievements at their proper worth. I could give several instances to prove my point but I do not think it is really necessary to do so.

The fact is that the Constitution drawn up by us is not only quite detailed but also quite good. I am quite sure that the foreigners would be wornderstruck when they would see how good a Constitution we have been able to give to ourselves. All the Members of this august Body and the members of the Drafting Committee and more particularly Dr. Ambedkar, T.T. Krishnamachari, Shri Alladi Krishnaswami and others have laboured hard for giving a proper shape to this Constitution. I believe these gentlemen deserve all the praise we can bestow upon them. We must also offer our homage to Pandit Jawaharlal Nehru, Sardar Patel and the other Congress Leaders and martyrs. It is due to them that we are today in a position to frame a Constitution for free India. They have also guided us directly or indirectly in framing our Constitution. We owe deep gratitude to you, Sir, for having guided the proceedings of the House with great impartiality and having enabled all shades of opinion to find full expression in this House. The representatives of the nation in this august Body who have devoted their energy and time for giving the fullest consideration, to the Draft Constitution. Those who have criticised this Constitution have used rather hard and bitter words. It is the opinion of some of them that while too many powers have been vested in the President and the Centre, quite a good number of limitations have imposed on the freedom and fundamental rights of the citizens. That is no doubt true and I do not think anyone can deny the truth contained in that statement. But, it is my submission that we were obliged to do so by the existing circumstances, by the conditions prevailing in the country today. Besides it appears to me that in view of the circumstances in which we drafted this Constitution it was but proper that such restrictions should have been imposed. As a free people we are still in an infancy. The national sentiment was also not taken as yet in this country. Both these considerations compel us to accept these restrictions and limitations. You are well aware, Sir, that only some time back there existed too many petty states, too many Rajas and Maharajas and many a regional loyalties in our country. All these events had made their abode in our country and it was

necessary to strengthen the Central Government in order to eradicate them. it is my firm opinion. Sir, that this Constitution is fully democratic in character. It provides for liberty and at the same time it secures equality as well.

Moreover, Sir, the provision for adult franchise which we have included in this Constitution is so important and significant that even if there had not been any other provision in it, it would have yet retained fully a democratic character. That fact is, Sir, that even at considerable risk to ourselves we have included this provision for adult suffrage, and thereby maintained the democratic character of our State.

There are some others who allege that we have not maintained any link with our ancient and historic institutions. But I would urge such critics to remember that today we have only a very dim and incomplete picture of our ancient polity That fact is that we cannot discern it even in its outlines. But even then we have included quite a number of the element of our historic institutions whereby our culture would be adequately protected.

But I concede that there is one thingwhich appears to be a serious defect in it. If this Constitution had embodied the ideal of Gandhiji in this respect as well, if it had embodied Gandhism, in the full sense of the term, it would have been an ideal one-one which would have been an example and a message to the peoples and nations of the world. The world today, Sir, is in a state of turmoil and discord. It is to our Bharat that the nations of the world are looking for securing salvation from this sad state. I, therefore, submit, Sir, that it would have been far better for all concerned if our Constitution had emboided Gandhism and more particularly his economic plan and social ideals. But while I regret this omission I realise that a Constitution also changes as the nation goes on marching forward. We can today feel a legitimate pride in three features of this Constitution, that is to say the guarantee it gives of Fundamental Rights the provision for Adult Suffrage and the elimination of communalism and sectionalism. We can raise our head high for the ideals of which this Constitution is a concrete manifestation. The Constitution of a country is never static and it shall always be open to amendments. The Father of our Nation had secured for us our political independence and I think that that also he did in a unique way. Yet despite the attainment of political indepedence we have yet to attain economic democracy. Whenever the representatives of the nation feel the necessity of the same. But as it is an instrument which we can use effectively for ensuring the continued progress of our country.

This Constitution, above, all, has come as a message of joy and cheer to the people of the Indian states. The great change that has come over the face of the country today is the total disappearance of the 562 petty states and feudal estates which had been so far tyranising other large tracts of our country. These have now yielded place toadministrations which would have the same political pattern as our Provinces have. It is our achievement which even the greatest constitutional experts cannot but praise. You are obliged for all this to Sardar Patel. In this connection I would draw attention to the fact that we have yet the system of Jagirdari. This system is responsible for the many calamities, pillage and murders which are causing considerable anxiety and terror to the people. I hope, however, that by the time this Constitution comes into force these disorders would have been not only brought under control but also completely eliminated.

Another great achievement in my opinion has been, Sir, our decision with regard to our State Language. This is the only thing that can and will keep our country united. It is a very great achievement, but we have now to convert our official language into our national language. The responsibility for this falls specially on the shoulders of those people whose language is Hindi and the other people can co-operate to make this language so simple and easy that it may become prevalent in the whole of the country as a national language.

It is a matter of regret that our language, Rajasthani has not found a place in the schedule of regional languages. This is a language spoken by 15 million of people and possesses a rich literature and finds a very high place in the ancient and chivalrous literature of Hidni. It is a matter of great regret that such a language has not been included in that Schedule. I think our leaders would be able to secure a place for it in the schedule of regional languages through the Parliament at some future date.

One thing that has pained and offended our people in the States and particularly the

Rajasthanis is the division of Sirohi by our States Ministry. Sirohi has an important place in Rajasthan. In rajasthani language the word 'Sirohi means a sword and it is Rajasthan's sword indeed. Our respected leader Sardar Patel has realised Maharana Pratap's dream of United Rajasthan, but if that sword is broken, I think every Rajasthan would be pained. Sirohi has ll along been connected with Rajasthan. It is connected with Rajasthan linguistically, geographically, as well as historically. At least a thousand years history would testify to the fact that Sirohi is an integral part of Rajasthan. Maharana Kumbha of Abu had constructed the fort of Achalgarh to defend Rajasthan from attacks of Gujarat, and the remains of that fort are still there. Even today the rich capitalists of Rajasthan have made investments running into hundreds of thousands in that state which is our part and parcel historically, traditionally, geographically and in every way. Its division is very painful for the people in Rajasthan. I think all the people of our Indian States would be pained at this. This is a division which was neither demanded by the people nor the Raja of that State. Neither the local Congress Committee had made a demand for it, nor the public there had made any such demand. Ever since its incorporation in Bombay, the residents there have been demanding its merger with Rajasthan and identifying themselves with the people of Rajasthan. But the sudden and secret way in which this division has been effected has surprised everybody. When the announcement was made here in the Assembly, I learn, Pandit Nehru our leader was fortunately present here and he as also other members were listening with surprise to that statement about the decision to divide Sirohi from immediate effect. We do not know why the partition has been effected, but so far as we can guess, it has been made in view the tower of Abu. Abu has been an important part of Sirohi as well as Rajasthan. It has always been a part of Rajasthan and was like a capital under British rule. Its connection with Rajasthan dates back to thousand years. The people there speak Hindiand Rajasthani. there are only a few people speaking Gujarati. They are hardly 3 or 4 per cent. There was no demand for partition from the public nor had the Raja expressed the lease desire for it. So many convenants have been entered into so far, but is the first case of partitioning a region without consulting either the Raja or the people. So I think this is a thing which would cause a deeppain to the people of Rajasthan. I hope this error would soon be rectified.

Another great achievement of our Constitution is that the great blot of untouchability has been removed for good in our Constitution. This is specially a matter of great pride and pleasure. The credit for this goes to our leaders particularly Thakar Bapa. The whole of his life has been dedicated to the service of aboriginals and Harijans. We have been able to remove this blot as a result of Thakar Bapa's service and Mahatma Gandhi's efforts and renunciation. You must be aware that there are crores of aboriginals in India who live in wild forests. It is our respected Thakar Bapa who has made them politically conscious. He goes to them and inspires them even at this age. I pay my homage to him on this occasion for causing this national awakening. There are aboriginals and Harijans in Rajasthan in great number, and I request that we should have a minister for the welfare in Rajasthan just as Madhya Bharat has a minister for them. Our Premier of Rajasthan is present here, and I appeal to him to make such a provision. These people number 30 lakhs and their condition is very pitiable and nothin ghas been done for them so far. If these people have to be elevated to our level, we and all of you should fully co-operate in the matter.

We have made this Constitution as good as we could. It is now our duty to go to our constituencies and explain this Constitution to the people of our countryside, which is our real sphere of work. Sometimes misgivings get currency in the masses due to lack of education and propaganda. For the general masses, independence and Constitution can have the least significance only if they can provide him with food, reiment, shelter and education. But though there is nothing like this clearly embodied in the Constitution, yet we can by our action work the Constitution in such a way as to provide these things for them, and all their difficulties be soon removed. But this will happen, only when we fellow the ideals of Mahatma Gandhi which have been embodied in this. For this we will have to reduce our expenditure too. We will have to level down the standard of living of the people at the top and to raise that of the people at the bottom. Our administration is becoming more and more costly. I think it is the effect of the British rule. Our constitutional machinery would also be quite expensive jsut because the present set up is so costly. If any attention had been paid to this reform, it would have been better. Now too this is for the administration to give it such a shape as to benefit the poor most.

With these words, I support Dr. Ambedkar's motion to pass this Constitution, and pay my homage to Mahatma Gandhi, owing to whose sacrifice and efforts we have seen this day, when we have completed our Constituion after attaining our independence.

The Assembly then adjourned for Lunch till Three of the Clock.

The Assembly re-assembled after Lunch at Three of the Clock, Mr. President (The Honourable Dr. Rajendra Prasad) in the Chair.

**Shri Nandkishore Das** (Orissa: General): Mr. President, Sir, having had absolutely no opportunity of participating in the discussion of this Constitution in its clause to clause consideration stage, I avail myself of this last opportunity to make a few general observations on the Constitution as it has emerged in final shape out of our deliberations over the last nearly three years.

I recall to my mind the state of things that prevailed in the country in December 1946 when we met for the first time in the Constituent Assembly. The political firmament in India was at that time full of dark clouds and ominous forebodings and there was considerable doubt and anxiety in our minds as to whether the heterogenous elements and divergent groups that constituted the then Constituent Assembly would be able to evoelve an agreed and satisfactory Constitution acceptable to the country as a whole.

The events that followed in quick succession the initial stages of the Constituent Assembly sittings culminating in the transfer of power and the partition of the country removed the uncertainties to a great extent. The disappearance of the recalcitrant elements from the House paved the way for the Constituent Assembly to set about its business under happier auspices and in a a more congenial atmosphere. But even then the framing of a Constitution for a country having so many diverse elements and a multiplicity of interests was a task of such stupendous magnitude that there was doubts naturally felt by even the most optimistically minded among us as to the ultimate success of our endeavours.

It is therefore a matter of supreme satisfaction that thanks to the accommodating spirit displayed by our leaders and constitution-makers, the labours of this Constituent Assembly have at last been crowned with success and we have now before us a Constitution which can rank as one among the best Constitutions of the world both in respect of its size and the inherent worth of its contents. While presenting the Draft Constitution to the House more than a year ago, Dr. Ambedkar had stated that this Constitution with 313 articles was the bulkiest constitution in the world and with the number of articles now increased to 395 the Constitution has become bulkier still. Our hearty congratulations go to our leaders and constitution-makers who in the midst of their other preoccupations have collaborated in this obviously up-hill task. What can be said as the flesh and blood of this constitutional organism has of course been contributed by our present day leaders and by a long line of distinguished revolutionaries that preceded them but its bones and muscles in other words the actual framework of the Constitution is the fruit of the labours of the Drafting Committee headed by Dr. Ambedkar, who alone of all persons has carried on his shoulders this tremendous burden with conspicuous ability.

There are good many admirable features of thisConstitution to which attention has already been drawn by so many honourable Members and I do not think it necessary to refer to all of them. The enfranchisement of the entire adult population of the country is the biggest democratic step adopted int he Constitution. It may interest honourable Members of the House to be told that the number of people which this Constitution has enfranchised is almost equal to, if not more than, the entire population of Soviet Russia. This adul-franchise undoubtedly represents the fulfilment of our long cherished and often declared intentions but its success in the context of present day unsettled state of things in the countryside is a matter which causes some doubt and anxiety. Fundamental rights constitute another glorious chapter in the Constitution. That these rights have been hedged in by many healthy restrictions does not at all undermine their efficacy; on the other hand they make the rights all the more precious. Care has been taken to see that the rights guaranteed to the citizens do not degenerate into license to do anything one likes in the name of liberty of action miscalled 'civil liberty'. Some friends have complained of the inadequacy of our fundamental rights. My honourable Friend Shri Lakshminarayan Sahu has even gone to the length of saying that civil rights enjoyed by

people in the British regime have been curtailed by the present Constitution. I present to my friend Shri Sahuji and to others of his way of thinking a P.T.I. news item published in today's Hindustan Times under the caption "Students belaboured Railway official."

"Armed with daggers, iron rods and hockey stiks. 40 students of a local English High School dragged out a travelling ticket examiner from aguard van at Ghusia Kalau railway station near here and belaboured him. The ticket examiner had charged some students for travelling without tickets in class I.

He was admitted to the Sada hospital to be treated for his serious injuries."

If the conception of civil liberty of my honourable Friend Mr. Sahu included unsocial and anti-national activities like these, I am really sorry for it.

Rights must be co-related to some duties. It would have been better if along with enumeration of fundamental rights. The Cosntitution had contained specific references to duties to be performed by the citizens in order to be eligible for their rights.

The abolition of untouchability, enforcement of disability in any shape or form arising out of untouchability to be treated as a punishable offence in law, the substitution of joint electorate in place of communal electorate are among the other happy features of the Constitution. Articles 36 to 51, contained in part IV of the Constitution, otherwise known as Directive Principles of State Policy represent the quintessence of all that is the best and the noblest in any code of social, political, cultural or economic ethics that prevail in any part of the world. I wonder how in the face of all these distinctive provisions, the Constitution has been cried down in certain quarters as reactionary and retrograde. May I humbly ask these unkind and ungenerous critics to put their heads together and produce an alternative Constitution which must be a workable Constitution suited to the requirements of the country and not one meant for an Utopian society?

It has got to be admitted however that the Constitution in spite of being one of the best paper Constitutions in the world has failed to evoke sufficient enthusiasm in that country and a suspicion lurks in the minds of even the most ardent admirers of the Constitution that something is wrong somewhere and things are not proceedings in the way they should. Some friends have complained that the Constituion is not Gandhian in conception and they have felt bitterly disappointed onthat score. d Speaking about myself personally, I do not at all feel disappointed that this Constitution is not moulded odn Gandhian ideal, inasmuch as I least expected a Gandhian Constitution from our constitution-makers. We all swear by the the Father of the Nation, but how many of us have been able to assimilate his teachings in our personal activities of the day to day life? How many of us have that undying faith in the refashioning of our society on the old village self-sufficiency model? A Gandhian Constitution is not to be produced by a mere mechanical process but must grow out of deepest convictions and a determination to shape our society strictly and meticulously in conformity with his ideals. This determination is to be found almost nowhere in the country. Hence evolving of a Gandhian Constitution out of non-Gandhian brains and minds is quite out of the question. Gandhiji throughout his life laid repeated emphasis on decentralisation of powers but our Constitution has proceeded on the reverse line, namely, over-centralisation. Our leaders think and think rightly that without a strong Centre this infant democracy would be in danger of being destroyed by disintegrating forces from all sides. The events happening in the country ever since the coming of independence provide sufficient justification for the type of Constitution that we now have. Therefore, lack of enthusiasm for the Constitution if properly diagnosed will have found to be due not to any inherent defect of the Constituion but rather to the deplorable and gradually drifting situation which has overtaken this unhappy land during the two and odd years of post-Independence period. Under the circumstances no useful purpose will be served by decrying the Constitution for this or that real or fancied defect and the best and the most patriotic course for all sections of people is to unite in order to give the new republican Constitution a fair trial and thereby paying undivided allegiance to the leaders of the nation in their efforts to consolidate the newly earned freedom.

Sir, before I conclude, I think it my duty to give you my humble tribute of respect and admiration for the fair and impartial manner in which you have conducted the proceedings of this House and thereby contributing in no small measure to the succcess of this undertaking.

Sardar Sochet Singh (Patiala & Punjab States Union): Mr. President, Sir, I rise to complement this House on the fruition of its three years' labour and the emergence of the country's constitution in its present final shape. The country should be rightly grateful to its great leaders, eminent jurists, legal luminaries, linguists, grammarians, and men of letters who have all toiled incessantly and worked vigilantly in presenting to their mother land what they in their wisdom and honesty have thought and felt to be gest in the interests of the millions of men, women and children who inhabit this great sub-continent and in whom sovereignty and ultimate mastery over the affairs of the country henceforward vests.

Sir, much has been said about the pattern to which the constitutional structure should conform and the direction to which it leans or does not lean. We did not start with any prejudice in favour of or against any particular pattern. We were ndot wedded to a federal, unitary or any other type of structure. We had the advantage of having the text and experience of so many constitutions of other advanced countries before us. We have tried to pick and choose the best that was more suited to our own conditions and special requirements, our traditions and experience of governmental institutions during the last half a entury. Coupled with the historical generalities of the situation we have had the additidonal benefit of practical experience of the governance of the country during the past twenty-seven months and the due and realistic appraisal of our domestic problems and social trneds in the context of international and world problems and trends, and it is in this setting and background that the merits of our Constitution should be judge and appreciated.

Sir, I am one of those who feel and believe that the interests, consolidation and permanence of our newly won freedom demand a strong Centre consistent with due and free functioning of provincial and local autonomy. We cannot afford the luxury of over-decentralisation simply in order to satisfy mere slogans and catchwords. While a unitary form of Government is unsuitable and impracticable in a vast country with 340 millions of people, having varied local and regional needs and problems a completely decentalised scheme of Government jis sure to let loose fissiparous tendencies resulting in the ultimate disruption of the country, particularly in view of the regrettable existence in our midst of the hydra-headed monster of provincialism, communalism, lingualism and social and economic imbalance.

Some friends have tried to make a fetish of civil liberty which they say should end only when civil authority comes to an end. Such an assertion is simply amusing, if not ridiculous. It is as if one should consent to the destruction of a deity, but object to the obstruction in prayers to the same deity. Healthy restraints and restrictions against abuse of liberty must be provided for if we have to prevent the break-up of odur country and the break-down of its Governmental machinery.

Some friends have wailed that the right to work has not been provided for in our Constitution. Article 19 clause (g) reads as follows: "All citizens shall have the right to practise any profession or to carry on occupation, trade or business."

If it is not the right to work, I wonder what other language could convey the conept of work more appropriately or unambiguously.

My two Sikh friends from the East Punjab have had occasion to say so much with regard to their reactions to teh provisions concerned with minorities. I may point out that the word 'minority' whether religious or racial does not figure anywhere in our Constitution. But the word 'community' which is the root of the ugly outlook called communalism has been allowed to be incorporated in relation to teh Anglo-Indians. I admit that the Anglo-Indians are not a religious group, but they are a racial community so much advanced socially, educationally and economically that there is no justification for according them any special or preferential treatment. Surely, there must be something other than their backwardness which has entitled them to disfigure our Constitution by the provision of unmerited and unwaranted favouritism. The safeguards provided for the existing services could have been deemed ample to protect their interests; but any discrimination in their favour for future recruitment can be rightly resented and objected to by other communities. Beyond opposing the concession bestoweed upon the Anglo-Indian community, the Sikhs are not justified in demanding any undue discrimination in their own favour. The question of Sikhs is not of sentiment, but of substance. The fundamental question is whether the Sikhs are a backward community either socially, educationally or economically or even in any other sphere. I maintain they are not. Socially,

they are respected and economically they are prosperous because they are enterprising and hard-working. It was revealed at the Sikh Education Conference at patiala last month that according to the last Census, the standard of literacy among Muslims of the Punjab was 9 per cent. Hindus 16 per cent and Sikhs 17 ½ per cent.

During the current eyar the East Punjab Public Service Commission compiled a list of successful candidates for Provincial services according to a tentatively agreed ration of 40 per cent for Sikhs and 60 per cent for others. The Premier of East Punjab, Shri Bhim Sen Sachar, referred the list back to the Public Service Commission witht eh recommandation that the list should be drawn up strictly on the basis of merit and it resulted in the selection of Sikh candidates in excess of 40 per cent. May I enquire from Sardar Hukam Singh and Sardar Bhopinder Singh Man and otehrs of their way of thinking and feling whetehr our backwarness and necessity for safeguards lie in our higher literac y and greater efficiencyd? Besides, the success of Sikh candidates at the two competitive examinations for the I.A.S. during the past two years has not fallen below our proportion in the population of the country. It is to be remembered that both these competitive examinatisons were held at a difficult time when a large and opulent part of the silk sommunity was suffering from the hardships and rigour of partition and its aftermath and necessary conditions and atmosphere for a first class preparation for higher examinations were not available to displaced candidates. I have every hope and confidence that after the resettlement of displaced persons, our young men would show and achieve much better results in getting opportunities for the service of the country.

Sardar hukam Singh has stated an economic truth in saying that the two main avocations of Sikhs are agriculture and army. He has nothing to c omplain about any discrimination as far as agriculture jis concerned which absorbs 85 per cent of our population. The special position inthe Army is sure to subsist as far as our moral and physicalqualities and geographical situation continue as they are. No country can afford to keep bravery and stamina out of its army and the position of East Punjab as a border province is sure to oblige the Government of the country to take steps and measures to impart military training to the populace and equip them fully to meet the menace from the other side and provide a permanent reserve from which the regular army would have to draw its requirements from time to time. I think it is time we stop harping on our inferior position ad nauseum and insult the intelligence and fitness of our new entrants to Government services and the efficiency of those who are already in. An over-emphasis on inferiority and helplessness, when they are not there, will impair the self-respect and dignity of our able officers if not their mateiral prospects. As regards services, our case is not on all fours swith that of the Scheduled Castes and Scheduled Tribes and it is no use our creating artificial smokescreens to hide or distort truth.

Another attempt is made to manufacture an artificial grievance when it is alleged that the decision of the Minorities Advisory Committee to bring the backward classes among the Sikhs into the category of Scheduled classes has been lightly change to exclude PEPSU from the opération of this decision. I declare that nothing is farther from the truth. As far as any one can see the position has been considerably improved in the direction contrary to what has been attempted to be made out by Sardar Bhopinder Singh Man. The relevant portion in the report of the Honourable Sardar Vallabhbhai Patel. Chairman of the Advisory Committee on Minorities and Fundamental Rights dated 11thd May 1949 reads as follows:

"The Committee also accepted the unanimous proposal made by the Sikh representatives that the following classes in East Punjab, namely, Mazhabis, Ramdasis, Kabirpanthis and Sikligars, who suffer the same disabilities as other members of the Scheduled Castes should be included in the list of Scheduled Castes so that they would get the benefit of representation given to the Scheduled Castes.

At that time, thestatus of Indian States was intended to be kept different from that of the Provinces. But, subsequently, the decision to bring both to the same level and status has culminated in the form which article 341 has now taken Article 341 reads-

"The President may, after consultation with the Governor or Rajpramukh of a State, by public notification, specify the castes, races or tribes or parts of groups within castes, races or triges, which shall, for the purpose of this Constitution be deemed to be Scheduled Castes in relation to that State."

It appears from this that there is no distinction as between East Punjab and the PEPSU. Article 15 clause (1) provides-

"The State shall not discridminate against any citizen on grounds only of religion, race place of birth or any of them."

In the face of this how can our Constituion or the Government of the country or any State in the country based on this Constitution afford to make discrimination as between East Punjab and PEPSU? I am afraid the fears expressed by my co-religionists are extra-logical and without référence to the appropriate provisions of the Constitution.

The objection with regard to the jurisdiction and function of the Backward Classes Commission is equally groundless. The Commission to be appointed under article 340 shall investigate th conditions of socially and educationally backwrd classes within the territory of India and the difficulties under which they labour and make recommendations to remove such difficulties etc. etc. The backward classes among Sikhs are ndot excluded from the purview of the Commission. The Sikh Community on the whole is not at all a backward community and its spokesmen in the House have no business ro justification to insist on its being classed as a backward section of the population. The is neither a fact nor is it believed by the majority of Sikhs or their minent leaders. The Maharaja of Patiala, the Rajpramukh of PEPSU, Sardar Baldev Singh, the Defence Minister of India, Jathedar Udham Singh Nagoke, the President of the highest religious institution, the Shiromani Gurdwara Prabhandhak Committee, Sardar Partap Singh Kairon, Member of the Congress Working Committee, Giani Gurmukh Singh Musafir, President of the E.P.P.C.C. all the past and present Sikh Ministers of East Punjab and all Legisltors of the East Punjab do not share the views and sentiments of Sardar Hukam Singh and Sardar Bhopinder Singh Man that the entire Sikh community deserves to be included among and accorded the teatment of backward classes. For myself, I belong to a majority of India-a majority of kisans who make up 85 per cent of its population.

Unfortunately the trouble with some of our leaders is that they have never throughout their public career had experience of working in any secular institution and they have always built their leadership and power on slogans of 'religion or community in danger' and they find it difficult to give up old habits and propaganda or to strike upon new outlook or programme. I can hjope that had Master Tara Singh ever worked as a Municipal Commissioner in Amritsar and seen in actual practice that Hindu and Sikh Commissioners were equally anxious and keen for sanitation and the health of all citizens living in the municipal town, he could have overcome much of the idmaginary fears and suspicions against the majority that are haunting him today. In one breath he declares that Hindus and Sikhs are comrades in life as welld as death and in the next that they cannot live under one another's domination. This is strange logic but our friends in the House have to echo whatever views or sentiments their leader expresses outside.

I appealjto my co-religionists to cry halt to this campaign of mutual distrust and hostility. Love begets love and hatred breeds hatred. If we sow trust we reap confidence. Having allowed ourselves to indulge in militant communal ideas and slogans we cannot, in fairness, grumble about the aggressive communalism fo the majority community in the East Punjab which is now suppressing even the Punjabi language. What we need is a change of atmosphere where justice, liberty, equality and fraternity prevail to the good of all and the glory of the country. Our Constitution may be blamed for not showing undue favouritism to any section excepting one, but it does not lie in any one's mouth to say that any discrimination against any section or interest is intended or provided for.

Our Constitution carreis in it the impress of the high-souled nobility of the president-Dr. Rajendra Prasad, the universal vision of Pandit Jawaharlal Nehru, the unfailing judgment and strength the Sardar Vallabhbhai patel the scintillating and penetrating intellectuality of Dr. Pattabhi Sitaramayya, the erudition and labours of Dr. Ambedkar and above all the patriarchal blessings and divine inspiration of the Father of the Nation-our revered Mahatma Gandhi. It is my hope and prayer that such a monumental Charter of Freedom of millions of my countrymen will not fail to bring about peace, prosperity and happiness not only for this country, but for the whole world.(Cheers.)

**Mr. T.J.M. Wilson** (Madras:General): Mr. President, Sir, I also join in thanking you, the

Rashtrapathi and the Chairman and members of the Drafting Committee for this Constitution. The Constitution is criticised by many on the ground that it has borrowed from foreign Constitutions and from foreign ideas. It arises otu of a misconception that our country is entirely independent of and different from other countries and therefore our nation had nothing to do with the ideas and achievements of other nations. But the truth is that the whole humanity is marching forward as a single whole-of course with different progress for different countries of the world on account of the different material conditions, but all the same is marching towards the same goal and in the same direction and the heritage that manking has so far won, either of the fundamental principles of equality, and liberty, and fraternity or of the Constitution tiself, is the common heritage and common property of all the nations and each nation would draw upon and ought to draw upon that common heritage and march forward further addingto that heritage by its own experiences and by its own struggles. If to-day each nation talks of equality, it has come to us long long ago-when Christianity had offered this conception of equality to humanity at the time of the greatest crisis for human society-on the fall of the Greek City States, when the conception of equality was absolutely foreign and unknown to those Greek City States and when the society had no foundation-no basis to rest upon; and if to-day everybody talks of liberty, this liberty has been won for us by centuries of struggles and revolutions and experience, and therefore the criticism that we have borrowed from foreign Constitutions or from foreign nations, is absolutely wrong.

But how far has humanity progressed till to-day and how far does our Constitution reflect this progress of humanity? Whatever the difference in approach or of method the whole human thought at present whether it is literature or science or art or philosophy-is centred upon one fundamental factor and that is the common man and his amelioration. His position is so much established that even his enemies swear by him. Therefore it is to-day that everybody talks of democracy though this unfortunate word has had to pass through so much strain and stress. But what is this democracy? The most elementary requisite of democracy is the right of every citizen to vote and we have provided for it in our Constitution. But even this was questioned by some of our friends on the ground that they are not sufficiently educated to carry on the Government of the country. Their contention is that only intellect is necessary for the Government of the country. But the conditions and also the philosophy have changed. Government also has changed-the Government is not something meta-physical or something mytic. Government has to deal to-day with the actual conditions of people and the needs of people, whether they are of food and cloth or of health and education and how can anybody else claim to know these needs of people better than the people themselves? Thought is, of course necessary and intellect is really essential; but unless it is united with action, unless it is based upon the experience of the people, it will not achieve much. Therefore, the purpose of adult suffrage, the right of every person to vote is to bridge this gulf between action and thought. But is this right to vote once in five years enough? The essence of democracy is not so much the existence of what are called political parties, etc., but the essence of democracy is the effetive participation of the individual in the actual government of the country. The greater and more effective the participation of the individual in the government, the greater is the democracy, because democracy is still only an ideal which has yet to be reached by humanity. Decentralisation would have done something in that direction, if we had provided for it in our Constitution. But even the federal character of the Constitution has been extremely narrowed down, and even that feeble and narrow federalism disappears some times and converts itself into the unitary system. Référence is made by some to the Village Panchayats, those ancient self-sufficient Indian communities where agriculture and handweaving industry were combined and which have survived centuries of inasion and conquent, and which were uprooted and destroyed by British imperialism of whose glorious achievement the Governor-General in 1834 reported "The bones of hand-weavers are bleaching the plains of India". I am not one of those who look upon these Panchayats as perfect or eternal. But what I say is that this Assembly should have taken the one from that inherent, native aspect of the Indian society and should have provided for some such machinery, which would have neabled the individual to participate effectively in the government of the country and the authority to flow not from top but from bottom to top. I plead for this participation of the individual, not only because it is essential in the interest of democracy, but also because it alone makes for the strength and efficiency of the Centre, though many people mistakenly think that strength lies in centralisation and a strong Centre. d I repeat that democracy of conscious effective citizens is much stronger and more efficient, fromd any point of view than any other form of government, and the usual talk of weakness

of democracy is absolute nonsense.

There has been provision made in the Constitution for the freedom of several languages and cultures, providing at the same time, for a national language. That should have logically resulted in more autonomy and more freedom of the States, making for one powerful nation. The several languages and cultures would have been guaranteed and made more effective if it had been buttressed by a provision for such independent states and their distribution on a cultural and lingustic basis. I am, however, grateful that Andhra province has been conceded and will be provided for in the Constitution. The greatest achievement, however, of our Constitution is its secular character, and the secular State that emerges therefrom. We have achieved this secular character of the State and we have provided for it in the Constitution. But the clouds are gathering and are threatening to darken the secular character of the State and obliterate it. I only pray and trust that the progressive forces of this country, under the guidance and leadership of our great and beloved Prime Minister will clear away those clouds and shall not allowe our country to pass once again through that destruction and misery which most of the nations of Europe and Asia had to pass before they could accomplish this great achievement of a secular State.

I may mention also one thing which may not have been realised by many Members of my own community. By giving up the reservations, whatever we might have lost we have gained tremendously, because that has mainly contributed to the estalishment of and the making it a fact, the secular character of the State on which depends our very existence as a minority or community. I may here raise my voice for an unfortunate section of my community-the Harijan Christians. They are untouchables. Sir, and they are treated so, not only by the caste-Hidnus with whom they have to deal every minute of their lives, but I am ashamed to confess it, they are trated so even by their Christian brethren, and the parents of these children come to us with tears in their eyes to tell us that their children have been driven out of the schools and deprived of their education because scholarships had been stopped for them, while the children of their brothers and sisters who are non-converts are continuing their studies. I do not need to plead the fundamental right that no discrimination should be made against them on the basis of religion, but I only beg of the Drafting Committee and the Government to take pity on them and not on remove that taste of education from their mouths.

I now come to the criticism that is levelled against the constitution that it has not provided for or conferred anything on the common man, that it has not provided for social and economic justice. That, I submit, Sir, is an erroneous contention, because it is based on an erroneous conception of the scope of the Constitution. A Constitution has a limited scope. Its main function is to provide for a machinery of Governmetn, and this Constitution has provided for a machinery of the government, whatever its character. And whatever the privileges or rights put in certain chapters are only those rights that are achieved. That is the basic conception which I want to emphasise, because otherwise, if we had embodied certain rights int he Constitution which we have not achieved so far, that would have given a distorted, dishonest and hypocritical picture of the country as a whole, and what is more, the Constitution would have been simply unworkable. Therefore, the Constitution has a limited purpose, and in spite of certain ugly features of the Constitution, for example the provision for the protection of property as a fundamental right, it would not and shall not prevent the country, as Mr. Santhanam has pointed out, from achieveing socialism.

Much has been said of liberty and freedom. Let us strive and march forward to that liberty which is not only negative, which is not, only the absence of any restraint, but to that liberty which is positive, which is the creation of those conditions which would give the necesary opportunity to every man and woman of this country to develop his or her full personality,free from any want or fear. And I may also say this that the price of liberty is not vigilance, but work and more work, and more production so that humanity may march forward and achive its goal of happiness and freedom and democracy.

**Shri H.Siddaveerappa** (Mysore State): Mr. President, it is with very great pleasure that I associate myself with the chorus of tributes paid to the Drafting Committee in general and to its Chairman in particular. Sir, for the last several days, the merits and demerits of this Constitution have been discussed so threadbare that it is not possible to cover any new points. Almost all the points have been covered.

One outstanding point that comes to my mind when I see this Constitution is that from the first time that this Constituent Assembly met, it will be seen that several changes have been introduced into it, much of which having been influenced by what is called compulsion of events. It can be seen that right from the beginning the very tenor of this Constitution is to have a strong unified Centre, and it is well that, situated as we are we could not think of any other form of Constitution, though, of course, in name it is a Federation. It can also be seen that the powers have been so much centralized that this Constitution is more in the nature of a unitary Constitution than a Federal Constitution. The only question is whether the Centre has been made so strong, that there is what is called over-centralization. Now in the opinion of some the Centre is made so powerful and strong that very little incentive is left for the component parts and I am also prone to believe in that opinion. The Chairman of the Drafting Committee himself, when he made his introductory speech on 4th November, 1948 with regard to the Centre being so strong, said:

"It cannot chew more than it can digest. Its strength must be commensurate with its weight. It would be folly to make it so strong that it may fall by its own weight".

In the opinion of some the Centre has taken almost all the powers and that the Units are left with little or no incentive. That is with regard to the character of this Constitution, whether it is Federal or Unitary.

Coming as I do from an Indian State, I cannot help making a special reference to the nature of the Constituion with regard to the States. It can be seen that in this country nearly one-third of its territory, with 27 per cent of its population, was covered by 562 Indian States having a population of 80,880,434. These States had varying degrees of political progress and economic advancement,d some comparing very favourably, if not better than some of the advanced provinces in this country, and some being very backward. The question of these Indian States was one of the baffling problems for this infant independent country. Even during the time of the Britishers they took several decades to consolidate the States and to bring them to a certain form. With regard to the States the Butler Committee report stated:

"Politically there are two India's - British India governed by the Crown according to the Statutes of parliament and enactments of the Indian Legislature, and the Indian States under the suzeraintly of the Crown and still for the most part under the personal rule of the Princes. Geographically, India is one and indivisible made up of pink and yellow. The problem of statesmanship is to hold the two together."

Even the Cabinet Mission's plan as announced on 15th May, 1946 envisages two vital changes with regard to the States, namely, that after the attainment of independence paramountcy would lapse and that the States would retain all other other subjects except those covered by Defence, Communications and Foreign Affairs.

It will be seen after the Britishers left this country, technically, of course these 562 States were as free as any other part of India. It is under this period of stress and strain in some quarters, though of course very few, that some fissiparous tendencies raised their ugly heads and they claimed that they were independent, though that tendency was nipped in the bud. It is in this period that the States Ministry of the Government of India was formed on 5th July, 1949, when Sardar Patel observed:

"The States have accepted the basic principle that for foreign affairs, defence and communications, they would come into the Indian Union. We ask no more than accession of those subjects in which the common interest of the country is involved. In other words, we would scrupulously respect their autonomous existence."

It is a very fascinating and interesting study because history is being written before our eyes. It is not possible to perceive how within these two years, not only all these three subjects, but in all vital matters, this whole country from Cape Comorin to the Himalayas has been brought under one administration and Government and certainly, Sir, the credit must go to that great leader, Sardar Patel, who has brought about this change-a very bloodless revolution. No one could have believed that such a change was possible within an incredulously short period of two years: Not only that, in some advanced States Constituent Assemblies had ben started and they were going on with their work. In defence to the wishes of the States Ministry, those

Constituent Assemblies had to postpone their work just because it was thought desirable that there should be one single Constitution for the whole of India, whether they are provinces or whether they are Indian States. Under those circumstances it was found possible to have a Constitution of the so-called Indian States which are very few in number now, as one can see from Part B of the First Schedule. There is a single constitution for the whole of this country governding their relationship and it may not be far wrong if I say now that this change would not have ben so easy, had it not been for the unstinted support given to them by the Princes and the subjects of the Indian States. It has been acknowledged in wholesome measure by Sardar Patel himself on occassions more than once, that the patriotic feelings of the subjects and Princes were also responsible for bringing about this bloodless revodlution within so short a period of time.

It can be seen that in the case of some advanced States, due to financial integration, they have been subject to some losses of revenue, particularly in Mysore where due to financial integration they have lost a considerable portion of their revenue. Still, the people have cheerfully borne all these temporary inconveniences and in some cases permanent also, in the larger interests of this country. When all this is said, I want to know what justification is there for bringing about discrimination by way of article 371. Besides when the peoples of the States have made considerable sacrifices and without any resistance they have fallen in line with the whole of India, was there any necessity for an article like 391-just a kind of good-behaviour clause, wherein there is general supervision and control for a period of ten years with regard to all the States? Perhaps I am not able to find out the reasons. There may be weighty reasons, but the feeling in the minds of several people in the States is: What is it that we have done to be reduced to this level? Is this the reward for the sacrifices made by the people of the States for falling in line with the rest of the country? Anyhow so far as Mysore and Travancore and Cochin are concerned, there is a promise that they will be exempted, thought the people in those States would have been far happier if it was statutorily recognised that there is no need for a provision like that. Let me sincerely hope that this article 371 will remain a dead letter.

Lastly, I also join the chorus of tributes paid to you, Sir, for the very worthy manner in which you have conducted the deliberations of this House.

**Shri Kamlapati Tiwari** (United Provinces: General): *[Mr. President, Sir, during the Third Reading of the Constitution we have had a discussion for the last six days. The Constitution has been fully discussed and no aspect of it remains on which the honourable Members have not said something or the other. Its merits and demerits have been fully discussed. Everything has been said in regard to its merits and its specialities and I find that everything has been said in regard to its demerits and its shortcomings too. I admit that after a discussion of six days I can not say anything new in regard to its merits or demerits. Even then Sir, I have gathered courage to take some time of the House because this is an important and historic occasion and its very idea is inspiring to us. It has special significance for soldiers like us who took the pledge of serving the country and the nation twentyfive to thirty years back sitting at the feet of revered leaders like you who initiated us into that service. We shall possibly never have such an occasion again. Therefore I too could not resist the temptation of saying something on this occasion again. Therefore I too could not resist the temptation of saying something on this occasion. I am grateful to you for having given me an opportunity of saying a few words. Sir, many of us have had a dream picture of our nation and of the future of our country for the last thirty years. We nourished an idea in regard to our country and its future. Our dream and our idea was that a day would come when we would ourselves be able to shape our destiny without interference from any quarter whatsoever. This dream and this idea inspired us for the last thirty years and gave us strength to advance forward in our struggle for freedom according to our intelligence and our power. After a period of thirty years it appears that our dream is coming out to be true to some extent and our idea appears to be materialising. We saw our country achieving freedom and our idea of being able one day to shape our destiny without outside interference is going to materialise. We can think ourselves fotunate and blessed because the Constitution of our nation and of our free country is being moved for acceptance in our presence. So far as the relation of the merits and demerits of the Constitution is concerned, I would like humbly to submit, Sir, that I was not satisfied with the trend of the discussion which took place during its course. I saw that one honourable Member after another rose to eulogise the merits of the

Constitution and to congratulate and praise each other. I could not understand this mutual praise and mutual congratulations. The Constitution is the result of the collective effort of all. It is not worthy of us to praise each other and to congratulate our own selves. We are Indians and we take pride in our culture. We can be worthy of our culture only if we abstain now by not praising our merits and by not taking pride in the good things that we might have done. After all what have we done so as to deserve this selfpraise and mutual congratulations. How has the necessity arisen of patting each other? The people of our country confided in us and returned us to this House with the hope and faith that we would chalk out such a line for shaping their lives and their future which would not only enhance their prestige but would also uplift them. When the country returned us and gave us the charge of shaping its destiny, it did hope that we would frame a constitution which would be noteworthy for its merits and specialities. You you have indeed framed a constitution which has many good features and specialities. Whom should we congratulate and what for? The country gave us the authority for shaping its destiny. If we have successfully fulfilled our responsibility and done our duty, we should not praise each other for it. We only discharged the responsibilities that we had taken upon ourselves. Instead of ourselves praising each other we should have left this task for the country. The nation will judge whether this Constitution has any merits and whether we deserve any praise for it. We shall have reason for self gratification only when the nation praises us. Therefore without taking recourse to self-praise like my other friends I straightaway want to put before the House a short analysis of the constitution itself. When I think of the most noteworthy feature of the Constitution and its greatest merit, three things present themselves before my mind. Those of my friends who have only eulogised the Constitution have only repeated these things. It has been said that the untouchability has been abolished by the Constitution. The third thing which is being taken pride of, is that separate electorates have been abolished and provision has been made for joint electorates in the Constitution. These are the three specialities of the Constitution which have been emphasised by the speakers and it is for these that they have been congratulating each other.

Sir Alladi too, who is a great scholar of jurisprudence, repeated in the course of his speech this morning only these three features of the Constitution. Sir, I humbly submit that these are not such specialities as my justify our taking pride in them and feeling elated about them and taking recourse to mutual congratulations. When the country returned you and sent you here for framing the Constitution, if you had not included these broead features in the Constitution, what else would you have included in it? The principle of adult franchise is a well known principle and its usefulness has already been demonstrated elsewhere. Therefore there is not much sense in taking pride for having forwarded it. If this great democracy, which you are going to establish, is not based on the rights of the people that is to say on adult franchise, on what else will it be based? Adult franchise is gaining ground everywhere in the world and it is now being recognised that the structure of democracy can be raised on this basis alone. Besides, we have always been declaring that we have to establish true democracy alone in India. Have we not declared that we would establish peoples' democratic government in India and have we not been returned on that basis? If we had not provided adult franchise what else could we have provided for? We have not done such a thing as may justify our self-praise. We accepted a well recognised principle and have done but our elementary duty. Any person or any other party on being returned to this House and on taking upon itself the task of bringing about a democratic order, would have been compelled to provide for at least adult franchise. It was after a successful revolt that we came here. We led that revolt. Then, if we have provided for adult franchise, what novel thing have we done? I would say that if in our place had been the sycophants and diehards of the old order or even the capitalists engaged in the task of framing the constitution, they too would have at least granted adudlt franchise. So much for adult franchise.

I shall now take up the other speciality of the Constitution which has been constantly referred to and for which we have resorted to self-praise and mutual congratulations. It is the abolition of untouchability. We very proudly say that through this Constitution we have totally effaced untouchability. Sir, it is a surprise to me that we take pride on the abolition of untouchability. Sir, it is a surprise to me that we take pride on the abolition of untouchability. Sir, it is we consider it a great success. I want to ask whether we have abilished untouchability only today? By declaring untouchability as illegal in the Constitution have we done anything as can bring great credit to us? Have we done any great and novel thing? Untouchability was abolished long ago when Bapu raised his voice against it and revolted against it thirty years

back. When Bapu began to play a role in our lives, he revolted against untouchability and said that it was a blot on India and that it should be removed. That powerful and explicit voice ended untouchability years ago. Today we say that we have abolished untouchability through this Constitution. I ask had we not done what Bapu had asked us to do and what had met general approval, how would we have kept face with our people? Therefore it does not appear proper to me to say that we have done a great and unique thing. I think that it is altogether unnecessary for us to take pride in the abolition of untouchability, in the provision for adult franchise and in a third thing which has also been characterised as great achievement.

I think Sir, that we have nothing to be proud of in the abolition of separate electorates either. Separate electorates were responsible for the ruin of the country. Our history of the last one hundred and fifty years bears testimony to the fact that no other problem has been so much responsible for ruining the country as that of separate electorates. Separate electorates alone gave birth to communalism. Separate electorates alone gave birth to two-nation theory. Separate electorates alone gave birth to the idea of dividing the country which ultimately culminated in the partition and mutilation of the country. All this was brought about by separate electorates alone. Would we have provided for separate electorates even now? We have not done anything great by giving no place to that system in our Constitution and we need not praise it for that. I think Sir, that it is futile to eulogise our achievements and the merits of this Constitution and to take recourse to self-praise and mutual congratulations. Instead of taking recourse to this practice we should rather consider at this occasion what we have been able to do and what we have not been able to do, so that the country may have a knowledge of what remains to be done and at a suitable time we may be able to correct our mistakes. We should acknowledge our mistakes and should apprise the future generations of the shortcomings and defects of the Constitution which need rectification. We should pay particular attention towards this. I think that a person or a nation can progress only when it pays attention towards its shortcomings. Gandhiji taught us to pay attention towards our shortcomings and weak points and to turn our eyes away from our merits. He asked us to see our defects to admit them and to make effort to remove them. He said that for the development and welfare of a person or a nation it was necessary that an error should be accepted without any hesitation and that to see an error one should look at himself. Therefore to enable the country to make progress it is necessary to see the defects of the Constitution so that they may be removed. It is also necessary to see whether we have not left out such things as were greatly needed by the country. Sir, I humbly submit that when I examine this Constitution from this point of view I find that though we ourselves are responsible for framing it, it does not satisfy us, nor does it fulfil our necessities. It may be that I am saying things which I am not authorised to say but at present everyone should give primary importance to the interests of the country and should express his views accordingly. This sentiment alone has given me courage to refer to these matters. I realise that the conditions obtaining in the country have influenced us. We were influenced by fears and doubts and these have been reflected in the Constitution. This fact may be responsible for its shortcomings. But whatever may be responsible for them, we have to see them and point them out. Our scriptures say:

'Shatrorapi guna vachya dosha vachya gurorapi'

'Speak of the merits of the enemy also and surely point out the defects that may be in your teachers.' Therefore if we discuss this matter from this point of view, it should not be understood that we are showing disrespect to any teacher. No particular person or committee can be held responsible for the shortcomings. We are all equally responsible for the shortcomings. Therefore Sir, I want to draw your attention to some fundamental defects which have been left over in this Constitution. Many petty mistakes too can be pointed out but I would not refer to them. I have not the time to discuss in detail in my own humble way all the clauses and sub-clauses to which I object. I shall only point out the fundamental defects in the short time, that you have kindly permitted me to speak. The first fundamental defect of the constitution appears to be that it is terribly centre-ridden. It appears to me that the polity we have provided for in the Constitution will necessitate the centralisation of all power and authority. I consider this Type of centralisation to be defective and dangerous. I think that centralisation will necessarily give rise to tendencies which may prove to be dangerous. Moreover, the leader whose foot-steps we have been fortunately following for the last thirty years, gave us a viewpoint, an idea and an ideology. Our Bapu was all light and he told us that centralisation, whether in political field or economic field necessarily deprives the masses

of their political and economic independence. This was the new idea and new ideology that he handed over to us. He said that true democracy rose not from the top but from the bottom. Power and authority should not be centred at the top but should be distributed among the people at the base of society. Then alone can true democracy be established and then alone can people enjoy freedom. The order that we are going to establish has its head downwards. A tree is being planted with its roots above and its branches spreading downwards. There may be a spiritual tree with its roots upwards and branches spreading downwards but in the political field any other with its base upwards and its top downwards cannot be instrumental in the establishment of true democracy. Centralisation is a terrible curse of the present times. It was the centralisation of production which gave birth to capitalism which in its turn put an end to economic freedom in the world. In the political field the order that came into being on the conclusion of the French Revolution disappeard with the establishment of centralised forms of government and with the centralisation of power and authority. If you look at the present day Russia you will see that although Russia claims to have established the great democracy but actually it has not been able to respect democracy. The reason behind it is that a terrible demon is the form of centralised power dominates the people and crushes their individuality and their freedom. You should remember that if you bring about centralisation in India it would lead to the maintenance of rights from a centre and necessarily that in its turn would involve that power be more and more vested in the centre. Everyone knows that effective power in the hands of the centre can only be based on military strength and the concentration of military power is the sure road leading to the complete destruction of popular rights. This is an historic truth. Our Constitution obviously presents this danger. The circumstances may have compelled us to provide for a centralised form of government but the danger is there and it is necessary to take notice of it. It was with this realisation that Gandhiji had taught us to oppose centalisation. He told us that for the establishment of true democracy the means of production should be decentalised and its form too should be of a decentralised nature. The society which is formed on such foundations should also be of a decentralised nature and the Government of this society should also be of a decentralised form. The rights should be in a gradation from below upwards and the government should enjoy only those rights as are bestowed upon it by the people. We have been told that this is a people's constitution and a common man's constitution. I humbly submit that it appears to me that this is in the least a common man's constitution. Power has been centralised in it at the top although it may have well been said in it that power is vested in the people. You should pay attention to it.

Moreover, I find that there is nothing Indian in the Constitution. It appears that the Constitution has been framed only to meet the exigencies of the times. We were influenced by the conditions obtaining int he country and were obsessed by the fear that some people might spread anarchy and emergency may arise at anytime and our freedom might be endangered. We were all along influenced by this thought and we framed our Constitution accordingly. No doubt we are confronted with this situation in the present transitional period. When an old order crashed, when an established system collapses it sends vibrations and quivers even into the earth. It is but natural that at such a time of political earthquake fear and anxiety should grip the minds of men. Before our eyes has collapsed a great and mighty empire. It is not surprising. Sir, that there should be at such a time fear and anxiety in our hearts, but I do deeply regret that there should have been reflected in the provisions of our Constitution.

My other regret is, Sir, that we have drawn inspriation mainly from foreign Constitutions alone. We have drawn upon the Constitution of Australia. We may have even borrowed from the Constitution of Canada and we may have even influenced by the unwritten Constitution of Great Britain. We have also been discussing rather warmly whether the Constitution under consideration is federal or unitary in character. But, Sir, we have not cared to cast even a glance to the historic spirit and culture of India nor have we taken into consideration the Indian approach to life. While passing this Constitution we did not in the least pay attention to the political philosophy and situation of this ancient country-the oldest among the nations of the world-and which has occupied a prominent place on the stage of History. History is, Sir as witness to the great and glorious experiments made by our country in the sphere of politics. But, Sir, we turned a blind eye to all these facts of our History. It does no credit to any one here to say that majority rule did not exist in our country. History is a witness, Sir, to the fact that ours was the first country in the world in which was established the system of majority rule if not of pure Democracy. The entire north west region of our country the land of the Panchabs-was studded with Republics in the historic epoch noted for Alexander's invasion of

our country. The state of Kapilvastu, where Lord Budha was born, was also a republic. Again there was the great Republic with which Lord Budha had very intimate contacts. The glory of these republics continued for thousands of years in this country. Even in the Vedas, Upinishads and the Brahmanas we find fully developed concepts of such politics as the samrajve, virajye and Arayke, Rajiye. I, therefore, fail to see how any one here can say that the concepts of republics, Majority rule and democracy are entirely foreign to us. I submit, Sir, that there has been a whole body of political traditions in this country. If you looked into the Mahabharat and gave thought to what the great Vyas has put into the mouth of Bhishma in that great epic you would find that there is contained a constitution polity complete in itself and a political philosophy ripe in wisdom. But the question I ask, Sir, is 'Have we cared to give even a passing thought to all wisdom?' Principles and provisions of alien origin are to be found in this Constitution. What is worse, Sir, I can safely assert notwithstanding the loud protests of some friends here that the dark shadow of the Government of India Act is to be found lying heavily on this Constitutin. No one can deny here that the dark shadow of that Act which we had denounced so much, is to be found in every page of this Constitution. We have committed Sir, a fundamental error in keeping this Constitution quite unrelated to the historic culture, traditions, the national genius, the national sentiments and self of our country. I would urge you to remember that this cultural divorce between the Constitution and the country has not only made entirely alien but also lifeless in character.

This third basic shortcoming of this Constitution is the limitations and restrictions it imposes on Fundamental Rights, credit is being taken, Sir, for the provision with regard to the abolition of untouchability. The critics are sought to be confounded by the naive question "Have we not guaranteed the Fundamental Rights. Is it not also true that there are many clauses in this Cosntitution which infringe and encroach upon the Fundamental Rights of the citizens. How could we do all these unless we drew an inspiration from the Government of India Act. It was the policy of the British Government to break to the heart which they promised to the ear-and I believe we have followed in their footsteps. I may concede that all that was probably necessary for the security of that State. My Complaint, however, that while doing all this you should not acknowledge it. Gandhiji had taught us that the security of the State cannot be ensured by the arms and denial of rights of the people. Bhishma had also advised Yudhishtra to remember that the people should be fully protected and kept free from the danger of starvation and nakedness and other types of sufferings and wants. The state that we should establish should be like the same which while it takes the price of food also gives it back eightfold for the benefit of the people of this earth. Such a state would not need arms for its security, nor would it need an army to defend it. Bapu had also taught us that any state which seeks to retain its existence by the use of force alone would not be able to maintain itself for even its own arms would turn against it. I repeat Sir, that if we would establish a state which relies on force alone for its continued existence it would not be stable or durable. Any state which rests on a denial of the basic rights of the people can not last for long. If a State gathers power by depriving people of their rights, it sooner or later finds that it has bargained for a frankenstein for itself. As the proverb runs-Nothing corrupts like fouls-and this is but natural to man. It is no doubt true that the reins of power are today in the hands of leaders whose life has been passed in the service of the country. None need entertain any fears about their acting improperly. But it may well be that this power may fall into the hands of people who misuse it. That is the danger.

The great defect of this Constitution is that it secures nothing to the poor and have votes of this country. Even the little assurance contained in the Directive Principles is not adequate. Even there it is said that the State would do all this within the limits of its economic capacity. It does not in the least guarantee that there would be no poverty in the country and we would not have a single person begging on the streets. As there is no guarantee against unemployment nor do I find a duty being laid on the State to provide work to its citizens. No doubt we have guaranteed a salary of Rs.10,000 for the President of India. We have also charged the salary of the Accountant-General, and former services on the consolidated fund of India by means of this bulky Cosntitution. But we have not made the least provision as regards the pay to be given to the peons nor have we made, any provision with regard to the minimum salary that can be given by the State to its employees. For example why is it that we have not laid down that every employee in this country would be paid a salary of not less than Rs.75. If we had done any such thing we would have won the heart of the people of this country. But you have paid attention only to the people at the top and not to them who are

at the bottom. It is for this reason that this Constitution appears to be quite futile and lifeless. The fact is that it is not inspired by any substantial ideas.

We accepted that there should be one official language for this country but at the same time we have taken care to see that the language which is going to be our national language may not become the official language at an early date. Sir, my submission is that we paid attention to the question as to what would happen to the seervices if Hindi became the official language in less fifteen years but we remained blind to the consideration as to the integral relation of language with the consciousness and sentiments of the people. Language is the vehicle of our sentiment and beliefs. It is, therefore, the basic element of culture-and culture as is well known, is the drawing power behind the progress and rise of a country. Such a deep relation exists between culture and language, that there can not be any foundation for any creative activity in its absence. But we paid no heed to this fundamental truth and are still fondly longing a foreign language to our bosom. What is the language that you have employed for drawing up your Constitution? Whatever else may or may not have been possessed by our country it is a fact that it never backed a well developed language and script. History is a witness to the fact that all the Asiatic countries designed their scripts on the basis of our script. The literature of our country is so great that the entire world pays its respect to it, what a shame it is that the Constitution of our Country is being drawn and passed in a foreign language.

These are defects to which we should attend to. If felt that I owe a duty to my country to my leaders, to this Constituent Assembly that I should place my sentiments before you so that we may acknowledge that though our Constitution may be desirable yet it is not free from blemishes.

Sir, I have briefly placed my sentiment before. But I would like it to be understood that I have despair in my heart or I want to abate in any way the work that has been accomplished so far. I have talked of our failings only in order that we may be able to say to our people that our work, whether good or full of defects, was before it. I felt that we should frankly accept that our work may be full of defects and failings. We should make it clear that we are aware of those defects. We must say that we know what are defects but we also know the direction towards which we are moving and that when circumstances would permit we would remove those defects and overcome these failings. Sir, even though there are defects we should express our satisfaction at what we have some fondness for this Constitution because we have ourselves framed it in all good faith and moved by the love of the country. We are happy at what we are today. I feel that in comparison to the day when thirty years ago we started on our adventure on rocks and shoas to reach the temple of freedom, the present day is very beatiful for us. We have been witnessing to the humiliation of our great and ancient country lying under the hand of foreigners. That was our epoch in the life of this country when humanity was grasping for life, when our mother our country was lying despoiled, trampled and outraged before our very eyes. That was the age when despair darkened our hearts and we had lost all hopes for our future. Suddenly we perceived an angel descending into our life. We felt the magic of his words and life and hope came back singing back even to the ashes and bones of this country. His fire and faith breathed into our dead souls a new life. We heard the thunder of revolution in his sweet voice, and the call for battle and sacrifice in his mild words. He gave us a new message and a new and novel technique of struggle and revolution. His was a unique motto of war-the war of Dharma of Truth, of humanity and light against the forces of untruth, injustice, animality and darkness. There came the day when we saw that the mightiest empire crumbled into dust and nothing under the blows of that man. We saw the miracle of nature that went to step in one night awakening to find the sun of independence and freedom already smiling in its life. All great man that we have been able to frame this Constitution today. It is but natural that we should have tender feelings for this product of our labours. A great event in our history comes before my eyes today. Twenty five hundred years ago another Constitution had been drawn up for our country. That was the age when Chandragupta Maurya had thrown out the Greek conquerors from this country, re-established its glory and self-respect, and established the empire which remained a glory of country for generations. It was in that age that Kautilya had drawn up a Constitution which has remained a brant product of the Indian mind during all these centuries. It is after that long period of twenty-five hundred years that we are engaged again in this task of Constitution making. It may well be that this effort of ours may be full of faults, or may be it

has its merits. But we feel it a duty to dedicate it to the memory of the Father of our Nation. We do so in the hope and faith that a day will come when we shall have succeeded in establishing such a pattern of life as will be a message of hope and cheer to the entire mankind.]

**Shri Dharanidhar basu Matari** (Assam: General): Mr. President, Sir, I feel I can not leave the Constituent Assembly to return to my province, Assam, without adding my own tribute to Dr. Ambedkar and the Drafting Committee for their great achievement in producing this Constitution. I think I am right in saying that everyone has some or the other criticism or grievance to air. The Constitution does not, and cannot satisfy every section from all points of view, but, taking everything from an All-India point of view, the Constitution is not disappointing and, in fact, the best that could have been framed under the difficult circumstances after Partition. It is not what has been put down in cold print in the Constitution, in the Articles, in the Schedules, that will matter. It will surely be the spirit in which the purpose of the Constitution is executed. If all sections co-operative honestly and unselfishly, I am certain India will progress along right lines.

Talking of progress, let me make it quite clear that no real progress is possible if large parts of our nation are deliberately kept behind and backward. The advanced communities will have to make special efforts, particular sacrifices if the backward classes are to come up. I am not one who believes that the backward classes can be brought to the general level in ten years. That is impossible and it is unfortunate that ten years as a limit have been incorporated in the Constitution. But, much can be done in the ten years also, if undivided attention and adequate funds are earmarked for the advancement of the backward classes.

Assam Tribals have much to be thankful for in the Constitution. One has to admit that there is much scope for tribal development for the so-called autonomous districts where there will be tribal councils and so forth. But I am not happy about tribals in Assam who are in the plains and the tea gardens. There are millions of them outside the autonomous districts. What will be their fate? Do they not need any protective and special treatment? I am none too happy about the tribals in the Assam plains. I know only too well how they have been neglected and exploited in the past and, to my mind, they will continue to be suppressed, unless there is special arrangement made for their advancement. The truth is that tribals have to be helped against themselves. As things are, they cannot complete with the other elements of the plains.

The tempo of advancement will have to be faster. Take the question of appointments. It is no good saying that so many tribals have been recruited as forest rangers. Tribals must be recruited to all branches of service, from the lowest to the highest, not only in the provinces but also at the Centre. not only should there be a minimum quota fixed for their appointments, but their promotion must equally be seen to, so that they do not stick where they begin. For this to happen, the advanced classes must make a sacrifice. They must recede and tribals must come forward. When the advanced communities here say they want the tribals must come to their standard, do they really mean that they are willing to make way for the educated tribals? On the basis of competition, there will be no improvement. The sections that have captured the services will see to it that their superiority is never threatened or endangered. Arguments about efficiency of administration are, to my mind, just dodges to perpetuate class or territorial interests. During the British regime, certain people were the favoured lot and they got the jobs, the contacts and the privileges; there was a distinction between martial and non-martial races. d In Free India, there is no room for such invidious distinctions. I know the Constitution does not satisy peoploe who have been used to preferential treatment. To such people democracy means something different.

Sir, the overall picture is not without hope. I do believe the Constitution can be worked in a democratic way, if the leaders respect the rights of others more than theri own. Tribals will certainly do their best to contribute their part in the working of the Cosntitution and I hope others will not stand in their way.

All of us know, Sir, our Father of the Nation, Mahatma Gandhi wanted to establish a Ramrajya and to me, it appears that he wanted a world where there can be no discrimination between the poor and the rich, the wretched and happy, and we are proud to be his disciples.

**Shri Ari Bahadur Gurung:** Mr. President, Sir, I associate myself with my colleagues in

congratulating the Chairman and other members of the Drafting Committee for having brought this stupendous task to a successful conclusion. I have only a few observations to make. Firstly, the criticism of the Constitutin that it does not provide for the establishement of socialism is as irrelevant as the complaint that it is likely to open the way to dictatorship is futile. The real test of democracy is to give the right to people to decide for themselves the nature of the Government they would like to have. The question of dictatorship or totalitarian communism will depend entirely upon the manner in which the people will work the Constitutin. The Constitution will be subject to a continuous series of modifications according to the will of the people. Such provisions have been provided already in the Constitution. Sir, I personally feel that a Constitution is something of a sacred character which inspires future generations. It is the embodiment of the living faith and philosophy. Therefore we must not forget his gospel. To end with, Sir, I thank you for giving me an opportunity to express my humble views on the Constitution. Jai Hind.

**Shri Dip Narayan Sinha** (Bihar: General) : *[Mr. President, at this occasion when we are going to accept a Constitution for India, I most humbly want to pay my homage to the Father of the Nation, Mahatma Gandhi, whose hard penance and extraordinary skill relieved us of our bondage. At the same time to payd my homage to those innumerable men and women who joined hands with us in our struggle for freedom, underwent many sufferings and made great sacrifices from time to time. The Constitution which we are going to accept is an unparalleled thing in the history of our country. Our national life will form itself on the basis of the provisions of this Constitution. Therefore I attach great sanctity and significance to this Constitution. I wish that every Indian should have the same feeling about it. I know that it has its shortcomings and there is much room for improvement. But it has its beauties too and any country can take pride in them. Now we should with all sincerity strive to work this Constitution and to put it to the greatest advantage for the country. If we sincerely strive to work this Constitution, we would be able to remove its shortcomings and whenever it would be necessary to make an improvement we would be able to do so easily. I now want to say a few words on this Constitution from a common man's point of view. When a common man from the countryside would turn over the pages of this Constitution he would not like to see the beauties of this Constitution or to go very deep into it. He would like to see whether things to meet his necessities have been provided in the Constitution or not. He would like to see whether this Constitution guarantees to him nutritious food, cloth, health and proper education. I would like to point out that the people of the villages and common men would be unable to find such a guarantee in this Constitution. No doubt it has been laid in the Constitution that during ten years such arrangements will be made for education as to enable all children reaching the age of fourteen to get educated. There is no provision for people of a higher age. Moreover, there is no guarantee for food, cloth and health in the Constitution. I know it and everyone knows it that India is a country of villages and our people live in villages. I can say that extensive countries of the world today have a preponderance of cities but my country is a country of villages. Our culture and civilization is one of villages and whatever remains of it has been saved by the grace of villages alone. Let alone giving a dominating position to the villages in the Constitution, they have been given no place whatsoever. No doubt I have seen that in a small article mention has been made of village panchayats. But it is nothing more than a reference. Our Constitution is silent about the shape that our villages will assume and the place they will occupy in future. The picture of the administratidon and of the society drawn in the Constitution has no place for the villages. I wanted that in administration and other maters the villages should have been given a preominant place dbut this has not been done in our Constitution. I consider it a great shortcoming. I think that this is due to the fact that much thought was not given to it. But no doubt it is a basic shortcoming. If we want that our country should make great progress, happiness and peace should soon reign supreme in this land, we will have to give a predominant place to the vidllages in all matters. We will have to frame all the administrative and other schemes on the basis of the village. d If we do not do so we will only add new chapters to our painful history of the past. I want that w should pay attention to this short-coming in working our Constitution and should formulate all nation-building schemes on the basis of the village.

There is one thing more which looks very improper to me. When the struggle for Swaraj was launched, we were told that we could achieve freedom only with the weapon of non-violence and truth. Marching forward on the path of truth and non-violence we triumphed and

attracted the attention of the whole world towards us. Now when our Prime Minister or our representatives go to foreign countries they are shown the highest respect. I accept that the persons who go abroad have such capacities as to command the respect of others. But I think that the chief reason for this respect is that we have broken as under the shackles of slavery with non-violence and have achieved Swaraj and with non-violence alone have banished the greatest foreign power from our country. However, that non-violence finds no mention in this Constitution. It would have been only proper if the whole constitution had been based on non-violence. Then alone could we have acted with success in future in accordance with our sentiments and thoughts. When we were engaged in the struggle for freedom and had to very often change our front, we were reminded of the unfailing strength of non-violence. Every resolution, every scheme and every election manifesto had the stamp of non-violence on it. But this voluminous book which will shape the future of our country, makes no mention of truth and non-violence. It would have been proper to give a full chapter to non-violence so that the future generations and those on whom the burden of working this Constitution would fall, could have illumined their path with it and gone ahead to build their nation. However, the Constitution has now been framed and will be accepted in two or three days' time. I now appeal to our leaders and to the nation that although the Constitution makes no mention of non-violence but in bringing it into force non-violence must be the basis. If we forsake non-violence we would not only harm ourselves but would hurt the other people fo the world also who are looking up to us with the hope that after some time we would be able to establish peace in this violence-torn world. Therefore, I request once more the leaders and the people of this country not to be unmindful of Truth and Non-Violence in working the Constitution.]

**Mr. President**: We shall adjourn till 10 0' clock tomorrow.

The Assembly then adjourned till Ten of the Clock on Thursday the 24th November, 1949.

---

* [Translation of Hindustani speech.

# CONSTITUENT ASSEMBLY OF INDIA DEBATES (PROCEEDINGS) - VOLUME XI

**Thursday, the 24th November, 1949**

---

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

---

## TAKING THE PLEDGE AND SIGNING THE REGISTER

**Mr. President**: I understand some new Members have come--Members from Vindhya Pradesh. They have to take the pledge now and sign the register.

The following Members took the Pledge and Signed the Register:-

1. Captain Awadesh Pratap Singh
2. Shri Shambu Nath shukla — United State of
3. Pandit Ram Sahai Tewari — Vindhya Pradesh
4. Shri Mannulalji Dwivedi

---

## DRAFT CONSTITUTION-*(Contd.)*

**Mr. President:** We are now to resume discussion of the Draft Constitution. I desire to point out to honourable Members that although 77 Members have so far spoken on the motion of Dr. Ambedkar, I have got 54 names still on the list and we have only this day and perhaps one hour tomorrow for this purpose. So all these Members cannot possibly be accommodated within these six hours or 6 ½ hours if they speak at the rate other Members have spoken and I leave it to them either to take as much time as they like and deprive others of the opportunity of speaking or simply to come forward, speak a few words so that their names may also go down

on record and let as many of others as possible get an opportunity of joining in this.

**Shri Guptanath Singh** (Bihar: General): Sir, I want to make a suggestion. It seems a large number of Members are eager to speak. I, therefore, suggest that Members who are desirous of speaking here should be asked to submit their written speeches and those speeches be taken as read, as so many Members have read out their speeches.

**Mr. President:** There is no provision in our rules for taking speeches as read because they are all supposed to be delivered even when they are read. So I can only ask Members to think of others also and not to think only of themselves. As soon as a Member has spoken for five minutes, I shall ring the bell.

**Chaudhri Ranbir Singh** (East Punjab: General): *[Mr. President, Sir, before expressing my views on the constitution, I would pay my homage to the Father of the Nation, Mahatma Gandhi, Netaji Subhash Chandra Bose and other patriots who sacrificed their lives on the altar of the country and suffered in various ways.

Mr. President, today many of our brethren complain that we have taken too much time to frame the Constitution, but none can deny that at the time this Assembly was formed, India was under foreign rule and was divided into more than 600 units. There were many types of people and parties who wanted to divide the country. The changes that have taken place in this country during the last three years are unparalleled. During this period, our country was partitioned but despite this no one can deny that for the first time in History and under your Presidentship we are going to establish a single State of India, bigger and more firmly than ever.

Some friends may say that India was a comparatively bigger State under British rule, but none can deny that at the time there were 562 States in India, with their own systems of Government. No one can deny the fact that before 1857, the Britishers had attempted to establish a strong State by merging the States, but they had succeeded in merging only a few States, when there was a revolution in the country and the Britishers had to give up that idea. But under your Presidentship, under the leadership of our leaders like Pandit Jawaharlal Nehru and Sardar Patel and by following the path shown by Mahatma Gandhi, we have succeeded in persuading all these States to be parts of the Indian Union and our country which was divided into 600 units when this Assembly began to function, would now be having about 27 provinces. I think within a short time there would be only 15 or 20 units in this country. In this way we have laid the foundation of a strong

union by reducing the number of component units. None can deny that it has entailed delay but sufficient work has been accomplished during this period. I think, if we had completed the Constitution within a year at our first meeting it would certainly have contained provisions for communal reservations. That dispute or rather disease has been cured and this could be achieved only on account of the tact of our leaders.

Mr. President, I wish to say a few words on some articles of this Constitution about which I hold very pronounced opinions. By providing for adult franchise in this Constitution we have liberated every Indian politically, and similarly by abolishing *begar* under article 17 and outlawing untouchability under article 23, we have liberated every section of the country socially. Further in regard to economic freedom, we have by accepting article 31 (4) created conditions under which I hope the Zamindari system in India which is like a burden and stood like an obstacle in the progress of the country would be abolished within the next year, and thus we have solved this problem as we solved the problem of 562 Indian States under the leadership of Pandit Jawaharlal Nehru and Vallabhbhai Patel. I think that in my home province-Punjab too, which contains 10 percent big landlords as otherwise it is generally a region of small land holders this problem will be solved peacefully and thus we would also be able to liberate the landless peasants by virtue of this article. Similarly we would also be able to liberate the farm labourers as well as the factory labourers with the help of this Constitution. But, Mr. President, the interests that I represent here, that is, the landed peasantry has been, I am sorry, given a set back under this Constitution. The peasant could obtain economic independence only if the principle could be accepted that he should not be forced to sell his produce below cost. Had we accepted this in this Constitution and made such a provision in this, we could have saved him from economic exploitation. But we have unfortunately accepted 19(f) which would have a bad effect on my province. We have Land Alienation Act in our Province. I do admit that it suffers from certain shortcomings, but none can deny that lakhs of farmers who toil day and night have benefited from it to an extent that they have been able to retain their lands. I hope and trust that you would be the President of independent India and I believe this is the desire of a very large number of people. I hope, you will not reject my request as this Constitution authorises the President by an article to amend or repeal the law which may not be quite consistent with this Constitution. I therefore particularly appeal to you that even if you amend this Act which deals with lakhs of farmers, we have no objection if you permit Harijans who labour on the land to purchase land, but I request you not to create conditions under which a person who has not been connected with the land may be able to acquire it. If that happens, there would, undoubtedly, be looting and robberies, and the advantages accruing from zamindari abolition would be

nullified.

One thing which none in the House has mentioned and about which I feel most, is about the delimitation of Constituencies under article 327. I hold that the villages in India are very much backward, and if they are joined with the urban Constituencies, it will be very unjust for the rural areas. We could not accept Hindi as the National Language so early, because some people felt that they would lost their jobs thereby, but if you mix up the rural as well as urban Constituencies, you would be perpetrating serious injustice against those people who can neither express themselves, nor have any press or leadership. Under this Constitution they can be kept separate or mixed up. I hope that later on the Commission which would be set up for the purpose will keep the rural and urban areas separate.

I wanted to express my views on two or three topics further, but I do not want to take away the time of my other colleagues, and thus I conclude here.]*

**Shri Manikya Lal Varma** (United States of Rajasthan): *[Mr. President, I thank you, for the opportunity that you have kindly given me to express my views but I am sorry for the time restriction that you have imposed upon me. While I have never so far taken any opportunity to speak here, my Friends Shri Brajeshwar Prasad and Shri Kamath were allowed on many occasions to express their views in this House. I would request the Chair to kindly excuse me if exceed the time limit by a minute or two.

First of all I take this opportunity to offer my thanks to the Honourable Dr. Ambedkar and the Members of this House. Now I come to some salient features of the Constitution. We have really taken a very wise step by providing adult franchise in the Constitution. Now we shall be giving this experiment a trial. Mahatmaji wanted that the village Panchayats should elect District Panchayats and the District Panchayats in turn should elect Provincial Legislatures and so on, for he thought that the Legislatures formed in this manner will be composed of persons who are capable of taking a correct view about our national problems. If the experiment of adult franchise proves successful it will be well and good for us. We raised the slogan of adult franchise and it will be a tragedy if we fail to work it out successfully. Mahatmaji also wanted that there should be adult franchise in India and we must act upon his wish.

Now I would take the opportunity to express my thanks to our respected leader Thakkar Bapa for the progressive steps taken by him for the upliftment of Harijans whose cause he has been serving for fairly a long, long time. I extend my thanks to the Draftsmen of the Constitution for the

honourable place, they have provided to the Harijans in the Constitution. The provision regarding the separation of the executive from the judiciary is a novel experiment and future alone can decide whether we succeed or fail in it. It is the dawn of our freedom and I hope our experiment will be successful. We owe our deep gratitude to our veteran and respected leader Sardar Vallabhbhai Patel for having absorbed the 584 independent States in the general set up of the Indian Union. It is really the States people who have had the worst experience of the tyranny of feudal lords and it is the States people who are feeling today the real glow of freedom-Swaraj. We the States people alone can feel the real worth of Swarajya. But I would like to say one thing in this connection. Sir, no doubt by eliminating these States, the cancer has been removed from the body of India but small boils in the shape of principalities or feudal estates still exist and we hope, Sardar Patel will remove them also at the earliest possible opportunity.

I say so because the conditions are horrible where feudalism obtains today. In Rajasthan where from I have come, there are two classes of jagirdars. One class thinks that the abolition of Jagirdari is now certain and it has already taken to agriculture and some other occupations. The other class of the jagirdars want to influence the Government of India by creating terrors. They have already started threatening the States Ministry of the Government of India and spreading terrors with the belief that by adopting these means they would be able to save their jagirs. Influenced by this belief they have started committing dacoities. I beg to draw your attention, Sir, to this men my feature and hope that they will be suppressed at the earliest possible moment. Now Sir, I would draw the attention of the Government of India as well as the Chair to the income, of the unit which I represent here. The Railways of Bikaner, Jodhpur and Udaipur are going to be taken over by the Central Government in April but for this no compensation is to be paid to the unit concerned. It will not receive any share from the income of these railways. The customs duty is going to be abolished in my unit and this will entail a loss of six to seven crores of rupees to its Revenue. The United States is a newly constituted union and as such it should receive every help, support, and co-operation from the Centre.

I would like to draw your attention to one other matter also. In Rajasthan there are many large towns such as Bharatpur, Alwar, Bikaner, Udaipur, Dungarpur, Banswara in Kishengarh which were seats of the States' Administration where a number of persons, poets, pandits and men of letters and arts used to work under the direct patronage of the rulers of the merged States. Thousands of these workers have lost their jobs as a result of which the business in the States has come to a standstill. All possible steps should be taken to shift to these places some of the offices of the Government of India that are being shifted from Delhi, so that their economic condition may

not deteriorate. The big plans and projects that are going to be formulated in India must be given effect to in the States also as the financial position of the States is not such as to permit them to launch these big projects particularly when the income from customs and Railways will be taken by the Central Government. The scheme of opening training camps and launching Dam projects must be given effect to in the States also.

Now I would like to say a few words about the Rajasthan language which is spoken by fifteen million people. I shall place before the House a few specimens of this language just to show, how heroic Rajasthani is. When Maharana Pratap was at war with Akbar, Prithviraj of Bikaner learnt from some source that the Maharana being tired was going to submit to Akbar, he wrote him a letter in such poetry:

*Nakhoo mooddan paan, kon patank nija tana karadah dojey likh dee vaan, indon mohalee baat eke*

(Should I now uphold my prestige or allow my body to be smashed to pieces? Please give me either of these two directions).

The Maharana sent him the following reply:

*rihaya rakhasi aan, in tana soon iklingah aangey jaanri agason, prachee beech patang*

(Let God Shiva always guard my honour. The sun will always rise in the east as it has every been rising).

This is a specimen of Rajasthani language which is full of heroism. By learning this language we spread the spirit of patriotism throughout the country. I would, therefore, submit, Sir, that this glorious language must find a place in the Constitution.

Lastly I would say a few words bout one thing which is causing me great pain. Under the Constitution Sirohi has been divided and a part of its territory, Abu has been merged with Bombay. The Government of India has the power to do so and we cannot question its competence to merge Abu in Gujarat, particularly we Congressmen cannot raise any question with regard to this action for we are under Congress discipline and have to bow to the decision of the Congress. But I would like to utter a note of warning in this connection today. Abu has been merged in Gujarat and tomorrow the same thing will happen with Banswara, Dungarpur, Udaipur and other places. The slogan of "Greater Gujarat", that has been raised by the people of Gujaratis sure to spread its poison throughout the country. This tendency is very

wrong and will weaken the State. If you want to do justice in this case, you should appoint a commission consisting of members from the Punjab, Bengal and Maharashtra to give a decision on the question whether Abu belongs to Rajasthan or Gujarat. On the basis of decision of the Commission the Government of India may do any thing it likes and we will have no objection to that. We are prepared to accept any decision on the question of Abu if it is taken on the basis of justice. There is some whispering here that Rajasthan and Gujarat should be united into one unit. The argument that is advanced in support of the proposition is that of fifteen million people above cannot successfully function as a State. We shall welcome this proposition provided it is worked but on an all India basis. Politically and economically small contiguous units may be united into bigger units. Instead of having units of fifteen million population we may form units with a population of thirty or forty millions. But whatever decision is taken with regard to this question, that must be on the lines comprise. It should not be an unjust and arbitrary decision. With these words I appeal to you Sir, that justice should be done to Rajasthan.]*

**Shri Brajeshwar Prasad** (Bihar: General) Mr. President, Sir, I rise to offer my limited and qualified support to this Constitution. But for the adoption of Hindi language and the abolition of untouchability, I would not have seen my way to support this Constitution. I support this Constitution to the extent it is unitary. I am opposed to Federalism, Provincial Autonomy, Parliamentarianism, Adult Franchise and Fundamental Rights.

There is no element of idealism in this Constitution. It is a Constitution foreign to the culture and genius of this land. It is a lawyers' Constitution. It is a Constitution meant to stabilise the interests-both economic and political of the bourgeoisie and the capitalist classes. Article 24 has banged the door to all progress. Without the liquidation of private property as the means of production, there is no bright future for India.

**An Honourable Member:** May I request the Honourable Member to read his speech slowly, so that we may follow him? He is going like the Toofan Express.

**Shri Brajeshwar Prasad:** I am speaking quite distinctly. I would go slow if the honourable President would give me time. But he would not.

The provision relating to compensation incorporated in article 24 stands as a stumbling bloc in the way of progress. The present Government of India Act with suitable modifications would have amply served the needs of the hour. We are passing through a transitional period. Revolution is knocking at our door. We are not in a position to sense the needs of the coming century.

There is decadence all round.

There was no necessity for drafting a Constitution at the present moment. We do not know which way India will choose to go in the near future. There are three courses left open to her. She may follow the road that leas to Moscow or she may fall in line with England and America. There is a third of alternative which to my mind appears to be the best course for her to follow. If there is any inner vitality left in her blood and veins, India will remain loyal to her genius and culture and maintain her separate individuality as the leader of a third Bloc in world politics.

This Constitution stands as a stumbling block in the way of Indo-Russian entente. By incorporating article 24 we have given a fresh lease of life to the capitalists. There cannot be any sincere and loyal co-operation between a capitalist State and Soviet Russia.

If India is to remain loyal to her ancient traditions she must discard the basic foundations of this Constitution. Dharma was the basis of all Governments in ancient India. If the will of ignorant and hungry people were ever to become the basis of government in India, it will mean the complete liquidation of all that is good and noble in Indian life. The common man has got no will of his own. He is a bundle of instincts and a creature of environment and heredity. His will can never be the basis of modern Governments in any part of the world and especially in India where he suffers from innumerable handicaps. The concept of Dharma incorporates all that is good and noble in Parliamentarianism and rejects the evils that have crept into it. A State based on Dharma will never tolerate economic inequality or social injustice. But it will never accord recognition to popular will as the basis of Government. For the will of man is nasty, brutish and short. Dharma is in consonance with the fundamental principles of Democracy. The will to will the general will is the core of democracy. The essence of Democracy is the representation of the real will of the people as opposed to and distinct from the actual will. The actual will is surcharged with passion and prejudice. The actual will changes from moment to moment, from hour to hour and from day to day. It contains within itself all that is mean, stupid and foolish in human life. it can never be the basis of Government. The real will on the other hand is in consonance with the teachings of the great leaders of thought in human history. It is in consonance with morality.

I am opposed to Parliamentarianism because it has no future in the modern age. The average individual is not in a position to understand the highly complicated problems of our industrial society. It is an age of Experts.

This Constitution will amply suit India if it is to fall in line with Anglo-American powers. I hold the opinion that if India decides to fall in line with England and America, she will be committing a first class mistake.

The hungry and starving millions of this country will never tolerate a government which chose to fall in line with the anglo-American powers. If I were to choose between Washington and Moscow I would choose Moscow and not Washington and New York. I love equality more than liberty.

The essence of the theory of decentralization is utter distrust of the State. Bakunin and Prince Kropotkin advocated the theory that the state is an evil. It was based on violence and therefore inimical to all that is good and noble in human life. The best state is that which is least governed. May I ask the Members of this House are they going to build up their State on the basis of these assumptions?

The emphasis in the doctrine of Philosophical Anarchism is upon the individual and not the State. The individual should be the sole reservoir of all powers. When we talk of decentralization of powers, our sole aim is to wrench power from the hands of the Centre and to vest it in the hands of the Provincial Governments. I hold the opinion that if further encroachments are made upon the power of the Centre, it will reduce the Government of India to the status of the League of Nations. If the social purposes of the age are to be fulfilled, more powers ought to be vested in the Centre. The theory of decentralization runs counter to the concept of a unitary state. A unitary state is the need of the hour. If the menace of Provincialism and Communalism are to be combated we cannot afford to think in terms of political decentralization.

The great Mahatma was an advocate of decentralization. His doctrine of decentralization had an integral relation with the concept of Ram Raja.

(At this stage, Mr. President rang the bell).

It is only in a non-violent society where all the elements of violence have been liquidated that we can achieve the goal of decentralization. As long as there are warring Nation states we cannot think in terms of decentralization. As long as there is economic inequality, the goal of decentralization will elude our grasp. It is only with the need of the Togetherness that we can usher in a decentralized society. As long as there is militarism it is not possible to decentralise powers to any extent whatsoever.

(At this stage, Mr. President again rang the bell).

May I take one or two minutes more, Sir?

**Mr. president :** No you had better hand over your speech.

**Shri Brajeshwar prasad:** It should be taken as read, Sir.

**Mr. President :** No You hand it over.

**Mr. Mohammad Tahir** (Bihar: Muslim): *[Mr. President, before I begin I congratulate you from the core of my heart that the Constitution of free India has been completed under the Presidentship. It was predestined to be so because it was an urge-an inner voice which sprang from the soil of Bihar and it is Bihar which has completed it.

Now I would like to express my views regarding the Constitution. I shall try to put before you its both sides-good and bad-in a few words as I have understood them from this Constitution. I shall put forth the good side so that people might take lesson from it, and I shall expose the bad side so that in future if the Congress or some other party which comes in power considers these evils as evils, then it might be possible for them to remedy these ills.

Its good side is the administrative factor. Our Constitution presents to the words the best type of administration. I hope if the authorities of our country act up to it sincerely then it is certain that our country would make rapid progress in a short time and the world would be proud of our country.

In so far as the question of its bad side is concerned I am sorry to feel that it might offend my friends and so I apologise for that and I hope they would give me a patient hearing. Its evil is inherent in its policy. Our Constitution presents to the world the proof of a worst type of policy. Our Constitution ought to have been a mirror, so that if any one in the world would have looked into it he would have seen the true and clear condition of the country. But he can see only this much that this country is inhabited by Christians, Anglo Indians, Tribals, Hindus, Scheduled Castes Hindus, etc., etc., If anybody ask: Do Sikhs inhabit this country?, the reply would be in the negative. If he asks: "Do Muslims inhabit?", the reply would be in the negative. It is due to the narrow minded police of the Constitution. The general political and cultural rights of the Muslims, who are a permanent minority, have been trodden down. It seems as if in this Constitution the Muslims as a community have no place in politics.

Those who asserted that the majority community of India would destroy the politics, culture and the language of the Muslims, will get the sold proof

of their allegations in this Constitution. Now the Muslims have neither their culture, nor their politics, nor their language, although for other minorities every thing has been provided in the Constitution. In the same way the political rights of the Sikhs have been put to an end. It is now for the world to decide if this was the duty of free India which she has performed through her Constitution. However, I have no complaint against the present form of the Constitution. I have simply pointed out the defects. If in this Constitution any injustice has been done to the Muslims or they have been punished, then it would make the position of the Muslims all the more advantageous, because due to this shortcoming the responsibility of the people and Government of India would become greater towards the Muslims. If this responsibility would be realized with sincerity then the Muslims would not be the losers. Sir, in this connection, I would like to point out that after the 26th of January the Muslims of India will start a movement, which will be a very mild one and their deputation will wait upon the President of India and this will be the last test to know whether in India Muslims could really get some privileges or not.

Lastly I would like to submit that it is a matter of shame that our Constitution could not fix a name for our country. This is a proof of the intelligence of Dr. Ambedkar that he suggested a hotch-potch sort of name and got it accepted. Well, if somebody would have asked Doctor Saheb about his home land, he could have replied with pride that he belonged to Bharat or India or Hindustan. But now the Honourable Dr. will have to reply in these words: "I belong to India that is Bharat". Now, Sir, it is for you to see what a beautiful reply it is.

Lastly, I would like to request you and the honourable Members to excuse me if my observations have, in any way, offended them.]*

**Shrimati Purnima Banerji** (United Provinces: General): Sir, at the cost of a little repetition, I would at the outset like to associate myself with my colleagues in their expression of thanks to the Members of the Drafting Committee, to you and to all others who played such an important and necessary role in the various stages of this Constitution. Without being open to the charge of making any invidious distinction, I would like to add a special word of thanks to you on behalf of the back-benchers of this House. For, at various stages of the Constitution, when we were rightly or wrongly exercised by certain doubts in regard to certain clauses of the Constitution, you used your good influence on our behalf with the Drafting Committee to clear these doubts.

Sir, the Constitution of a country always is a very important and precious document, because it gives us an idea of how the great people of a country

fashion their institutions, how they want to live, what are the political arrangements under which they exercise their judgment and what are the hopes and aspirations which they entertain for the future. Sir, when we are considering the present Constitution, our minds involuntarily go back to the olden times and contemplates the stages through which India has passed and recalls those periods, the recent periods in the history of our political subjection, when we were told that we were hardly a nation, that we were divided among ourselves in mutually hostile groups, that democratic institutions were congenitally not suited to Indian conditions, etc. We were told in patronising and high sounding phrases that the goal of this country will be the increasing association of Indians in the governance of the country with a view to the gradual realisation of responsible self-government. There was a time when in any concessions in the form of liberty which were granted to us, words such as 'Our subjects or whatever race, creed or colour will be impartially admitted to office and service', or 'No native of India will in future be debarred from employment by reason of birth, descent or colour', or 'We shall respect the right and the dignity and honour of the native princes as our own' were used. These phrases, in short, summed up the conception that was before those who were in charge of our destiny, meant for the future of the country. From such a conception of things we know with what gesture of impatience of country turned away and took, in historical words, the Independence Pledge which other countries have also taken whenever freedom was denied to them. We pledged that: "We believe that it is the inalienable right of the people of India to get liberty and freedom." With these words we entered upon a new career and worked for the independence of this country. And today we find that in this Constitution are embodied those historical words which were again raised in some other corner of the world and have since then been making a circle round the world and will continue to circulate till it becomes a reality. These words are the call of Equality, Liberty and Fraternity which today find a place in our Constitution.

Judging from those days to this day it seems, that although we may not have arrived at a stage of our fulfillment and completion, we have progressed and surely at least the immediate requirements of a normal society have been today provided. We can no longer be told that we are a race apart and that we are unable to govern ourselves.

I feel, Sir, that in the debate that has been taking place in this House during the last few days it is amply proven that this Constitution has received a very mixed reception. Perhaps the Constitution fully deserves a varied interpretation. The main foundation of the Constitution however rests on our common nationality and no Democracy. In our Constitution we say that no matter in which part of the country we may reside we are integral

parts of a common Motherland, that we shall, wherever we may be, unite in working for the greatness of this country, that there shall be no distinction of caste, creed or colour or province and that no separatist tendencies will divide us and that whoever is an adult and fulfils the minimum qualifications laid down for candidature can aspire to the highest office in this land. Therefore at least one milestone we have reached and we have reached the stage when we no longer feel that the tallest amongst us must bow before any foreign ruler.

But, Sir, I still think that great as the change is, all these things provide only the minimum requirements of a society. We ourselves during our freedom movement said that it was not for the loaves and fishes of office that we were fighting but rather that we might have the political power in our hands with which we could fashion and remould and change the whole structure of society in such a manner that the grinding poverty of the masses may be removed, the living conditions of the people may improve and we could establish a society of equals in this great country of ours. To apply that test to this Constitution, Sir, I feel that it does provide those minimum necessities with which we can change things, and for this I take my clue from the Directive Principles of State Policy. We could not merely rest content with negative democracy, i.e., the right to cast votes, the right to form a government and the right to change it. In passing I would pause and say that important as these rights are in themselves, I consider that Fundamental Rights that we have provided are absolutely necessary for the working of democracy. If we want to established a democracy which should answer the needs of the growing pattern of society, we should place the means at the disposal of the people by which Governments can be establish, which in its turn can be done by the right of free association and free expression of opinion, with the exercise of which institutions can be changed. I feel, Sir, that the clauses restricting these Fundamental Rights should not have been in the Constitution and the impression should have been well founded so that one may change the Government of this country to the best interests of the people by peaceful means.

Sir, in the Directive Principles of State Policy we have said that although they may not be enforceable in a court of law, they are nevertheless fundamental for the governance of this country and we have in articles 38 and 39 stated that the economic policy of the country will be worked in such a manner as would subserve the common good. To quote the exact words, we have said 'that the ownership and control of the material resources of the community are so distributed as best to subserve the common good; that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment.' These vital principles shall not be enforceable in a court of law but nevertheless they are

fundamental in the governance of the country and all the future laws of this country shall have to take not of this. By the inclusion of these clauses I personally feel that this Constitution has provided us with the means for changing the structure of society. It will all depend on us whether we are able to establish that sovereign democratic republic, not for the hollow benefit of registering one's vote and passing legislation, not a democracy which will simply maintain the status quo or which will take upon itself the policy of laissez faire, but a democracy which will combine with it the healthy principle that the government governs best which governs least, with the principle that it should encourage the active citizenship of the country. The two articles that I have read out are the cornerstone of this Constitution. If you want the people to meet peacefully and without resorting to violence, then we much give them the free exercise of their right to meet.

At least in one aspect of this Constitution, I most categorically hold that the Fundamental Rights of meeting and forming associations should under no circumstances have been circumscribed or limited by any provisos. I would rather take my inspiration from the American Constitution in this respect where they prescribe the Fundamental Rights boldly, and merely state that they will be subject to laws made by Parliament. I do not hold the fantastic theory that all rights are always absolute. They are relative, but when it comes to stating the rights, I should think, Sir, that they should not be burdened by giving the circumstances in which those rights cannot be exercised. If these circumscribing clauses had not been stated in this Constitution the difference would have been Psychologically great- the difference would be that the laws which circumscribe the right of free speech and impose other restrictions would have been repealed when the necessity for them was no longer there; they would not have been statutorily fixed by the Constitution. The complaint already is that this is a written Constitution and a bulky Constitution, and the more a Constitution is written, the more rigid it becomes. Considering this, Sir, I feel more so that in the Fundamental Rights these restrictive provisos to freedom should not have been there.

Sir, article 21 guarantees personal liberty and article 22 provides for preventive detention. In article 21, I would have like to include the safety of the person, his dwelling and his personal property from being searched or confiscated, because the powers of search and detention by Governments have played a disastrous part in our own political history, and we would not like these powers to hamper the growth of healthy political movements in future.

Then, Sir, in the Directive Principles of State Policy, under article 39 we have provided that while we may change the whole structure of society in

such a way as will susbserve the general good of the country, there is no categorical statement that any industry might be taken over by the State should that be necessary for the general good. In the Karachi Resolution of the Congress where most of these Fundamental Rights were incorporated for the first time in a political document, there was a provision that key industries and all the mineral resources of the country shall be state-controlled. That, I think, should have found a specific place in the Directive Principles of State Policy.

If the powers of government for protecting the State against foreign aggression are considered necessary, then I hold that key industries and mineral resources of the country should have been taken over from the hands of private enterprise, and these should also be exempt from justifiability or property compensation which we have dealt with elsewhere.

Another thing which I would like to mention and I think I will be voicing the views of most of my colleagues in this, is on the subject of salt. Salt has a big history in this country like the Boston tea of the Americans. Even though, I understand that the intention of the Government is not to levy and duty on salt, I feel that it should have been a gift of free India to the people of this country and Constitution should have specifically provided that salt manufactured in India would be free of duty. That also finds a place in our Karachi Resolution on Fundamental Rights.

In the Preamble, Sir, I find the absence of the word which was dear to us and therefore should have found a place there, and that word is "Purna Swaraj". I would have wished that the Drafting Committee had said that "We, the people of India, having attained Purna Swaraj, now constitute ourselves into a democratic republic". That, I think, would have been a happy thing.

There is another point regarding the services. Many friends have dealt with that subject. I personally think that even from the point of maintaining a healthy spirit of permanency in services, I do not think they should have been statutorily safeguarded thereby bringing in another difference between themselves and the people. The services are usually guided in respect of the manner in which a man should be engaged and the manner in which a man should be dismissed by Service Manuals providing these rules and if that is good enough for the rest of the services of the country, it should be good enough for the higher services of this land.

With your permission I would add another point. We have in this Constitution some references to women. I would beg my colleagues in this House particularly Rohini Babu not to deal with the subject with any levity or

any lightness of spirit because we have to realize that women also as the rest of India are standing upon a new threshold of life. As between the purdah-system and the new life which awaits the development of her personality, she is finding a new place in her home and her country and it is difficult enough. The part she has played in the building up of her home where she has been described as *Sahahdharmini* has to be extended and she has to receive that recognition in the nation sphere also. She is also man's equal Partner and help-mate and in the nation building activities of the country she has much to do. That position still is to come into being, and therefore I would request my honourable Friend Mr. Rohini Kumar Chaudhuri and others who are present here to look upon this problem with the gravest possible thoughts and to give it their best help and assistance. I hope that as in the freedom of the country the women of India did not fail this land so in the preservation of this freedom she shall not fail.

Sir, with these words I would conclude with the words employed on the 14th of August by Pandit Jawaharlal Nehru when moving here a resolution, he said that it may not be given to all of us to fulfil the ambition of the greatest man of our age which was to wipe every tear from every eye but till the poverty of the masses has not been relieved and suffering remains, we pledge ourselves to the service of this country. I hope that in the short span which is allotted to us, you and I as colleagues and comrades will work hand in hand for the greatness of our country.

**Shri V. S. Sarwate** (Madhya Bharat): Mr. President, it may be admitted on all hands that one of the greatest achievements of this Constitution which we are enacting is that it equally applies to all the Indian States within the borders of India. This is a great and glorious consummation, unique in the history of India, and the country owes a debt of gratitude to Sardar Patel for it. But let us not forget at the same time those who have contributed as efficiently to this consummation, I mean, the peoples of those States. This House knows fully well the sacrifices and services of Sheikh Abdulla, but there were Sheikh Abdullah's in several Indian States of whom probably many in this House to not know. They were there in Travancore, in Mysore, in Baroda, in Kolhapur, in Saurashtra, in Central India, even in Rajasthan, in the Sigh States in the North and the Orissa States in the East. These people had organised strong Praja Mandals in their States and their demand for responsible Government could hardly be suppressed by the rulers concerned even with the help of the British power. When that power was gone the rulers were left without any outside support. It may be magnanimous to say that the rulers readily agreed in a spirit of self-sacrifice when the covenants of either merger or accession were presented to them by the Government of India. But that is not a historical truth. It was because of the efforts of these people in the States that the rulers full well knew that they had no

alternative; that if they did not agree to the Covenant of Accession they would have had to meet with a worse fate from their people, and it is this emergency, this necessity of circumstances, which made them yield. I trust, therefore, that this House would not grudge recording its appreciation of the sacrifice and service, of the sufferings and trials of the great fight which these people put up and continued in their several States for the consolidation of India.

Coming to the Constitution itself I may say that every man residing in Indian State would have been happy if the Rajpramukh had not been linked with the Governor and the President. I am reminded of a jibe at Panini, the Sanskrit Grammarian and in one of the aphorisms he had said:

*Shwa yuvam dyonah* (original in Devanagari)

He applied the same rule to a dog, to a young man and to God Indra. Something like this has happened in this Constitution. I would refer to article 361. The section says: "No criminal proceedings whatsoever shall be instituted or continued against the President or the Governor or Rajpramukh of a State in any court during his term of office". It was quite all right as far as the President or the Governor was concerned; but the clause does not fit in with the Rajpramukh, whose office terminates only with his life. Take a worse case. Supposing a Rajpramukh commits a murder. There is absolutely no remedy against this in this Constitution.

**Shri T. T. Krishnamachari** (Madras: General): May I point to my honourable Friend that the Rajpramukh will hold his office only subject to the President allowing him to do so and if he commits a murder, he will be removed from the office?

**Shri V. S. Sarwate:** I would again say that the Rajpramukh does not hold office during the pleasure of the President. He holds it by virtue of the covenants which have been agreed to and which could not be set aside.

**Shri T. T. Krishnamachari:** I am afraid my honourable Friend is completely misinformed.

**Shri V. S. Sarwate**: All right. I shall be happy to be wrong. All the same.....

**Pandit Thakur Das Bhargava** (East Punjab: General): The Constitution is the sole authority now and overrides all Covenants, etc.

**Shri V. S. Sarwate**: I may be allowed to have my own views and I think that no process for the arrest or imprisonment of the President or the Governor or Rajpramukh of the State, shall issue from any court during his term of office.

Now I shall refer to article 238 which lays down that certain provisions of Part VI would not apply to Indian States. This section, for instance, says that articles 155, 156 and 157 shall be omitted from Part VI, i.e., they will not apply to Indian States. Article 155 lays down: "The Governor of a State shall be appointed by the President by warrant under his hand and seal." Article 156 says: "The Governor shall hold office during the pleasure of the President." But it has been specifically said in article 238 that article 156 shall not apply to the Indian States. That supports me in saying that the Rajpramukh does not hold office during the pleasure of the President. Further, it is curious that article 157 also does not apply. Article 157 says: "No person shall be eligible for appointment as Governor unless he is a citizen of India and has completed the age of thirty-five years." This article does not apply to the Rajpramukh. A Rajpramukh, even if he is 21 years of age, l will be able, according to this Constitution, to carry on his duties as Rajpramukh. It is anomalous that in the case of Provinces which are said to be better administered and which are said to have a better form of Government, the Governor should have completed the age of thirty-five years whereas in the case of Indian States which are said to be less efficiently administered, the Rajpramukh who has to discharge the same duties should be allowed to be of a younger age than thirty-five. I do not know why article 157 should not have been made applicable as far as the age is concerned to the Rajpramukhs. I know there are difficulties in the way of the Covenants. The Covenants lay down that the Rajpramukhs will be governed by the rules of succession in their State and further they would be Rajpramukhs for their life. I would have been happy, and probably everybody would have been happy if the constitutional pandits could have devised some means by which the Governors and the Rajpramukhs would have been separated in the case of Indian States. The Rajpramukhs could have been given some titular office and the office of the Governor should have been newly created. It may be too late to say this at this stage; but this is a defect in the Constitution which would have to be taken into account later on when the time comes for amendment.

I wish to refer to one or two points which seem to me to require some comments. I find there is an article for the appointment of a Financial Commission, namely article 280. In this article, it is laid down, I am referring to clause (c) "the continuance or modification of the terms of any agreement entered into by the Government of any State specified in Part B of the First Schedule, (that is, the Indian States) under clause I of article 278 or under

article 306." The words 'under clause (i) to article 306' are new and they have been inserted after the Second Reading. I am sorry and I regret very much that, being ill, I could not send in my amendment to this. This ought to be considered by the House or by the Drafting Committee or by whosoever be in charge, whether it would not have been better and in the interests of all concerned that the whole financial integration between the Indian States and the Government of India had been entrusted to the Finance Commission. There would have been an independent tribunal as it were which would have judged and decided taking into account all conditions. The present condition is this. The Government of India which is a party to the financial integration is to give the final ruling. That Government being the dominant partner, and the Indian State being the subservient partner, the balance of benefit is always likely to be on the side of the dominant partner. Therefore I say that it would have been much better if the financial integration had been left to the Finance Commission. The clause I referred to above is a new addition, which has been inserted after the Second Reading. This clause restricts reference to the Finance Commission to certain agreements only. I am afraid the attention of the House has not been drawn to this particular new clause. I would very humbly request the President and the authorities concerned to reconsider of financial integration between the Government of India and the Indian States is entrusted to the Finance Commission. This is a very important point; much more so, because, as one of the previous speakers said, some of the States are losing a very big portion of the income which they derive, e.g., from customs and railways. In such a State of things, it behoves the Government of India to take into account the loss which they are suffering and to take upon itself the burden of the privy purse at least. By the abolition of the States, the Government of India on the whole derives much more benefit than the particular State concerned. I am sure that after a few years, every Indian State would in any case have had responsible Government. The popular movement was so strong that in a few years time, they could not have remained rulers and probably the position as far as the rulers were concerned would have been much worse.

I shall finish in a minute or two. I have only to mention one of two points. I may be allowed to state that in certain cases the privy purses now settled by the covenants are more than what the rulers used to get before. I know a particular case whether the Ruler was getting less whereas he is getting more under the covenant as privy purse. This was done because the interests of India as a whole required it to bring about this consolidation. Therefore, it behoves the Government of India, it is moral duty of the Government of India to take upon itself this burden of the privy purse. At present, what is done is that the Government of India pays in the first instance and then takes the same money from the State concerned. That

should not be the case. The Government of India should pay from its own Consolidated Funds.

I want only to refer to one more article, article 295. This, I am afraid, is also a new section; probably some words are added after the Second Reading. This article lays down that the ownership of all property in the States which relates to the Union subject shall vest in the first instance in the Government of India, and then, may be made subject to any agreement which may be made in that respect. I should have thought it should have been the reverse. All property should have in the first instance belonged to the State concerned; and subject to any agreement, it should have gone to the government of India. In any case, this question of the ownership of the property in the Indian States relating to the Union subjects should be decided by the Finance Commission. It should be a subject of investigation by the Finance Commission. At present, agreements are reached, I am afraid, not so much on the financial principles as on the particular circumstances of each State concerned.

Lastly, I should say a word about article 371, relating to the general control over the States. There are States and States. I admit, and one would have to recognise the fact, that there are States which may require outside control. But there are States also which are in no degree less efficient than the British Provinces. So it is a slur on them which cannot but be felt very seriously by anybody who has any self-respect that all Indian States as a rule should be placed as if under a Court of Wards. There is, no doubt, a provision here which is some solace. As long as there is this control by the states Ministry all ministers in the States for solving their internal dissentions, instead of looking to their Legislature would run to Delhi, for advice from the States Ministry. Instead of pleasing their constituencies, they would rather please Delhi. This is inevitable under the circumstances and therefore it is neither beneficial to States concerned nor to India as a whole in the long run. I would therefore appeal to the future President that he gives full latitude to the proviso to this article, namely, "that the President may by order direct that the provisions of this Article shall not apply to any State specified in the order." To tell a man to be self-dependent, the best way is to take away his support: he may totter for some time but then he will regain his balance. So I appeal to the President that with the power given to him under this proviso, he excludes from the operation of this clause all those States whose administration justifies such exclusion. With these words I support the Constitution.

**Shri Basanta Kumar Das** (West Bengal: General): Mr. President, Sir, there are mainly three factors which have given our Constitution the present

shape. I like to call them the three legs of this Constitution, *viz.*

(1) The experience gained through the working of Government of India Act of 1935.

(2) The needs and aspirations of the people who have become free, and

(3) The impact of events occurring in the country and abroad and of those that may be expected during at least the coming 10 years.

Sir, the Government of India Act, 1935, is an almost perfect mechanism for the smooth running of a Police State and is worded in a very suitably legalistic language standing the test of time. The Constitution has therefore, done well to draw largely from that document so far as its administrative side is concerned.

But with freedom achieved, the State has to pass from a 'Police State' to a 'Welfare State' and along with the peace and security of the country the full growth of the people is to be assured. A copy of that Act cannot therefore be possible, nor would it be proper to do so. To effect a balance between those two very potent factors was therefore a necessity but that work has been much hampered by the third factor viz., the political situation particularly arising out of the division of the country, the fissiparous tendencies that always attend a newly achieved freedom and the cultural and ideological crisis through which this country as well as the other countries of the world are passing. In this very difficult task of making a compromise between these factors, the wisdom, knowledge and experience of our leaders have been put to a severe test. On the one side of the picture we have been given a central authority with almost dictatorial powers to ensure security, law and order and to deal with all disruptive forces with a very strong hand. On the other side we have the provisions of Fundamental Rights and the Directive Principles which is observed and worked out in a right spirit, will go a great way to fulfil the aspirations of the people who have been impatiently looking forward for happy and prosperous days after the shackles of foreign yoke have been cut as under.

But if the principles embodied in the Constitution fail to bring about the anticipated results, that failure must be attributed to the lack of skill to handle the machine and not to the machine itself. A weak, inefficient, tactless administration is incapable of delivering the goods even with the best form of constitution on earth. This Constitution has at its background an administration guided by the great leaders of the country and to my mind, it

is an experiment for at least 10 years.

I must, however, say that the Directive Principles which aim at the paramount task of nation-building and which are a sort of instrument of instruction from the nation's representatives to the administrators of the country might have been put in a more obligatory form. In its entirety the nation-building scheme envisaged in this Constitution is not as definite and comprehensive as it might well have been. To take for instance, I may mention the provisions regarding education-which place no compulsion on the administration to attain a certain level and standard within a definite period of time-although 'educate' and 'educate' should be the motto of the State in order that democracy may be a success in this country. The same may also be said about the economic pattern of the society as set forth in the Constitution.

But if the task of effecting a balance, I have referred to before, has not been property performed and our leaders have been led more by the exigencies of the situation than by hopeful liberalism, the ultimate appeal will lie with the ballot-box which is the greatest boon that the Constitution has conferred on the people.

I do not deny that the ballot box has many vices and it has been criticised by some as unsuited to the Indian soil. But the pattern of the Constitution we have set forth before us leaves us no escape from the ballot box. It is upto us to rid it of its vices and to learn and teach to use it as a sacred trust. Only if the ballot box remains incorruptible, we have nothing to be afraid of any arbitrary power that may have been conferred on the executive who shall have to serve the masters who hold the box. Criticism has been offered that the proposed system of ballot-box might well have been replaced by basing the Government on the village Panchayat as its unit with a view to ensure a truer and more real form of democracy. I must confess that we have not been able to bring about that revolutionary change for a decentralised government. In spite of the teachings of the great apostle of non-violence and truth, we have not been able to spiritualise our life and thought and politics in a way adequate to conform to a system of decentralised government. But the revolution has yet to come and come when it will, we must have to change this Constitution. But today let us welcome this great achievement and work it in a spirit of faith and hope extending all co-operation to our leaders whose handiwork it is and who may be considered fit to wield it to make the nation strong, prosperous and secure.

Sir, I support the motion for acceptance of the Constitution.

**Shrimati G. Durgabai** (Madras: General: Mr. President, Sir, the speakers who have preceded me have placed before you in a highly learned way an exhaustive analysis of the Constitutional set up which this country is going to have. Sir, I have no intention to repeat them, firstly because I do not claim to have that legal or constitutional wisdom to say anything by way of throwing further light on the points already placed before this House. I also think that at this stage it is better to look forward than look backward and dissect this Constitution in a theoretical way to find out either the merits or the defects of it. Sir, there is only one standard by which we have got to judge this Constitution. The purpose of a democratic constitution is to find a device and to establish a machinery to find out the general will of the people and also to give scope for the general will to prevail. Does this Constitution fulfil this object? That is the point to be considered. Sir, with the franchise extended to all the adults, and with the ample checks provided to control the executive and the Fundamental Rights solemnly guaranteed by this Constitution, I do not think any fair-minded person would say that this Constitution does not fulfil that democratic purpose, that it does not establish the scope and opportunity for the will of the people to dominate in the administration of their affairs. May I say, Sir, that it is not or should not be the purpose of the makers of the Constitution to give the colour of a particular political ideology to the Constitution, and it is well that it is left to the people and the people should be left alone, and they should be the masters to shape the destiny of this country and also to mould their machinery as they like, as long as they hold the field. It would have been wrong on the part of the makers of the Constitution to have given that kind of colour or to put a kind of interpretation of a particular brand of political philosophy to tile provisions that are embodied in this Constitution. What the Constitution should do is to give the people sufficient and free scope to canvass their own particular brand of ideology and give them the means to make their own opinions prevail as long as they have got a voice in the administration of the country.

Sir, it is possible for a socialist to complain that the principles of his own party do not find a place in this Constitution. But ours is a Constitution which is neither a socialist Constitution, or a communist Constitution, or even for the matter of that, a Panchayat Raj Constitution. It is a people's Constitution and a Constitution which gives free and ample scope to the people of India to make experiments in socialism or any other ism in which they believe would make this country prosperous and happy. It would have been wrong on the part of the makers of the Constitution to have introduced their own political philosophy, and they have done well in making this Constitution, as I say, a cent per cent. people's Constitution, and leaving it at that.

In their own wild disappointment, some unkind critics have described this

Constitution as no better than "the Motor Vehicles Taxation Act". That, Sir, is very cheap criticism, I should say. Does this Constitution which for the first time gives adult franchise, for the first time guarantees the Fundamental Rights, and which has amazingly succeeded in blotting out the hundreds of patches of this country and made it a strong and united country, does this Constitution stand on a part with the Motor Vehicles Taxation act? Certainly, as I have said that is a way of criticising this Constitution which is a very cheap way.

Sir, I will not deal with the various constitutional safeguards provided in this Constitution for a democratic government. It is a subject on which many learned disquisition have been made. As I said we should now look forward and see to shape the future of things, by means of this Constitution. Many have dealt with the pros and cons of adult franchise. It is a very good thing, provided it is exercised in the interest of this country. What should we do to bring about this happy consummation? It is said that adult franchise unleashes vast forces which may not work in the interest of national good, but which may work in sectional interests. Sir, it depends upon the leaders who are going to take charge of the destinies of our country and of the new set up to create sufficient safeguards against such an abuse. I do not imagine the problem is so difficult as we think it to be, if we only make, in the first instance, membership of this house the membership of Parliament, not a position of unusual prestige or of position and power, but a post of duty and of heavy responsibility, a post of duty and very hard and efficient work. It is only then that many of the defects of parliamentary democracy will be automatically solved. Can we not devise a method by which the elected representatives would be looked upon, not as belonging to a privileged class, but as persons discharging a heavy responsibility and duties over and above, and in addition to talking which is what we are doing now. As long as we maintain the status quo with regard to the position of the representatives of the people there will be that scramble for seats in Parliament and the consequent scramble for power. Only when we are convinced and make others also relies that the position of an elected representative is not merely a position of luck or prestige, but a place of duty and hard and efficient work, only then will there be the necessary restraint in the matter of the choice of the representatives.

Sir, I will not take up much of the time of the House but will only mention one feature which appears to me to distinguish the Constitution from the American type of constitution, and that is with regard to the judiciary. Although this Constitution is of the federal type there is not a double chain of courts created in this country, that is, one set to administer the federal laws and another set to administer the laws made by the State. All the courts form a single hierarchy, at the head of which is the Supreme

Court. Immediate below the Supreme Court there are the various State High Courts and below them the subordinate Courts of the States. But every court of the chain, subject to the usual pecuniary and other local limits, will administer the laws of the country, whether made by Parliament or the Legislature of the State.

Sir, there are several other kinds of criticisms made against this Constitution, but I have not got time because I have to accommodate other colleagues of mine, as the President has already said.

Sir, I would just mention one or two points. It is said that there is nothing Gandhian in this Constitution. Look at the Chapter on Fundamental Rights. It has always been criticised in the House and some of the attacks have been bitter, that the Fundamental Rights are not worth the paper on which they are written. It is supposed that because the Fundamental Rights are hedged in by certain restrictions they are absolute trash? These restrictions on the Fundamental Rights are completely in consonance and in accord with well recognised restrictions in the whole jurisprudence not only of this country but of the whole world and the constitutions of various countries. The rights should not be absolute.

I have also heard the criticism that this Constitution has not laid down the duties of the citizen. It has laid down only the rights. I do not want to say much on the restrictions which have been placed on the Fundamental Rights. While claiming his rights under the Constitution the citizen should as well remember that he has got an obligation and a duty to the State, from which he expects his rights or his protection.

Look at the Chapter on Directive Principles of State Policy. It is said that they are just merely principles which are not enforceable through the courts of law. Constitutional declarations of social and economic policies of the State are becoming a common practice and it is not even unknown to ancient India. Artha Shastra mentions an injunction to the King in these terms:

"The king shall provide the orphan, he dying, the infirm, the afflicted, the helpless with maintenance He shall also provide subsistence to the helpless and the expectant mothers and to the children they give birth to."

This is basic injunction of the Artha Shastra, which the King has no option but to obey and it could form the guiding principle of our Government both at the Centre and in the States.

I do not want to deal with the criticism that this Constitution which is a

republican Constitution cannot work well within the Commonwealth, which we have chosen to be part of. From many sources we have heard this criticism. I do not want to deal with it at length but would only say a word. I do not think it is an insurmountable difficulty. I would mention again that it is not unknown in ancient India, because the republic of Licchavis is mentioned as having a form of membership or partnership with the empire of Chandragupta. These two names are inscribed on the imperial coins. Berriedale that in the commonwealth if there was no room for the republics to work then the enduring character of the Commonwealth itself was of a doubtful nature. Therefore it would be well that we recognised certain authorities for this purpose of working together. Therefore, it need not be thought that this would constitute any difficulty.

Last but not least I want to say that I have just read the decision of the Government of India this morning in the papers that they have created facilities to bring about the Andhra Province at an early date. They have done well in leaving the details to be worked out by a Partition Council and that the Centre would not interfere with them. I am very glad about it and I hope that the Partition Council which might be created will not do anything that is injurious to the peaceful and quiet life which the people are enjoying hitherto.

**Dr. V. Subramaniam** (Madras: General): Mr. President, in the Draft Constitution of India which we are going to adopt within a few days, we have only peg-marked the path for the construction of the road through which the ship of State should sail. The ship will be steered by the new Prime Minister of India on which there will be about 500 MPs as sailors. It is the duty of the President of the Republic of India to guide us all to the destination. The destination is contained in the Preamble. With the Preamble as our goal we are fixing 395 articles as peg-marks. The regular road is to be constructed by the future parliamentarians. By the wisdom and foresight of our leaders and with the help and co-operation of the honourable Members we were able to trace out a plan foreseeing the difficulties ahead and utilising the experience of other nations. Let us pray to the Almighty to give us sufficient strength and wisdom to steer the ship away from all the invisible obstacles.

We are to begin our journey on the 26th January 1950 when we will resolve ourselves to carry out the Constitution in letter and spirit for the good of the people. Equally so the people must also realise their duty to the State and work shoulder to shoulder with the State. The provisions contained in the Fundamental Rights and Directive Principles of State Policy are ample evidences for the guarantee to the people.

Our old structure of society, as enunciated by the seers of our land was

based on the varna and Dharma or duty that each varna must do. Now that all varnas have gone out of the work allotted for them, owing to the powerful cause of Time, "Kal", society wants a change in its structure so that people can select their own professions according to their tastes and get equal opportunities in the social, economic and political life. Further, modern society wants to make no distinction between man and man by births or status. These changes we were not able to bring about for the last many centuries. Now that alien rule has been eliminated, we give this Constitution to ourselves.

Constitutions of countries were generally framed immediately after revolutions or wars. We in India were fortunate to frame our Constitution almost in a normal atmosphere except for some troubles created as a result of the partition of the country. At this juncture, I bow my head in reverence to the Father of the Nation for his unique leadership, through whose ideals we were able to reach this stage. I think our Constitution will work well in due course. It is not wise to criticise it at the start itself.

The one thing that the future State should concentrate on, if they want to build an ideal India, is upon the building up of the individual in the State. If the individual is perfect then the State also become perfect. It will take a long time. A government conducted by an individual or group of individuals who are perfect both in thought and deed is Ram Rajya, a Rajya dreamt of by Mahatmaji.

In this Constitution I find a lacuna. There is no provision for creating a new era just like "Salivahana Sakapatha". Now it is Salivahana year 1872 and Kali 5051. So my desire is that soon after the birth of this Constitution for all State purposes we must open the Gandhian era as the first year, the date being the date of day when Mahatmaji was assassinated. Either Gandhiji's date of birth or death must deserve a new era.

The predominant feature of the Gandhian era would be the importance of the individual as against the State. Gandhi in all his writings and speeches emphasised the need to create conditions for the development of the personality of the individuals who constituted the State. This he visualised as possible only under conditions of complete decentralisation of power-political as well as economic. I cannot but share the views of some of my colleagues here that this Constitution has not aimed at bringing about such conditions in our country. Political power has been so much centralised as to endanger the prospects of economic decentralisation so necessary for the development of the human personality of our people.

With these observations, I support the motion before us.

**Shri K. M. Jedhe** (Bombay: General): Mr. President, Sir, I stand here to congratulate Dr. Ambedkar and his colleagues for having taken great pains in framing India's new Constitution. We have spent nearly three years and now we are completing our great work. Some Members while congratulating Dr. Ambedkar have called him the present Manu. I am certain that he would not like this appellation. I know he hates Manu who has created four castes, the lowest of which is the untouchable class. I remember that he has publicly burnt Manu Smrithi in the huge meeting of the untouchables at Mohad in 1929. He is the great leader of the Harijans and is greatly extolled by them as their champion and is worshipped as an idol. They are very proud of him. They call him Bhim and make it known to the public that he has framed Bhim Smrithi. I also call it Bhim Smrithi though I belong to the Sprasya Class. Dr. Ambedkar is a great lawyer and a man of great ability and intellect; nobody will doubt that. Untouchability has been removed by law and while framing the Constitution, Dr. Ambedkar was very keen and earnest in safeguarding the interests of the Harijans. All Harijans must be grateful to him. At the same time, we must also be grateful to our country's Father, Mahatma Gandhi, who gave us independence. He was a great soul who made, great efforts during his life time to remove untouchability. His great wish was to bring the Harijans to the level of touchable. He is not among us to see his great wish fulfilled and bless us, because he fell a victim to a cruel and villainous plot.

I must also congratulate Sardar Vallabhbhai Patel for having achieved the unification of India. He is strong and resolute, strict and stern, while administering public justice. he has brought low to level ground the Indian princes who were a great impediment to India's swaraj movement at the time of the British Government, but now they are crestfallen. Now India is one and the whole credit goes to Sardar Patel. Here I must express my great respect and reverence for him.

The Constitution which is nearly complete has made the Centre too strong and much of the owners of the Provinces has been curtailed. The centre has become the great king and the provinces its dependencies. We get adult franchise and for this we must congratulate ourselves. Many have shed tears for having extended the franchise to all men and women above the age of 21. Their whole argument, which is selfish, is that the people of this country are ignorant and uneducated, but the whole blame goes to the upper class, because they have kept the people ignorant for the selfish ends. No one will be deprived of his right of franchise if we want democracy, the rule of the people. We are told that democracy is embodied in the new Constitution. The Constitution has vested great powers in the hands of the

President and I am under great apprehension that there will be a dictatorial rule instead of democracy and that the Fascist mentality will grow as the Centre is made strong. However, we are to see how our new Constitution works and satisfies the people.

We cherished great hopes that along with the Andhra Province, Samyuktha Maharashtra would come into existence with the beginning of the new Constitution, but in this we Maharashtrians were greatly disappointed. Andhra Members got their province separate and for this we must congratulate and praise them for their united efforts. We Maharashtrians were asking for separate Marathi-speaking province-Samyuktha Maharashtra including Bombay-but we did not get it because we were not one. Some C. P. Members were for Maha Vidarbh and Bombay Provincial Congress Committee was for Bombay to be a separate unit. Sir, we do not want Maharashtra to be divided. We are willing to remain in the Bombay Presidency for some years more. We still hope that Samyuktha Maharashtra will be created along with Bombay city. We have patience to wait and we hope that we will get Maharashtra as we demand. In this I will be supported by Shankarrao Deo and Kakasaheb Gadgil.

Sir, I have done.

**Shri Satis Chandra Samanta** (West Bengal: General): Mr. President, Sir, before I begin my speech, I want to tender my heartfelt offering of homage to those who sacrificed their lives, liberties and all the pleasures of their lives for the country, as a result of which we have become independent. Soon after independence we started framing the Constitution and we are now at its completion. This Constitution which we are going to present to ourselves is based on democracy. The world is after democracy and we are also following the same path. According to Abraham Lincoln, democracy means the Government of the people, by the people, for the people. We have framed our Constitution according to that principle. We have been selected to come here in a democratic way and we have framed this Constitution according to the best of our knowledge. In spite of personal points of difference, we have accepted the verdict of the majority; if we now go into the merits or demerits of the Constitution, nothing will be gained.

Now, as regards the Constitution, I may refer to the fact that on 29th July 1934, the Congress demanded the constitution of a Constituent Assembly. The then British rulers did not grant our demand. Now, through our sacrifices and efforts, we have constituted our own Constituent Assembly. This Constitution we are going to give to ourselves is a thing which is for us to adopt and work in a true spirit. We the people of India have framed it and if there be any defect in it, we should accept it and not

grumble about it; because the people of India and their representatives who have framed it are what they are, it will go on.

So we having nothing to grumble. My friends have gone into the merits and demerits of the Constitution. I admit there are demerits, but now we cannot escape those demerits. I am one of those who can express joy over the framing of this Constitution, as a Member of this Constituent Assembly, because the fundamental things which we want are there in this Constitution. In spite of the defects that this Constitution contains, we who are the framers of this Constitution should try to execute the articles thereof in the proper spirit for the welfare of the country. If we do not take that trouble and that responsibility, we will not be doing our duty. So, whatever defects the Constitution may have, much will depend upon the way in which it is worked. I would therefore urge upon the framers of this Constitution, the Members of this Assembly to explain its provisions in their constituencies with in one year from now, before the next general elections and educate the electorate to be worthy citizens of India so that the right men may be elected by them for properly working this Constitution. Unless the electorate has the education to choose real representatives. However good the Constitution may be, it will bring so good to us. I repeat this request to the present Government also to educate the electorate by introducing compulsory adult education within the next year so that this Constitution may bring about the desired effect.

Sir, I want to say a word about adult franchise. As one who is a villager and a common man, I know the defects of the villagers. Unless we give them opportunities to know what they are, they will never rise. There have been good men and there are still good men in the villages. If real responsibility is given to them, every one of them will prove his worth and this Constitution can be worked successfully.

Sir, I moved an amendment seeking to bring the village panchayats under the Fundamental Rights. They have, however, been brought under the Directive Principles. If the village panchayats are properly constituted as provided in the Directive Principles, the wishes of Mahatma Gandhi could be fulfilled. There are many articles in this Constitution which fulfil the ideals of the Father of the Nation, Mahatma Gandhi. Those ideals should be fulfilled.

Lastly, I would request one and all not to criticise the Constitution, but to give effect to its provisions with a spirit of service so that the wishes of the Father of the Nation may be fulfilled. With these words I conclude:

**Kaka Bhagwant Roy** (Patiala and East Punjab State Union): *[Mr. President, a large number of my honourable Friends have expressed

different views regarding the very Constitution which they have themselves framed. This has confused me and has also given me pleasure. So far as I am concerned, I foresee the basis of revolution in this Constitution. After years of political struggle and unparalleled sacrifices, India attained independence and the Constituent Assembly of free India was constituted. A wave of enthusiasm overtook India. But the people of the States only looked towards this great Assembly with hopes in their eyes. As the time marched, the map of India's beautiful future became clearer to Indian people. The States subjects got rid of the despotic rule. Small States were dissolved and went into Unions. In a big country like India they were given equal share. The Indian people were given the right to constitute their own government by their own votes. In truth it can be said that for the future the reins of the Government have been entrusted to the Indian people. It appears to me that in the history of this ancient country this is the first revolution of its kind when power has been snatched from the hands of Rajas, Maharajas and their courtiers and has been placed in the hands of the people and when rulers' birth right to rule has been nullified. Now it is the duty of the people to consolidate this change and to infuse life by their good actions in this Constitution which is based on beautiful ideas. I am aware of the responsibilities of the people and their leaders. Our countrymen are innocent and illiterate. Different people and different bodies will play with their sentiments by their own tactics. But its duration will be short. I am fear-stricken. With the enforcement of this Constitution the ignored people of the country will raise their heads with the help of natural force and will acquire the rights of which they were deprived for centuries together and that great revolution which lies implicit in the Constitution and looks like a dream, will reveal itself in its true colour. That map which our beloved leader (Respected Gandhiji) kept in mind while engaged in the political struggle will be in its prime of youth. And those very stories which we have been hearing and reading of our country's knowledge, civilization, culture, wealth and prosperity will become a reality and will give to the world the message of happiness, love and beauty. In the Constitution, reference has been made regarding the Harijans. Whenever we debated on this subject in this House and whenever its necessity was felt, I hanged my head with shame. I would like to say that those who called themselves of higher castes have perpetrated brutalities on this community and by giving them bad names based on the nature of their professions throughout the centuries. I cannot understand how those who have praised India and Indians have done so? That country is very low and mean in which discrimination has been made and is being made between man and man. For centuries together the untouchables and the Harijans of India have been so badly downtrodden that they cannot be compensated even if the reins of Indian Government are handed over to them. In this age of progress a day will dawn when the future generations will read about untouchability and the needs of our

forefathers will make them hang their heads in shame. In this connection I would like to say that the centuries old communalism which had dominated the Indian mind in some shape or the other, and everything was measured in accordance with this maxim, so much so that even water was given a Hindu as well as a Muslim name. This ancient land was partitioned and two years ago Hindus, Sikhs and Muslims became the victims of this communalism and the creation of God was sacrificed at its alter. By putting an end to this communalism once for all, politics and religion have been divorced from each other. So far as the Provinces and the Centre are concerned, it has been seen that Centre has been made very strong and powerful. It is but proper that the Central Government of such a big country must be very strong as history shows, whenever the Centre was weak the Governors of the Provinces rose in rebellion, and unfurled their own flags. I cannot help saying that the Englishmen, for the first time united the country and ushered in a strong Central Government and brought home to every Indian the feeling that he was an India. But we have been bred in such a narrow atmosphere for centuries that even today I feel that we think in terms of provinces and communities and not in terms of India as a whole. I admit that, hand in hand with the Centre all the parts of the country must be strong. Because until and unless all the parts of the body are not strong mentally, physically and spiritually, the body as a whole, can never be strong. But in order to take work from all parts there should be a brain in the centre which should handle all the parts properly and justly and afford opportunities to all for proper development. This should be the shape of our Centre and the Provinces.

Lastly, as a representative of the State, I am indebted to the beloved President of this Assembly, Dr. Rajendra Prasad, as the States have been given equal share in the Constitution and that the position of the States have been placed at par with other Provinces. Now I must thank our beloved leader Sardar Patel who with a strong hand and in an appreciable way has snatched the power from the Rajas and has entrusted it to the people. Having spelt the doom of centuries old system, the Princes and the people have been brought in one line. Sir, I see in this Constitution that the despotic rule has come to an end for ever and the day of popular rule has dawned.]*

**Shri Jaipal Singh** (Bihar: General): Mr. President, Sir, may I venture to ignore your counsel against repetition and add my own tribute, unqualified tribute, for the tremendous work Dr. Ambedkar and his hard-worked team have put in the making of the new Constitution and also, Sir, may I humbly add, for the inexhaustible patience you yourself have shown in guiding our deliberations. While I record my own thanks to you, Sir, and, to the members of the Drafting Committee, I am not oblivious of the enormous

amount of work, seen and unseen, that has been put in by the Constituent Assembly Secretariat. I think the whole House owes a great deal the highest and to the lowest members of the staff of the Constituent Assembly Secretariat. I know we, M. C. A. s., by virtue of the position we hold in this House, are exacting persons, but they have been diligent and loyal in their services to us and I think we should acknowledge our recognition of the services, willingness and diligence they have shown throughout the time that we have been here. I do hope that the sanctity of the Constitution will, in no way, be lessened by the unemployment of any member of the staff of the Constituent Assembly Secretariat. Personally I would like to see, that, somehow or other, everyone, who has worked with us in the making of the Constitution, is absorbed elsewhere if he cannot be absorbed in the future Secretariat from next year. I do not think, Sir, it is necessary for me to single out any particular section of the Secretariat. We all know how prompt services have been given to us whether they related to the making of accounts or to the supply of petrol or to the providing of suitable accommodation and furniture in our houses or anything like that. Whatever we have asked for has been willingly given us and that also promptly. I feel I must record my own recognition because, as a Member of the Staff and Finance Committee, I know the amount of work they have put in and in recording this recognition I am thinking more of the people whose work is unseen, people who happen to work in the upper stories of the Council House and not merely the people whose faces we are accustomed to see every day.

Sir, I do not think it is necessary for me to say anything about the Constitution. The constitution has been made by us. I know that some sections individually are not fully satisfied. That is as it should be. No Constitution can please all the different sections of any country, let alone a country like India, but, the overall picture, to my mind, is very satisfactory and not disappointing . I have great faith that this man-made Constitution will succeed if men will be genuine and generous enough in the working of the Constitution. After all, the various potential facets of this Constitution may be disturbing at this stage. There is potentiality for the new Constitution being democratic. There is also the other aspect, rather disconcerting, of the Constitution being converted into a totalitarian administration. Everything is there. It is for us men to make this what we want it to be. There is that flexibility. It is not the written word that matters. It is the life that we put into that written word that will count in the long run.

I know there are many things regarding Adibasis that are not writ in the Constitution. For example, we do not know yet, Sir, how the President is going to treat the question of scheduling of the areas. We do not know, for example, what kind of inventory of the various Scheduled Tribes, will be

made. We do not Know yet as to whether there will be co-ordinated administration from the Centre so that the work in the various provinces, where we have Scheduled Tribes, will be regulated and directed. None of these things are mentioned and yet I have faith enough to say that I am looking forward to a great future for the Scheduled Tribes, as well as for others, because, it would be for us to make or mar the future of our country, to make or mar the Constitution. Sir, it is in that great faith I give my unqualified support to the Constitution.

**Shri A. Thanu Pillai** (Travancore State): Mr. President, Sir, we are now coming to the close of a very important task. We are adopting finally the Constitution for a very great country with an unbroken past, which few other countries can claim and that devoutedly-wished for future which is to satisfy the aspirations embodied in the Chapters on Fundamental Rights and the Directive Principles of State Policy.

Sir, the articles have all been discussed at full length at the second reading stage and the criticisms have been fully answered by no less an advocate than Dr. Ambedkar and we have come to the end of our labours. I think, Sir, that Adult Franchise, in spite of the objections that may be raised against it, is really the core of our Constitution and it is but just and right that we have adopted it. I am really surprised that even today objections are raised to Adult Franchise. Not only from the stand-point of democratic principles but from the facts of the situation in the country, it is clearly indispensable. We must look at the temper of the nation today. Will anything other than adult franchise satisfy the people? I am definitely of the view that nothing short of it could have formed the basis of our Constitution.

Now, Sir, I have very little time allowed to me and I am now chiefly interested only in pointing out a few things which should be kept in view in implementing the Constitution. I fully agree with Mr. Santhanam who said that the contents of the Constitution should be made familiar to the entire country and elections should be held as early as possible. Sir, various defects have been pointed out but I agree with the general view that the control of affairs of our nation is now sought to be placed in the hands of the people themselves. But that should be done as early as possible. Any delay may be even dangerous and in regard to elections, Sir, there are various difficulties. I know from personal experience what an election on the basis of adult franchise is, but I must point out one fact to this House; there is no question of my being misunderstood-an election on the basis of adult franchise should be a real election; it should be a free election and everything should be done by all parties concerned, political leaders, leaders of parties, those that are in Governments today to see that the elections on adult franchise basis are really free. Sir, I know that even under Congress

Governments, elections are not free today. We have got the legacy of mis-conduct on the part of officers of Governments in the past. The previous Governments in some parts of the country, at any rate, indulged in all manner of vagaries and unfair means in bringing about results favourable to candidates whom they liked in elections and in some places even now in elections, conducted by Congress Governments, I am very sorry to have to point out that the same policy is pursued. It is the duty of whoever is in power to see-and the Central Government should particularly see that elections are free. I am very glad that under the new Constitution power placed in the hands of the Centre to see to this; that is to say, the Election Commission is to be appointed by the Central Government and the full control of elections, the preparation of rolls, the way in which election disputes are dealt with,-all this has to be attended to by that Commission appointed by the Centre. However, much I may differ from the general view that has been adopted in framing the Constitution that the powers of the Centre should be, as extensive and those of the units as restricted as possible,-I agree in this that provision should be made to ensure that the elections are free.

Now there are various complaints against the Congress Governments that the Governments are not doing anything for the people, that the Governments are not above corruption and so on. The effective answer to these complaints will be to place power in the hands of the people themselves and do it an effective and proper way. Then the responsibility will be on the people themselves. This result can be really achieved only if the elections are free. Government power and the advantages accruing to a party from being in power should not in any way, be made use of for securing favourable results in elections. If this principle is ignored, the result will be negation of democracy. The present Government, not being the result of elections on the basis of adult franchise cannot be said to be a people's government in the full sense of the term, but we should have such a Government as early as possible.

Now, Sir, I wish to refer to one or two other matters. In regard to the formation of provinces on a linguistic basis, my view is-it may be taken for what is worth-that language is made too much of in the formation of provinces. No doubt, language has a part to play in administration but it is not everything. There are other equally vital and important considerations to be taken into account in forming new provinces. For instance in regard to the proposal by some that Cochin and Travancore along Malabar should be formed into a Kerala Province, I ask people responsible for it to examine the matter as to how far that area by itself would form an economically sound unit. Look at the economic aspect of the matter also and see whether it is that kind of province with inadequate resources that we should form in the

future or whether, if a change in the present set up is necessary, that area should be merged with the other districts of the Madras province so that a compact strong and resourceful South Indian State may emerge. I place this for the consideration of all those who are interested in this question. Sir, it is now said that the Tamils do not want the Malayalees in their province and the Malayalees cannot get on with the Tamils. If that is the view people take how is the Union of India to be maintained? As a result of the idea of linguistic provinces a situation has arisen in which people say they cannot get on with others who speak languages different from their own. I fail to see any reason is this. In my own State there are Tamils and Malayalees and we are getting on well together. This loud cry of linguistic province now begins to create difficulties. I want those that are responsible to take a sober view of the mater and look at the real issues involved.

Now, Sir, in regard to the question of language itself I have got a few suggestions to make. I am very glad that in the Constitution a provision has been made that Hindi may be adopted as the official language of any State. My point is this. I want to place great emphasis on that provision and to suggest that even though a province is not a Hindi-speaking province, for governmental purposes at the higher levels of administrative work Hindi should be adopted. Hindi should be given the place that English occupies today, in our national political life. I know my opinion may not be generally accepted in non Hindi-speaking provinces and States. I find before me eminent persons who are in control of educational affairs who have taken the view that the regional languages must be adopted as the official language in the States and Provinces. I take a different view, Sir. I want Hindi to be enthroned in the place English occupies today when English is to go. We must no forget the fact that whatever our differences with Englishmen, they have conferred on us a great blessing. How are we here today? How am I able to be understood by you and how can I understand you? It is because of the common language; it is not because it is english, it is because of the commonness of that language so far as our country today is concerned. I am thinking of having an Indian language and that language can only be Hindi today and, therefore Hindi should be given that place. Sir, you just consider how many common matters we shall have to deal with in the future. If a man from Travancore or Tamilnad wishes to come here to transact business, he must know Hindi. It may be a research institute, it may be an all India Conference; if one wants to take part in any of these, one must know Hindi. There are one-thousand and one other things of common interest. The legislature here must be composed of Hindi knowing men. What about the legislature in the Tamilnad? Why not everybody try to know Hindi? Hindi must be made a compulsory subject of study throughout the country. At any rate, Hindi should be given the place that English occupies today. Not that I want that English should be banished. Our

children are capable of learning three languages : Hindi, English and the mother tongue. Anyway, this is my view. Some people say that unless you carry on the administration in Tamiland in Tamil, the villagers will not understand you and the administration of Madras will become impossible. I differ from this view. So far as the villagers are concerned, you can issue instructions, you can issue orders, in the language known to him. So far as the higher levels of administrative work are concerned, in the provincial secretariat, you must have Hindi. Otherwise, the whole country will find itself at a great disadvantage and will experience great difficulty and the administration will be practically impossible. I would have taken more time of the House on this question but I do not want to go against your directions.

There is one other matter which I would like to touch upon. The Centre is given immense power. Personally, I feel that the Centre has been given too much power. There must have been a conviction in the minds of those that are responsible for the shaping of these provisions that the centre will always be unerring and infallible and the province are likely to err. It is on this basis that the whole superstructure is built. I differ from this view. The Provinces are as capable of taking care of themselves as the Centre and that fact must be recognised.

I would only mention one or two points. Take legislation. In all important matters, Central legislation must prevail whether the subject is in the Concurrent List or in the Central List. I must bring to the notice of this House and of those that are responsible for future legislation that in some parts of India progress has been made in some directions which has not been made throughout the country or in the major provinces. I may refer to the abolition of the death penalty in Travancore. That is a matter for serious consideration. On the 26th of January 1950, a Travancore culprit who is guilty of murder stands the chance of being hanged. Till then, he is free from that. Not that I want to help the murderer; it is a humane law that we have adopted, and there is very strong opinion in favour of that. Are we to go back? Can we do otherwise than going back to the hangman? We have to go back to the hangman on the 26th of January. What I want you to remember is that you should patiently consider the progress made even in small parts of the country and no legislation should have the effect of undoing the good that has already been done. Uniformity should not lead to retrogression. The higher standards reached in any parts of the country should adopted in respect of the whole country. I may also mention one other thing. This is particularly relevant now because the Hindu Code Bill is before the legislature. In our place, among the Marumakathayees, the personal law, the family law, the law of marriage and so forth is such.....

**Shri L. krishnaswami Bharathi** (Madras : General): We are not now discussing the Hindi Code Bill here.

**Shri A. Thanu Pillai** : I am not discussing that; I am only referring to that Bill to illustrate a point and I think I am perfectly within my rights in doing that. What I wanted to say is, our law is more progressive from the point of view of modern conceptions of life, and if we are to go back to the ancient Hindu Law with its narrow religious basis, the result will be unfortunate. If you wish to provide for a common civil code for India, that must be in consonance with modern advanced conceptions of life. Our women are free; our marriage laws are in consonance with the up-to-date concepts of social existence. Have we go to back to conceptions unacceptable in the modern world? I want only the future legislature to consider these aspects of the matter. Not that I want to discuss the Hindu Code Bill here; I have experience enough not to discuss it here. Mr. Bharathi may understand that.

In regard to interference on the part of the Centre, I may just refer to one more point. The Centre should be strong, I agree. But the strength of the Centre does not consist in the number of subjects to be handled by the Centre, but more in the willing co-operation and willing acquiescence of the Provinces and States in what the Centre is doing. That willing co-operation and willing acquiescence, is not to be achieved by tightening the ropes round the necks of the Provinces and units, but by giving ample scope to the units to develop. I am afraid we have made a mistake even with regard to the appointment of the Governor. The Governor is practically a nominal entity; he could have been left to the Provinces to elect.

I do not want to take up more of the time of the House. I hope, any way that all the provisions will be so implemented that there will be as little friction as possible and the Provinces will feel that they have come their own, that they are given freedom to develop themselves and that the Centre will take care to see that feeling is engendered and fostered.

The duty of the Centre is immense. Today I read in the papers that as far as public health is concerned, to combat tuberculosis alone, the Honourable Rajkumari Amrit Kaur wants 400 crores to start with and an annual recurring diseases, of 100 crores. There are, besides, malaria and a hundred other diseases. from the point of view of public health. Take education. You complain against adult franchise. We must educate all our children. How many crores would we require for it? The financial resources of the units are curtailed to the limit. Even a fresh tax they cannot impose; that the Centre alone can do. Under these circumstances, it is the duty of the Centre to see that the country develops. This Constituent Assembly has placed upon the

Centre a burden that it will find difficult to bear. That is the result of the provisions of the Constitution. When the financial resources of the States are so restricted, when everything that may be newly tapped has been left to the Centre, how can you ask the States to develop industries, agriculture, education, public health and improve labour conditions? All the resources are concentrated in the hands of the Centre. The Centre has therefore the duty to find funds for national development in all directions. I hope the Centre, will be equal to the task and our country will proceed from progress to progress and Constitution that we are now enacting will pave the way for the glorious India that we have in view.

One more word, Sir. It is said that this Constitution is inelastic. It is not. No doubt, certain provisions could have been better framed. Even in regard to personal liberty, what I find is that article 22 gives the power to formulate the in that regard to the legislature, that means, that means, the representatives of the entire people. You may pass any law that you like. I do not overlook the fact that the amendment of the Constitution in regard to certain matters require the consent of a two-thirds majority and of a majority of the legislatures of the States. How these provisions will be worked, how they would avoid friction, how they will be allowed to function smoothly, all that will largely depend upon the spirit of co-operation between the Centre and the units.

In conclusion, Sir, from what I have been able to see of the procedure of this Assembly, I must tell you I am amazed at the patience you have been showing. Even if it be a question of our communication with the Moon, if the rules permitted it, you were prepared to put it to the vote. (2) This was the extent of patience that we witnessed here on your part. I must also be permitted to add one word of thankfulness to all those concerned, for the ability of Dr. Ambedkar and Mr. Alladi Krishnaswami Ayyar, for the extreme interest that Mr. T. T. Krishnamachari and Mr. Santhanam and others took in the framing of the Constitution - when I mention a few of these names, it does not mean that there are other names to be mentioned. Everybody concerned has functioned well. Let us hope that this occasion will be recorded in the annals of our history as the occasion when the Constitution was framed which led to the fame and glory of the country, to plenty and prosperity, to contentment and peace. Let us always remember with gratitude the great man who, though not with us in body, is really now guiding our destinies by his writings and speeches, and by the inspiration that he was able to spread by is life throughout the land and throughout the world. Let ours be the country which will spread peace and good-will among the nations of the world.

Thank you, Sir.

**Shri O. V. Alagesan** (Madras : General) : Mr. President, Sir, the Drafting Committee and all those that have been connected with its labour have been rightly congratulated and we are sure to miss the stentorian voice of Dr. Ambedkar explaining in a crystal clear manner the provisions of the Constitution and also the shrill voice of my Friend Mr. T. T. Krishnamachari whose contribution to the making of this Constitution everybody acknowledges.

Sir, one of the criticisms against the Constitution is its lengthiness. In having precedents there is advantage as well as disadvantage. It is advantageous because it show one way. It is disadvantageous because it binds us down to a certain extent and our initiative is to that extent restricted. The Government of India Act was no doubt the precedent in this connection and it will not be wrong to say that our Constitution has been a glorified edition of the Government of India Act - of course, with this difference that under that Act the power rested with the British people whereas here the Indian people are the sole masters. In our country we are used to the long epics, Ramayana and Mahabharatha, and so it is in keeping with the traditions of this country that we are having this epic of a Constitution. If I may be permitted to say so, the Drafting Committee to a certain extent is responsible for the lengthiness of this document. They in their wisdom wanted to provide for everything and they did not want to leave anything for posterity. They tried to provide against every difficulty that may arise in the future. Like an artist who draws and re-draws to make a perfect picture, the Drafting Committee went on adding, amending and omitting to make a perfect Constitution emboldened by the indulgence shown to them by this House. As a result, we are having a lengthy document which is full of details which can very well have been left to the future Parliament.

Again there is the criticism that we took too much time for making this Constitution. It is not right to say that. If we calculate the number of days of that this House actually sat, then it will be found that there had been no waste of time. If anybody has still doubts, we have only to remember Pakistan. They also started Constitution-making with us, though a little later. They have still not made any progress whereas we have finished our Constitution and we are going to put it into effect. That apart there is a more important reason why this period should be considered the minimum period for the making of this Constitution. As one speaker pointed out during this period of three years, time was not standing still. Revolutionary changes or dynamic changes-as the Prime Minister is found of putting - have been taking place. Indian when it was handed over to us was heterogeneous

politically. Then the mighty task of welding this country into one homogeneous political whole, the integrating it economically and financially began and it is still going on and our leaders deserve every credit and congratulations for this achievement of theirs.

When you take all these into consideration, nobody will say that we took more time than is necessary. Not only that: a constitution is expected to embody and preserve the revolution that has preceded its making. In our case, the present Constitution has not only embodied and preserved the revolution that has preceded it but has also crystallised the revolutionary changes that were taking shape simultaneously with its making. Our Constitution is unique in this respect. So we can very well be proud of this Constitution.

At this time when all India rejoices at having got this Constitution, I would request the House to remember the foreign pockets in this country which still disfigure the political map of this land. Sir, they are our kith and kin, brothers and sisters and - when the whole country rejoices, they are unable to share in the general rejoicing. They have been separated from us by an unnatural wall. If I am asked to wait for another six months so that those possessions may be brought within the ambit of this Constitution. I shall very gladly do so and it will not be time wasted. But that is not to be. We have to wait yet. At present, we can only hope that our leaders who have so much achievement to their credit will also take up this question without delay and solve it to our satisfaction and see to the disappearance of the wall that separates Indians from Indians.

Another very serious criticism was that under this Constitution democracy will degenerate into a dictatorship. I do not see any warrant for this assumption. Our own experience given the lie direct to such a fear. We see both in this House and in the provincial legislatures only one party, that is, the Congress Party, that is predominating. The opposition inside the legislatures is unorganized - it is not worth the name of opposition. The opposition parties outside the country function in an irresponsible way. One party that is wedded to violence and sabotage wants to create chaos in the country so that it can somehow capture power. There is another party, though it is not wedded to violence, which being sure that it will not be called upon in the near future to shoulder the burdens of office, is mouthing all sorts of impractical slogans and platitudes and trying to mislead the people. Under these circumstances the temptation for the Congress to behave as a one party dictatorship is very great. But, what do we see? Does the Congress party behave in a dictatorial manner? No. It can be said without any fear of contradiction that if there is one party which, having so much power in its hands, took all the other points of view into consideration

and even accommodated them, it is the Congress Party. Our leaders are having a devotional following in this country. No other leaders had such a backing and such a following in any other country. Our leaders could very well have converted their rule into a dictatorship and there would not have been much objection had they done so. They did not do any such thing. They behaved as perfect democratic leaders. I say, this augurs well for this Constitution and democracy in this country. Democracy will not be endangered under this Constitution and we will not have any dictatorship and there is absolutely no warrant for such a fear. After all nobody can say that democracy can be protected by the written word of the Constitution. Let us take only one example. In the past we had democratic elections both in British India and in French India. Here it was possible for the party in opposition to the government of the day to come in a majority through the ballot-box. In French India also the ballot-box was the arbiter. But there it was never possible for the party which was not backed by the government of the day to capture even a single seat. So it is not as if democracy is protected by what we write in the Constitution. It is more in the working, in the spirit in which it is worked that democracy will be safe rather than by any written safeguards in the Constitution. Looked at that way, we can boldly claim that there will be no room for endangering democracy under this Constitution, and it will work perfectly well. Of course nobody can say that this Constitution is infallible. No Constitution can be perfect - I will go even to the extent of saying that no Constitution need be perfect. Everything lies in the working of the Constitution. The proof of the pudding is in the eating.

There is another criticism that the village as a political unit has not been recognized. I fear that behind the back of this criticism is distrust of adult franchise. What was conceived under the village unit system was that the village voters would be called upon to elect the Panchayats and only the members of the Panchayats were to take part in the elections to the various assemblies, Provincial and Central. But now, it is the village voter himself who will be called upon to weigh the issues before the country and elect his representative, and so he will directly participate in the election. I claim this to be a more progressive arrangement than having village units which elect the electorate indirectly Not only that; it has been said that the genius of this country does not find expression in this Constitution. I do not understand what is concretely meant by this charge. If the genius of this country is to be taken, then we all along had only monarchy. Only the monarchical system was prevalent in this country. But nobody would seriously suggest that we should now go back to the monarchical system. In fact, we are removing the relics of monarchy at present. So, this charge that the genius of the country does not find a place in the Constitution is a meaningless one or rather it is more sentimental than substantial. No

country can claim to have invented all the ideas in the religious and philosophical spheres as well as in the political and social spheres. After all, every country is great in its own way, and one country has to take anything that is good from other countries. Just as the Western countries have to take from us the philosophical and religious thoughts of our ancient wise men, we have to take the political and social institutions from other lands, and there is nothing wrong in it.

Sir, another charge is that this Constitution is full of checks and safeguards, and it curtails freedom of the individual and restricts State autonomy. I do not take it in that light. These safeguards are there only as fences intended to protect the infant freedom and democracy from stray cattle. A tiger cannot say, for instance, that it should be free to kill the lambs and take them away. This is my reply when the cry that civil liberty as in danger is raised and all these provisions are thrown in our face. Though for me and for many others who have known what detention is, the article relating to preventive detention is a bitter pill to swallow, we may expect that that weapon will be very sparingly used and there will be no necessity to use it, unless under very grave emergency, when the stability of the entire society is threatened by subversive elements.

Sir, under this Constitution, the foundations of a secular democracy have been well and truly laid, and if we are true to ourselves and to our traditions, and our leader Mahatma Gandhi, we can safety hope that we will march from progress to progress and convert this Constitution into a blessing for this ancient land.

**Mr. President**: Before adjourning the House, I desire to give to the House an idea of the programme. This afternoon we shall sit for two hours, and I expect all those Members who have not had a chance to speak, to be present here to take their chance then. Tomorrow, in the afternoon, say from three or half-past three, Dr. Ambedkar would speak, and before that one other Member of the Drafting Committee would like to take a little time in dealing with the points which have been raised in the course of the discussion. The rest of the time will be given to other Members to speak, and I hope that between this afternoon and whatever time we can spare tomorrow, I shall be permitted to accommodate everybody who has given his name to me. That can be done if Members prove as reasonable as they have been today.

Then on Saturday morning, I propose to put the motion to vote; and after the motion has been carried, I would authenticate the Constitution here in the presence of this House. But before I put the motion to vote, if the

Members permit me I would like to say a few words.

The House now stands adjourned to.....

**Shri Lakshmi Kanta Maitra** (West Bengal : General) : Authentication means the signature of all the Members?

**Mr. President**. : Not the signature of all the Members. I might just explain. There are certain articles in the Constitution which come into force immediately. The bulk of the Constitution comes into force on the 26th January; so, for enabling work to be done under these articles which come into force immediately, I shall have to authenticate the Constitution day after tomorrow, and I will do that.

It is proposed to have another session of the Assembly, say on the 24th or 25th January and on that day, we shall have the election of the President and I would ask all the Members to sign the Constitution. It is proposed to have by that time, the Constitution ready in a form in which the signature could be taken from the all the members. There was a suggestion that we should have a hand-written copy of the Constitution made. It was pressed upon me by several Members that that should be done, and we are arranging with some calligraphists to have a complete copy by then. And there will also be a printed copy ready, and Members may sign either both or any of the two, whichever they like. It will not be possible to supply to Members a copy with all the signatures them; but we might consider later on, if it is not very expensive affairs, whether we should not be able to supply to each Member a copy of the Constitution bearing all the signatures so that.....

**Shri B. L. Sondhi** (East Punjab : General) : Cannot be the Members pay for it, if they like?

**Mr. President**: We shall bear that also in mind, and if Members are willing to pay, probably the question of cost may not arise.

**Some Honourable Members**: Yes, Sir.

**Shri L. Krishnaswami Bharathi** : What about the suggestion of Mr. Santhanam that all the Members may be supplied with copies of the Constitution signed by you?

**Mr. President**: Well, I do not mind signing about three hundred copies, it does not make much difference, we can do that. But apart from that I was thinking of the copies which would bear the signatures or photographic copy

of the signatures of all the Members, which they may preserve as a memento, if they like.

This is what is arranged at present, and I hope we shall be able to keep to the time-table as also to those proposals which I have just indicated.

The Hose stands adjourned till three o'clock, this afternoon.

_____

The Assembly then adjourned for Lunch till 3 P.M.

_____

The Assembly reassembled after lunch at three P.M. Mr. President (the Honourable Dr. Rajendra Prasad) in the chair.

_____

**Shri L. Krishnaswami Bharathi**: Sir, no period in the history of India has contributed more memorable events than the short space of the past three years. Looking back upon the past three years since we commenced the stupendous task of framing this Constitution, one is bound to be struck by the kaleidoscopic changes that have happened in the history of our country.

Five memorable events of great magnitude and significance marked out this eventful period. To state them *seriatim*, they are: 1. the partition of our country, 2. the achievement of independence, 3. the passing away of Mahatma Gandhi, the Father of the Nation, 4. the integration of what are known as Indian States, and last but not least 5. the setting of the Constitution of Free India.

I do not propose to deal in detail with these matters. A great number of Members have spoken on this Constitution. Some have criticized it and some have praised it. No one has condemned it wholesale, nor has anyone accepted it in full. It is of course not possible to get the unanimous approval of the whole House, constituted as it is. But, Sir, I think we can claim that this Constitution represents the greatest measure of agreement amongst the Members.

This Constitution contains some special and redeeming features, but if it is to be judged from the fundamental basis of Gandhian ideology, I must confess that it falls for short of it. It is perhaps wrong to say that it has

totally ignored Gandhiji's ideology, but I am clearly of the view that the approach of this Constitution to the basic and fundamental principle of Gandhism is half-hearted, halting and hesitant.

Time forbids me to go into detail. Let me, however, mention a few illustrations. The removal of the charkha from the National Flag is one such. I know that Mahatma Gandhi did not reconcile himself to the change till his death. Secondly, Gandhiji's idea of decentralisation of democracy has not been given effect to. The Gandhian ideal of economic self-sufficiency in regard to the prime necessities of life - food and cloth - at the village level has not been incorporated nor emphasised. Thirdly, the high salary of officials is totally opposed to the Gandhian viewpoint. Fourthly, salt duty has not been prohibited constitutionally. Last but not least, Gandhiji's wishes in regard to the State language have been ignored. I do not proposed to go into these matters in detail.

I would, however, like to say a few words in regard to the language question. Although I am glad that the Assembly has unanimously accepted it, the resolution in regard to State language is - to use the Shakespearean double superlative - "the most unkindest cut of all". I very much regret that we have not been able to accept the guidance of Mahatma Gandhi in this regard. Gandhiji's definition of State language was, that it should be a language "commonly spoken and easily understood by the masses in North India", which is neither over-Sanskritized nor over-Persianised, that is to say, Hindi-*plus* -Urdu-Hindustani. I do not know how for this idea is getting implemented by the protagonists of Hindi. My own view is that they are not doing it and are probably going in the opposite direction. I happened to read a very interesting book, which contained much useful information. Grearson, the greatest expert on languages, in his monumental work "Linguistic Survey of India" has made certain very useful and important observations. He is of the view that the language must be developed in terms of the masses. Any attempt at Sanskritization will bring about a rift between the learned and the ordinary people, - a view which was very strongly held by Mahatma Gandhi. He quotes a very old Sanskrit Professor of Benares "Whenever a Hindi author takes pen in hand, he ceases to be sober and is Sanskrit-drunk.". I do not know how for that is correct, but my own personal experience is that the love for Hindi in some of its protagonists is so much that sometimes they overstep the bounds of sobriety. I do not know if we are to congratulate our friends, the protagonists of Hindi and accepting the present name of the State language I owe it to the great linguistic Grearson again for the information that "Hindi" is a Persian word. This may perhaps demonstrate that the protagonists of Hindi are after all not so anti-Urdu or anti-Persian as they are painted to be.

The article on language is the result of serious thought and careful consideration. We have accepted it and we in the South assure you that we will stand by it. India as a nation must have a State language, and of the languages in India, Hindi as defined by Mahatmaji has to that language. There cannot be and should not be two opinions on that matter. But the more important thing is the whole approach to the matter. We in South India are at a disadvantage. It is easy for people in North India to adopt Hindi as the official language, because it happens to be their mother tongue. There is a movement in South resisting the introduction of Hindi, but we must go an explain the people there that this is not going to displace their mother tongue. Mr. Pattam Thanu Pillai referred to the question this morning. I do not know what is happening in Trivandrum, but so far as my part of the country is concerned, I am glad that we have incorporated it in the Constitution that the idea of Hindi and the necessity for its introduction is not to work to the detriment of the regional languages. The regional languages will have full play. We require a common State language only for all-India purposes, and this language can only be Hindi. But this morning Mr. Pattam Thanu Pillai said that they could have Hindi in their own respective spheres. By all means, they can have it in Trivandrum or the United States of Cochin and Travancore.

**Shri P. T. Chacko**: The same is the feeling there also; make no mistake

**Shri L. Krishnaswami Bharathi** : I am glad to be told so. It is but correct and all we can ask for is that whereas Provinces can have their own language, they must function in terms of the whole nation; other languages should not work to be detriment of the interests of the national language. The correspondence for India can only be in Hindi. It cannot be in any other language. Those responsible for administration in Tamilnad, in Andhra Desha etc. can only deal with it in Hindi. Therefore, we will go and tell the people that there is nothing wrong in the adoption of Hindi. By all means, they can develop their own regional languages and work in them, but they must have a national language. There is not going to be a question of imposition. That is the most important thing which my friends from North India have to understand and explain. This is a difficult task. We can explain to the people that there is nothing wrong about it. But the speech of Members like Mr. Pattam Thanu Pillai will give a very wrong impression. We have got to tell them that it is his individual opinion. Another Member from Travancore also says that the feeling in Travancore is the same as I have expressed. I am very clear in my mind that it is not our object to work to the detriment of the mother-tongue nor of the State language.

**Shri A. Thanu Pillai :** I wish to inform my friend that he has misunderstood me, if he took it that I meant to say that Hindi should work

against the interests of the mother- tongue. what I said with that in the higher levels fo the administrative work Hindi should be adopted. that is not what he understood.

**Shri L. Krishnaswami Bharathi**: My own impression is that whenever it is a State language it may work to the detriment though it may not be the intention, of the mother tongue. When English was the State language, it worked to the great detriment of the other languages of India, and in other spheres also it was injurious to the mother tongue. It is only in that sense I said that the effect of introducing Hindi in the administration of the provinces will be detrimental to the mother tongue of the provinces. The idea of the creation of linguistic provinces is to foster the mother tongue of the provinces. Some people think that this is anti-national. I believe on the other hand that this is perfectly consistent with national interests. We work in different areas in the interests of the Congress and we appeal to the people only in the regional languages. The administration must be carried on in the language of the people so that there may be identity of interest and feeling between the Government and the governed. It is in that light I said that we must have regional languages. That is the very basis of the linguistic provinces. This does not mean disintegration or working in provincial or parochial interests.

Then there is the question of the numerals. The solution on this question is one of which we ought to be proud. My honourable Friend Mr. Jaspat Roy Kapoor said that these are English numerals and I interrupted him saying that that it is wrong to call them English numerals any more. They are really Indian numerals. The original of these numerals was Indian. In support of my contention I would refer to the fact that 2,000 years ago, in the Asoka Pillar, in the Nanaghat Inscriptions and in the Nasik caves all these numerals appear. Numerals one, four and six appear in the Asoka Pillar, two, four and seven are found in the Nanaghat Inscriptions and the rest are there cut out in the Nasik caves of the first and second century. All these forms bear considerable resemblance to the present forms of these numerals. To say that they are English is not therefore correct. Mr. Kapoor said that the Members who supported these numerals discovered this fact only after the debate regarding them started. Sir, it may perhaps be of interest to honourable Members to know that our Prime Minister Pandit Jawaharlal Nehru, writing some years ago, has referred to this aspect of the matter. It is very interests. He called the numerals 'Our Indian numerals'. Sir, at page 248....

**Mr. President**: May I remind the honourable Members that if he goes on at this rate it will be very difficult to find time for other Members to have their say.

**Shri L. Krishnaswami Bharathi**: Sir, I will soon finish. The observation of Pandit Nehru in this connection is very interesting. Panditji has said: "The clumsy method of using and counting frame, and the use of Roman and such like numerals, had long retarded progress when the ten Indian numerals,

including the zero sign, liberated the human mind from these restrictions and threw a flood of light on the behaviour of numbers. These number symbols were unique and entirely different from all other symbols that had been in use in other countries. They are common enough today and we take them for granted." Sir, I will take only a few minutes more.

One of the redeeming features of this Constitution is the abolition of the separate electorates. I am glad that this has been made possible with the willing consent of the representative Members of the respective communities. I must particularly congratulate the Members of the Muslim community for agreeing to give up special representation in the legislature. It is no small matter and it is not keeping with the spirit of the times. The question naturally arises how far and to what extent the leaders are our people will give effect to it when the actual working comes. Are we sure that the majority community has shed its communalism so that the candidates belonging to the other communities may be elected without reference to their religion? Future alone can give the answer. I am anxious that the majority community must play the game fair. At the same time there is a heavy responsibility cast on the members of the minority communities to conduct themselves in such a way as to deserve the confidence of the other communities. This is possible only if they merge politically with the rest of the population and not perpetuate communalism by having communal political organisations. I think the time has come for the Muslim League to close down as a political organisation and work on the non-political plane. The organisation must give up its political role. I am sorry that Pakistan is making it difficult for us to create that atmosphere. But, as Mahatma Gandhi has said: Let us not copy them in their bad manners. I hope that the necessary atmosphere will be created so that there will be no political communal organisation to rouse once again communal bitterness. I remember, Sir, that our Government have passed a Resolution to that effect immediately after the death of Mahatma Gandhi. I hope they will implement it and that the people outside will make it impossible for any communal organisation to work on the political plane.

Sir, the question of adult franchise is another redeeming feature of the Constitution. I welcome it. In a country where a large percentage of the people are illiterate, doubts are entertained whether we can trust them to do the right thing. My own experience is that the masses have the instinctive power or habit and intelligence of choosing the right person or the right party. But one is clear that if democracy is to function, it certainly must have a large number of its population literate. Thus only the mind of the masses will be reflected in the Government. But Sir, the elections are not as they ought to be. I have been a candidate at some of the hotly contested elections to the Legislative Assembly and I have won. I have noticed that it

is unfortunate that a large number of people give false votes. False presentation is not rare. A man impersonates 15 to 20 others and thus multiplies the votes. An honourable Member told me about a lady voter that she impersonated 13 lady voters. I have myself heard people saying that they voted in the name of more than a dozen others. That is a very sorry state of affairs. Unless this evil practice is checked, democracy will become meaningless. Such a practice will increase the number of votes any candidate gets, but it will not reflect the true wish and will of the people.

(At this stage, Mr. President rang the bell)

I am finishing, Sir.

**Mr. President**: You have taken more than twenty-five minutes.

**Shri L. Krishnaswami Bharathi**: I am sorry. I will finish soon. I am therefore anxious that polling should be made fool-proof if that is possible. I think it is possible and my suggestion therefore is this : The voters must be given what are known as identification cards, preferably with photos. Well, people may raise all sorts of objections but there is no time for me to touch upon this important matter. If identification cards are given beforehand, no voter can vote for somebody else.

Another suggestion that I would like to make is this. When a voter comes to exercise his vote, immediately after he votes, his fingers should be marked with an indelible mark, which cannot be erased for a day or two. This will show that he has already exercised his vote. These suggestions may be considered.

In conclusion, I feel we could have produced a better Constitution based on Gandhian ideology. Perhaps one must seek solace in the statement that a nation gets what it deserves. I hope, trust and pray, Sir, that the objectives of the Constitution contained in the Preamble will get fully implemented in the working of the Constitution so that peace, prosperity and plenty may rule in this land.

**Shri Ratan Lal Malviya** (C. P. & Berar States) : *[ Mr. President, Sir, many speeches have been made on the Constitution and it is not necessary for me to repeat the points already made. I will, therefore, try to throw light on those aspects of the Constitution which have not been touched as yet.

I am a representative of Chhatisgarh States and as far as the States are concerned I may say with some pride that these States opened a new

chapter in the history of the States. On the 14th and 15th December, 1947 these states were the first among Indian States to merge in India. After that the changes which have taken place in the States during the last two years are known to all. All the five hundred and sixty-two states have been brought to one level.. Either they have been merged or have become Centrally administered areas or have united to form different Unions of States. This has been a great step for the unification of the country. Sir, as regards those states which are Centrally administered, the Centre has taken full responsibility upon itself for their administration and as regards the states which have combined to form unions, there is a provision for them and according to article 371 the responsibility goes to the President himself who will look after them for ten years. Our friends from Mysore and Travancore have criticised this article. It may be that there criticism might have some substance, for before 1947 or before the Constitution of the union, the States of Travancore and Mysore were more advanced than the Provinces. They are educationally and industrially more advanced. They were therefore believed to be more advanced than even the Provinces. Just as my Friend Shri Thanu Pillai has said that under article 371 of the Constitution, the influence of the Central Government in the administration of the Unions might have an adverse effect and instead of raising the cultural and political level of the states to that of the Provinces it might entirely retard the progress of the states. But I would like to point out that this article was very necessary. Excluding the States of Travancore and Mysore, the other states are so under-developed and backward that unless their affairs are controlled by the Central Government for another 10 years, they cannot be expected to make any progress. Hence for the backward states article 371 is salutary and its inclusion is very necessary.

As regards the Merged states, their administration has been handed over to the Provinces under section 290 of the Government of India Act as adopted. Just as article 371 applies to the Unions, so also I would have preferred that for a period of 10 years the same article may have been applied to the Merged states, so that the Central Government could have maintained contact with the conditions of the subjects of those states and also to enable the President to see to their progress.

Sir, I would like to point it out that when I say that the Central Government must keep an eye over the Merged states, I do not mean to censure the Provincial Governments of Bihar, Orissa and C. P. This is in no way a vote of no-confidence against our leaders who are holding the reins of administration there. They are recognized leaders and we have all respect for them, but it is essential that these states should be looked after properly for the present. Whatever has happened during the two years is not consoling and therefore it appears necessary that for some period say for

five or ten years to come, if article 371 cannot be applied to them, at least the President himself should keep an eye over the affairs of the Merged States.

Now I would like to throw light on the States of C. P. particularly as I come from C. P. As regards the States of C. P., Sir, their population is nearly 28 lakhs out of which fourteen and a half lakhs are Adibasis. According to Schedule VI, responsibility of the welfare of these Adibasis would be on the President. I submit that even though these have been merged in this way and even though we can count upon the full sympathy of the Provincial administration as provided for under section 290, the responsibility of the Central administration would also continue to remain. I want to make it clear by giving you an example.

**Mr. President**: *[Perhaps you mean Schedule V.]*

**Shri Ratan Lal Malviya**: *[Yes Sir. By an instance I would like to explain that before article 290 was adopted, we tried hard that our representatives should go to the Provincial Legislatures, but till that article was adopted our representatives could not be taken in the C. P. Assembly. Later on the representatives were nominated to the Provincial Assemblies. It was left necessary to appoint at least one of states' representatives as a minister. From the newspapers I came to know that in Orissa three Ministers were to be appointed. About the C. P. though such news did appear in newspapers, but I am not aware of any steps being taken to appoint one of the representatives of the States of the C. P. as a Minister. I would like to make it clear that whatever I have said here is not a vote of censure against the C. P. Government. Of course. I wanted to say that the present Ministers of the C. P. have not direct relation with the states and in the absence of a direct relation, the difficulties of the states can be attended to after considerable lapse of time. The people of the backward states cannot find seats in the cabinet as they do not have proper representation. Thus it becomes necessary that there must be a Minister from the States of the C. P.

One thing more I would like to point out about the Adibasis. I have already said that there are more than 50 per cent. Adibasis in the C. P. Under the supervision of Shri Thakkar Bapa and through his kind attempts a special scheme has been formulated for them and that scheme has been implemented. But that scheme would prove a success only when, a Minister from the states is taken in the Cabinet and is put in charge of the scheme. I thank Shri Thakkar Bapa for all this.

I want to bring to your notice a fact which is quite fresh, and that is

about Vindhya Pradesh. Vindhya Pradesh adjoins Chhattisgarh, and the boundary of Vindhya Pradesh is about four miles from the place where I live. I am more or less connected with the politics of Vindhya Pradesh of which I have got a good knowledge. Whatever is published about it in the newspapers is known to me. I also know how the political affairs of that state have deteriorated. The area and population of Vindhya Pradesh are so small that it cannot make any progress as a free state. So its merger is essential. So far I know about the people of that place, there are two groups. One is against the merger and their number is very great, the other is in favour of merger and their number is very small. As I have already said, Vindhya Pradesh should be merged. But I learn from the newspapers that Vindhya Pradesh is to be divided. A part of it would go to the U. P. and the rest of the C. P. As far as I can think this is not a good thing. This would create disrespect in them and at the same time restlessness may also prevail there. Hence it would be better to merge Vindhya Pradesh, of course, but such states, which are pocketed states, should be merged in U. P. and the rest of the States should be merged in C. P.

Before I conclude, Sir, my small speech, I consider it my duty to thank you. I cannot also conclude my speech without offering tributes to respected Bapu. It was the result of the co-operation of all of us and it was the result of the blessings of our Bapu that we got freedom and are completing our Constitution. We hope that following his advice our country shall go on progressing and will continue to flourish.]*

**Shri Har Govind Pant** (United provinces : General) : * [Mr. President, I have come here to support the motion of Pandit Ambedkar. I am deliberately using this epithet 'Pandit.' Everyone knows what scholarship Dr. Ambedkar evinced in preparing the draft of the Constitution and in making a logical exposition of its provisions in this House. It can therefore be said that he is worthy of this title. Influenced by his scholarship some of the honourable Members have been pleased to confer on him the title of Manu Bhagwan. We are passing through the *Vaivashwat Manwantar.* A *Manwantar* consists of seventy-two four-yug cycle. We are passing through the twenty-eight cycle of Vaivashwat, the Seventh Manu. To bring in a new Manu in this chain may perhaps create a difficulty. Therefore I think that the title of Up-Manu and not of Manu can be conferred on him. It should also be considered that in framing this Constitution eight 'Manus' have made their contribution and therefore it would not be improper to call them eight 'Up-Manus'.

I believe in the older order and according to it a Manwantar, *i.e.,* the time of one Manu covers a very long period. A *Manwantar* ends when seventy-two four-*yug* cycles are complete. During the period of one Creation there are fourteen Manus. *Kaliyug* alone covers four lakh, thirty-two

thousand years. *Duapar* consists of eight lakh, sixty-four thousand years. *Treta* has a double number of years, *i.e.,* seventeen lakh, twenty-eight thousand years. *Satyug* runs for thirty-four lakh, fifty-six thousand years. Thus the total number of years in one cycle of four-*yugs* is sixty-four lakh, eighty thousand. On the completion of seventy-two four-*yug* cycles, there will be only one *Manwantar.* This is the idea in India of the period of present Creation. This is the time-chart handed over to us by ancient India. It is possible that this correctness may be confirmed by science as it progresses. Eternal though Time is, I do hope that the present Constitution has been framed on the basis of mutual agreement. As I have said, I have come here to support the motion that is before the House at present. Therefore I do not consider it necessary to comment upon it.

As I have said, this Constitution has been prepared on the basis of agreement and we should sincerely strive for its success. According to the ancient order the primary aim of human life is the achievement of four Vargas. I need not say what place has been given to Dharma in our Constitution. When Dharma itself occupies a dubious place, it is all the more unnecessary to speak of *Moksha.* As for the remaining to *Vargas, i.e. Artha* and *Kama,* they have been properly provided for in the Constitution and everyone has been granted an equal right of their achievement. Ancient India accepted that man can achieve his good in both the worlds only through *Dharma.* Shri Vyas Deva says:

'madhvarvahu viroumyevah nahi kashshat chunotimam
dharmadiyarshcha kamashcha sa dharmahkinnasevyate'

(with raised arm I declare it, but no one listen to me, that *Dharma, Artha and Kama* can be achieved through *Dharma.* Why not follow it?)

The happiness of all and the interests of society can be promoted only by following the path of *Dharma.* If we foresake it and go our own way, we cannot make the nation or the individual happy. The extent to which cow-slaughter has been prohibited in the Constitution is only proper. In ancient times the Brahamans had no possessions and considered it unnecessary to secure protection for themselves. They did not consider it their duty to secure safeguards for themselves. Therefore the Constitution provided for their protection. In the present Constitution safeguards have been provided for Scheduled Castes and Tribes for some time. Their protection was necessary because they cannot protect themselves. Therefore we see that there is some similarity in the old Manu Smriti and the present Smriti. The only difference is that in place of 'go brahmana hitaya cha' (For the good of the cow and the Brahman), there is now ' go pariganita hitaya cha' (For the good of the cow and the Scheduled Castes). Therefore the demonstrations

against Manu Smriti were out of place. Anyway, I do not want to say anything more about this matter and want to only emphasis that we should extend full protection to the Constitution which has been framed with the consent of all. We have done a fine thing by including adult franchise in it. A second wealth we have received in the form of Fundamental Rights and a third in the form of abandonment of the system of separate electorates. A fourth wealth we have got in the form of Hindi which has been accepted as the National language. The achievement of these four types of wealths, we can characterise as the achievement of four *Vargas.* We have, no doubt, achieved them but we can utilise them only when we sincerely strive to carry out the decision arrived at by the consent of all. I accept that the South Indians will experience some difficulty in learning Hindi but manliness is proved only by overcoming difficulties. Therefore I wish that all the honourable Members and in fact all of my countrymen should consider it their duty to make all the decisions arrived at this House a great success. Then alone will our country benefit. I would like to add in this connection that it is a matter of pride to us that even though our Constitution is the most voluminous of all the constitutions of the world but never was a division called for at the time of voting on any article whatsoever and no list in connection with division was prepared. I need not mention the names of those who were responsible for its unique feature of this House. I have reverence for them in my heart but if I express it its importance will go. Therefore I would not mention the name of any person in this connection.

We have a unique history of the non-violent struggle for the achievement of our country's freedom. We all know whose efforts have enabled us to witness this occasion. An unparalleled event in the history of the world occurred in this country. Whenever I entered this House I first caught sight of the picture of Mahatma Gandhi. Although this oil painting has been fixed at a particular place but his soul pervades the whole country and the hearts of all of us. All this is due to his penance alone. While looking up to that picture today it appears that it is pointing out that the country because of the greed for small profit has forgotten the Great Dandi March. I regret that we could not come to any clear decision regarding the salt-tax. But I hope that in future the nation will never need to tax salt. There are a number of complains regarding the arrangements for securing salt from Sambar lake. If salt is taxed its prices will increase in far off places.

I have been working with the Congress since 1905. Ever since I entertained the belief that the soul of the Indian nation is awake. When I was a student I read in the papers the accounts of Khudi Ram Bose, Kanhai Lal Datt and other patriots and began to have faith in the immortality of our nation. I am confident that, when in this age to, great men like Mahatma Gandhi can be born among us, the soul of India, the soul of our nation

indeed awake and there is no ground for pessimism. Only we have to work with sincerity. If we are ready to lend our united co-operation to carry out the decision we have arrived at, we are bound to meet success and thereby we shall enhance the prestige of India much more than what it was in ancient times. Just now it was being said that propaganda should be made among the people to explain to them the implications of some special provisions of the Constitution. I would like to say that those who desire to work in this connection have already started the work. I have also done a little work in this direction. I am confronted with one difficulty in this matter. I belong to the Himalaya region which abounds in beautiful sites and sacred placed. The people of other areas very seldom go there. For purposes of pilgrimage also very few people go there and the inhabitants of my area have very little contact with other people. Therefore the country has not been able to understand the importance of my area from the national point of view. Therefore, it is solely our responsibility that we should awaken out people to their duties towards their country. I want to assure you that in spite of the difficulties peculiar to may area we are doing our duty and will continue to do so. You might have learnt from press reports that the Imperialists of China have begun to look greedily at Tibet. Our area is adjacent to Tibet. It is possible that very soon an occasion may arise when we might have to do our duty by our country and when we might be able to show that we are ready to serve our country with our blood and with our money. In the end I would only say that I am fortunate in having got at this age an opportunity of participating in the framing of the Constitution. I thank you for kindly giving me the opportunity of saying a few words. I hope immortal India will ever remain immortal and will do great deeds to promote the welfare of the world.]*

**Shri Sarangdhar Das** (Orissa States) : Mr. President, Sir, I cannot completely agree with this Constitution because it is not a revolutionary document. The social and economic structure of the country as it is now is to remain. Nevertheless, there are certain glaring defects which I wish to point out, particularly in the Fundamental Rights. Although certain very essential rights have been conceded, in a later article viz., article 22 - preventive detention clause - some of these have been taken away; and so it is not proper to say that Fundamental Rights have been fully conceded.

Then I have to mention the clause with regard to acquisition of property. The compensation that is to be paid for the acquisition of property is framed on the basis of the present structure, and it is wrong for us to say that by this Constitution we are introducing an era of plenty and prosperity for the people. It is my view that the natural resources of the country and the means of production are the property of the community. There is nothing radical about it, when you consider that in many countries, especially in the

U.S. where they had "sanctity of property" in the beginning. But, during the 19th and early 20th Century that changed. And I believe our Constitution should have taken the lesson from that and declared that the natural resources of the country and the means of production and distribution are the property of the community, and as far as paying compensation for such property is concerned, in as much as the holders or the trustees of these properties have enjoyed the benefits there-from for hundreds of years and have gained profits from it I do not see why there should be any compensation paid to them now. I do not want to go into the details but that is a point that should have been taken into consideration. I know there was some opposition to the compensation clause but by sheer majority it was passed.

Again I am reminded of the speeches of several of the honourable Members who have talked about Gandhiji's plan of democracy. They have regretted that nothing of Gandhiji's principles have been incorporated into the Constitution. I for one do not wish to dwell on the point, but, we talk in one breath of forming a society in which there would be neither high nor low people. That is to say, their incomes would be as far as possible equal and yet in the Constitution itself we have incorporated those abnormally high salaries for high official beginning from the President downwards. While the pay of the Government servants in the lowest grate is 30/- a month, to give the President Rs. 10,000 a month is absolutely absurd. In this respect as far as I knew when I was in the U.S., I remember this that even 25 years ago the difference between the low-paid servant and the highest-paid in certain localities was not so much as in this case. If we continue to look at the services of highly-placed people in this manner, I do not see how we can say that we are introducing a Constitution which would result in bringing forward a society where everyone will be equal both socially and economically.

Then I wish to say something about the national language. The article as it has been passed and on which this morning Mr. Thanu Pillai spoke , I am in full agreement with him except that he has missed a very big point which unfortunately he cannot distinguish viz., Mahatma Gandhi's original ideas as well as of those who know the ways of the world *re*. language was that Hindustani should be the national language. The article as it has been framed no doubt implies that it will be Hindustani but it is wrong to call it 'Hindi'. I believe because Hindi had been advocated by certain Members of two or three provinces who always talk about introducing original Sanskrit words, that it has evoked a lot of opposition in South India, in Bengal and I believe in parts of Bombay province. Hindustani is really the language that the people speak and also in non-Hindustani speaking provinces e.g., in Orissa although we do not speak Hindustani, we can understand a person speaking Hindustani better than one who speaks pure Hindi. Because pure

Hindi is advocated by our U. P. and C. P. friends has a lot of Sanskrit words which are unintelligible to the ordinary mass of people. as they are not learned in Sanskrit. If the framers of the Constitution have yielded to the pressure of these orthodox Hindi friends of ours, I think it has been a great mistake. After the language article was passed, I have had the chance to travel in South India, and also in Bengal and I have found a good deal of opposition which has no basis at all except that the people in those parts think North India is imposing this language on them, and they rightly resent such imposition. Consequently when the time comes to implement this article, the Government of the day should see to it that such a language as Hindustani is introduced as is being introduced by the Hindustani Prachar Sabha in many parts of the country and then when Hindustani will be accepted by the people all over India, I believe all this misapprehension will go within a few years.

With regard to the States, some of my friends, also from the States areas have supported that article which provides for the tutelage of State Unions or of individual States like Mysore or the Travancore-Cochin Union for ten years, I had opposed it while the article was under consideration. I disagree with those friends. No matter how backward some of these States may be, I think it is wrong to take away democratic rights from the people and their representatives and spoon-feed them. So that is a very reactionary measure after the States - some six hundred and odd of them - had been immolated. It is a reactionary measure to bring certain parts of those areas under Central control for ten years. And then again, I wish to say in this connection that although the States have gone, and although we say that the rulers have gone, I do not believe that they have gone. They have their privy purses and other emoluments. In as much as they are set down in the Constitution, they remain for good. That is really a gain for the rulers because now they do not have the burden of responsibility for administering their areas. Still they enjoy these privy purses which are again rather unnatural, because they have been based on the wartime inflated incomes. So my contention is that the rulers remain in our society in another form, not as rulers with powers to govern their areas, but as a new type of vested interests which is not desirable and which is not conducive to the kind of society that the Constitution claims to introduce.

It is also objectionable that too many powers have been vested in the Centre. I remember, in 1947 when the principles of the Constitution were decided, at that time, the Centre was not to have so many powers. I do realise that after partition of the country, the situation has changed; nevertheless, the giving of so many powers to the Centre, the power to nominate this official and that official, the Governors and so forth will afford the opportunity to the party in power to perpetuate itself. Further, with

regard to the nomination of Governors for the Provinces, I am afraid, if any party other than the present ruling party comes into power in certain provinces, and a Governor of the party in power is nominated for such province, there will be clashes between the Government and the Governor, i.e., between the ministry and the Governor, and that will not be conducive to smooth working. From this point of view, I believe the concentration of too many powers in the Centre will gradually result in the introduction of a sort of dictatorship of a single party.

There is also another objectionable feature that I wish to mention, which goes against the principles of democracy, and that is, that in the Council of States, certain number of members will be nominated by the President, and out of them one or more may be taken in as Ministers in the Central Cabinet. On the one side, we speak about democracy and on the other side we take recourse to measures which go against the principles of democracy.

Just at present within the short time allotted to me, I can think of these defects which I have detailed. But at the same time, I must speak of the good points also in the Constitution.

I disagree with most of my friends, particularly the Hindu friends who expatiate on the existence of the republican system of government, i.e., republics in our old Hindu polity. I disagree with them. My contention is that our lower classes, the lower castes of our society, whom we call Harijans, have all along been kept in a depressed condition. Consequently, there was no democracy. If there was democracy, if there was a republic, it was amongst the higher classes, what we call the higher castes. If you look at the Constitution from that point of view. I think the removal of untouchability and the introduction of adult franchise are two of the very best elements that have been introduced in this Constitution. I may remind you, Sir, that in the American Constitution, the franchise was given only to free, white citizens, because in those days, there were also white people who were slaves, working, as slaves in the West Indies and the Caribbean Islands. They were debarred from the franchise. The black people, the Negroes, were nowhere. They were denied the vote. They came only in the time of Abraham Lincoln, when they were enfranchised. So, I say, in our Constitution, the conceding of adult franchise, of equality of women and of the removal of untouchability, these three things are the best in the Constitution.

There is also another good point in it, and that is the setting up of the secular State. There is no doubt everything has been done to make the State secular, although quite a number of criticisms have been made of it, on the basis that it is not Indian, meaning that it is not based on the Hindu

religion. In that connection I would say that no religious instruction whether Hindu or Christian or Islam, should be given in any school. There is such provision in some of the clauses that in certain circumstances religious instruction is permissible, I think that should go.

Although I have pointed out a few of the very great defects, in as much as adult franchise has been conceded by this Constitution, I have no doubt, that the mass of people who will exercise the franchise in the future, can change the entire Constitution, if they so desire, and they will desire. So I do not condemn, nor disapprove, of the Constitution, as some of my friends have said that nobody has condemned it. It is no use condemning it. When adult franchise is there, by exercising that right, we can change the Constitution according to the needs of our society in the future.

With these few words, Sir, I also thank the Drafting Committee, and you, Mr. president, for all the labour that you have put into this and for doing everything to satisfy all sections of this House.

**Shrimati Ammu Swaminathan** (Madras : General) : Sir, the passing of this Constitution for an Independent India can be called without exaggeration the realisation of a great dream of four hundred million people. For so many years the people of this country had been working for this realisation and today we have actually got what we had been working for.

The first picture which really comes into my mind when I stand here this afternoon is the picture of the great man, Mahatma Gandhi, who by years and years of untiring work made it possible for us today to be an independent country. I think if we are to deserve this Constitution we have to make up our minds to work it, into something alive and something that will be of benefit to every citizen of this country. I know that the Constitution gives us in the Fundamental Rights, equal status, adult franchise and has also provided for the removal of untouchability and things of that kind for which India had been fighting all these years. But all these things appearing on paper is not enough if we are to make this country happy and prosperous. We have to see that these ideas and ideals which are on paper in the Constitution are implemented by the people of this country.

Sir, I would also like to pay my tribute to you and join with other Members who had congratulated you and shown their gratitude to you. All Members of this Assembly will always remember you with great affection and esteem and we will always remember the kindness and consideration you have shown towards every Member of this House.

We have also to pay our tribute to Dr. Ambedkar and the members of the

Drafting Committee and the Secretariat of the Constituent Assembly for the very hard work that they had put in for so many weeks and months. I know their task has not been as easy one but they have overcome all difficulties and thus we are today on the every of passing this great Constitution of our country.

I feel that the Constitution actually rests on two pillars - Fundamental Rights and the Directive Principles of State Policy. The fundamental rights of the people of India are guaranteed in such matters as freedom of speech, association and worship. The last is a very vital question to the people of this country. The Hindus have always been known to be tolerant towards all religions and we have put that down in our Constitution so that there will be no mistake about it and nobody can say that our Constitution did not include freedom of worship to every citizen of this country.

Now it is for us to see that this Constitution is worked properly so as to bring about the democratic State in India for which we had been working and hoping for and when we bring this about we must see that not only the rights are assured to every citizen but that he knows his duties and responsibilities towards the State. His freedom should be so used as to be of benefit to this country. Freedom is not to be used for doing anything that anyone likes. As it is so often said, freedom does not mean license. Let us hope that in the years to come this Constitution will be considered as something worthy or our country. Though there are many who find fault with a great number of clauses in it I hope they will remember that when we were going on with this work of constitution-making India was passing through difficult times, very unhappy times and our task was a very difficult one. I feel that it has been a great achievement to have been able to bring all the divergent opinions together and frame a Constitution of this kind which has been agreed to by a very large majority, though perhaps not by all.

A great many Members of this House have been praising this Constitution and there has been a certain amount of criticism also. There is one criticism which I would like to make and that is that this Constitution is to my mind a very long and a very bulky volume. I always imagined a constitution and still believe, to be a small volume which one could carry in ones purse or pocket and not a huge big volume. There was no necessity to go into so many details as has been done here. All the details, I think, should have been left to the Government and the legislatures. After all they are going to function according to the policy laid down by the Constitution and was it necessary, I would ask, to load the Constitution with all this? I know very little about constitution-making, not do I pretend to be an expert. But I do feel as one of the citizens of India and as one of those who have been a member of a

legislature for two or three years that it was not necessary to have so much details in the Constitution. However, as it is I do think that it is a great piece of work and I would like to say that it has been a great joy and happiness to me to have been here as a Member of this Assembly when framing the Constitution of India and I hope that some of us will live to see that the Constitution becomes a real stronghold for human rights and it will be worked towards establishing a real democracy, so that there will be happiness and prosperity for every one in India.

Equal rights is a great thing and it is only fitting that it has been included in the Constitution. People outside have been saying that India did not give equal rights to her women. Now we can say that when the Indian people themselves framed their Constitution they have given rights to women equal with every other citizen of the country. That in itself is a great achievement and it is going to help our women not only to realise their responsibilities but to come forward and fully shoulder their responsibilities to make India a great country that she had been.

With these few words, Sir, I strongly support that the Constitution may be passed

**Shri L. S. Bhatkar** (C. P. & Berar : General) : *[ Mr. President, I congratulate Dr. Ambedkar and other members of the Drafting Committee for preparing this Draft Constitution with so much labour and industry after our country had achieved its freedom. But many shortcomings still remain in it. The rights granted to the people under article 19 of the Fundamental Rights are a farce, because whatever has been given under that article has been taken away by the proviso of that article. Article 17 provides for the abolition of untouchability for which I congratulate the Drafting Committee. Every Province has been passed legislation for the abolition of untouchability, but that is only on paper, it is not followed anywhere. Only a few people are trying to eradicate untouchability which has entered. If I may say so, the blood and bones of caste Hindus on account of its existence for thousands of years. But before any law can be of any help, the caste Hindus should effect a change of heart. Untouchability can be abolished only in this way. It is your responsibility to study the lesson taught by the Father of the Nation, Mahatma Gandhi in this respect and to come out successful in the test.

Again in the Constitution that has been passed not much importance has been given to the peasants and the workers. The provisions of this Constitution reveal that behind them was a great eagerness to provide for high salaries to the Government officials, and not the least thought seems to have been given to the peasants and the workers who labour with the sweat

of their brow to take the nation on the road to progress and prosperity, and who had given their blood in profession for the sake of achieving Independence for this country. This is being adopted for the protection of the rich. The Zamindars have robbed the peasants of thousands of bighas of their land by various methods. No attempt has been made anywhere in this Constitution to restore the land of peasants back to them. The nation cannot progress until industries have been nationalised. Provinces are enacting laws to abolish Zamindari while the land of the peasants is being looted by other methods. That land has now to be acquired by the peasants on payments. This means that the Zamindars are being strengthened more and more. This Constitution should have provided that the peasants would get the land gratis. Mahatmaji told us that this nation can be deemed to be free only when freedom is found to be beneficial to the peasants and workers. This Constitution does not seem to contain anything beneficial for them. An attempt has been made in this Constitution for the protection of the minorities. Article 338 refers to justice for the Scheduled Castes. Mr. President, I wish to tell you that the position of Harijans in the services hitherto is as follows:

C. P. & Berar

| Caste | Population (1931 Census) | Gazetted posts |
|---|---|---|
| (1) | (2) | (3) |
| Brahmans | 5,42,556 | 448 |
| Marathas & others | 18,82,654 | 17 |
| Scheduled Castes | 30,51,413 | 3 |
| Muslims | 783,697 | 99 |
| Sikhs | 14,996 | 13 |
| | | 580 |

Honourable Shri B. G. Kher gave the following figures in reply to a question in Bombay Legislative Assembly by Shri R. M. Nalwade :-

| Community | Population in 1931 | No. of Gazetted officers | No. of non-Gazetted officers i.e. clerks |
|---|---|---|---|
| (1) | (2) | (3) | (4) |
| Deprepssed classes | 18,55,148 | 14 | 8,201 |
| Marathas & others | 42,07,159 | 606 | 43,360 |
| Brahmans | 9,18,120 | 1,370 | 21,448 |
| Muslims | 19,20,368 | 201 | 13,797 |
| Others | | 886 | 18,658 |

This demonstrates clearly the necessity of making some provisions assuring that such injustice will not continue any more, and there would be speedy action to end it. I request the Government of India and the provincial Government to apply article 338 for our welfare and recruit Harijans in the services according to their population.

Secondly, this Assembly should contain 60 Harijan Members on the basis of our population, but today we are only 27. I hope, Mr. President, you will make up our quota by filling the casual vacancies in the light of this suggestion.]*

**Shri Ram Chandra Upodhyaya** (United State of Rajasthan) : *[Mr. President, Sir, while speaking on the Constitution today we should keep in mind what our country thought about its future three years back and what hopes it entertained regarding its Constitution. I remember it well that when the interim government was functioning here the people of the States were behind the bars and all their efforts were directed towards

the achievement of responsible government. Two years back we entertained the hope that we would get responsible government and that we would frame separate constitution for the States. Time is passing very swiftly and perhaps we are not able to keep pace with it. Even within the short time of two years so many separate States united together and formed into Unions. What we could not even think of an year ago, we have achieved already. I remember that one year back during the session of Matsya Congress Committee a resolution was moved to the effect that a Constituent Assembly should be formed for the Matsya Union which should frame a constitution of its own. I was present there at the time and I said that it was a reactionary step because when a constitution was being framed for the whole country, it was not proper to demand separate constitutions for different Unions. Everything has been made possible even within an year. If we take into consideration that a Constitution has been framed for the whole country and that too speedily, we can will be proud of our achievement. We see that our neighbouring country, Pakistan, which was previously a part of our country, is far behind us in framing a Constitution. Not only that it has yet been able to frame a constitution for itself but it has not been able to solve the problem of its four or five States too. It has not been able to integrate them properly so far. When we look at the country and also take into consideration the period of two years, we can well take great pride in what we have achieved. Many people in India blame us for having taken too much time in framing the Constitution. No doubt we took some time but in view of the difficulties with which we were confronted, we did not take much time. If we had finished our labours six months back, we would not have been able to produce the Constitution that we have framed today. I feel that it would have been better if we had taken six months in the final reading of the Constitution. In the meanwhile we could have prepared and got printed the lists of voters and determined the constituencies. We should have done so. I think that if we had finished our labours six months hence, our Constitution would have been more complete than what it is. However, I am pleased to note that there is provision in the Constitution to make changes in it whenever such necessity arises. I think it is not very proper for us to speak of the merits or demerits of the Constitution because it has been framed by us. We took stock of the whole situation and produced the best thing we could. It can be left for the future generations and for the historians to judge whether we arrived at a correct decision in the atmosphere and situation we were placed in.

A number of people are saying that we have provided many things in this Constitution which are against democratic principles and that we

have nullified the right of citizenship. I would ask you not to look at this Constitution from the point of view that the Constitution of America and other western countries are far more advanced than ours. If the country judges it from that point of view it would not be doing justice to us. The people should ask themselves whether they have the same love for the country, for democracy and for the rights and duties as the people of those countries have for theirs. The answer is in the negative. Then why should we make a comparison today with those countries? When our freedom and democracy will be firmly rooted we will be able to make whatever changes we like in our Constitution and to go ahead with it and then alone will it be proper for us to compare our Constitution with those of other countries.

We should see that it is after remaining in bondage for thousands of years that we have achieved freedom. Just now the people have not even learnt to love their country and their nation. The conditions obtaining in the country at present are so bad that we begin to doubt whether we would be able to maintain our freedom and our democracy by even following the Constitution. We see that the Rajas still retain their old position. I know that Sardar Patel and our Government have put an end to the States. But we should not be under a delusion and shut our eyes to realities. The truth is that although the States have been finished but the Rajas are still there. With the fall of the States and Rajas have not fallen. They have great power and wealth. They still dream that they would have their way when the Central Government weakens. We have not forgotten that an year and half back our Maharajas dreamt that as they were very near to Delhi, they would, getting an opportunity, fly aloft their flag on the Red Fort. They had purchased aeroplanes for the purpose and had kept their army in readiness. They have an eye on Delhi and are waiting for an opportunity. There are others also for whom their community is their country. They want that their community should come into power whether the country lives or perishes. The Rajputs want that they should take over the reins of administration of India. Some dream of a Jat Raj. Some want to establish an Ahir Raj. Such are the ideas of some people about their future. I ask whether these ideas are not dangerous for our country? Moreover there are some people who want to serve their ends by bringing about anarchy in the country. Some think that their province alone should govern the whole of India. Some dream of a Maharashtrian Kingdom and some of something else. We should take into consideration these factors which threaten the security of our country and then take up the task of examining this Constitution. There is no doubt that if we had been placed in a better position, we would have incorporated in it better things. It is not that we have no love for freedom and citizenship. We also

want that no person should be imprisoned until he is proved guilty of a crime against law and that every person should enjoy full liberty. In view of the present situation the rights that have been provided are adequate. In view of the present situation the Constitution should be considered as an arrangement for ten years. If we are able to retain our freedom for ten years, which I am sure we would be able to do, and the foots our democracy are strengthened, we would be able to make changes in it and to make it progressive. Then alone would it be proper to strike a comparison.

Considering the present situation I find two or three redeeming features in the Constitution which can be characterised as healthy seeds of democracy. Getting good ground and atmosphere these seeds will give forth good sprouts and the sprouts will grow into trees. The Parliament will be formed on the basis of adult franchise and will enjoy full power. We shall thereby be able to protect our democracy and shall have no fear in regard to our future. Besides, people are raising a hue and cry in the name of religion. They quote scriptures and mislead the people. Pakistan was established on the basis of religion and on that basis it has driven out the Hindus and non-Muslims with the result that the people have begun to blame the Congressmen. At such a time we have shown courage in establishing a secular State and faced all sorts of comments. Even today propaganda is being made against us and the Congress in the name of religion and we have to face a lot of criticism. We have given equal rights of citizenship to all. We have given equal right to women although Britain and America were able to grant such rights at a very late stage. We have given full freedom for propagating religion. We can well be proud of these things.

We have indeed taken a great step in regard to States. Even the foreigners wonder at our achievement. No doubt I feel that we could have done a few things in a better way. I admit that the people of the States are a little backward in comparison to the people of the Provinces but to lay down the condition for them that for ten years they would be under the control of the Centre smacks of a little high handedness. This will make it difficult and is already making it difficult to pave the way for democracy. We feel that we are going to have a dual Government. The Civil Services men of the Centre carry on the administration according to their views and our Ministers according to their own views. The result is terrible. They try to blame each other with the result that the administration deteriorates considerably. Honourable Sardar Patel assured us that this arrangement will be enforced when it will be absolutely necessary and that is why we accepted this provision. But such

an arrangement should be rarely but in practice and if possible it should not be used at all. The country will benefit by it.

Secondly, we have vested too many powers and special powers in the Centre. The Provinces have been rendered powerless. This is a great defect. It would mean a set-back to our democracy. The exigencies of the times necessitated such a provision and we accepted it. But I hope that the Central Government will make as little use of its special powers as it is possible for it because that would advance the cause of our democracy.

In conclusion I would like to say that an injustice has been done to my area taking shelter under this Constitution. I feel that I should say something in regard to this matter. Sirohi has been arbitrarily divided and one part of it has been integrated with the province of Bombay. It is unjust to take this step without consulting the people. It would be dangerous to carry on democratic administration in such a way. Sirohi is an insignificant area and its division does not mean that Rajasthan is going to perish but the question is one of sentiment and the method of action. To divide it without consulting the people is improper. It could have been integrated with Gujarat or Rajasthan for the time being. It would not have made any difference. After two or four years the people could have been consulted and it could have been accordingly integrated with any area whatsoever. Efforts should be made to make amends for this as early as possible. By going against the wishes of the people, democracy gets a set-back and the people get discontented.

In the end I would like to say that at least some time to come our Constitution will prove to be very good and if we continue to march forward on the path shown by it we will safeguard our freedom and democracy and make our country great in a very short time. Therefore we should accept it.

**Shri Ram Chandra Gupta** (United Provinces : General) : Sir, I am very thankful to you for giving me this opportunity of speaking for a few minutes on this motion.

The present Constitution will go down, in the annals of this nation, as a great ''CHARTER OF FREEDOM', which our people have today achieved after a long and ceaseless struggle and much suffering. We have therefore every reason to be proud of it; and I have no manner of doubt posterity will continue to remember January 26th, 1950 as the sacred day when real freedom dawned in this country.

This Constitution which consists of nearly 400 clauses is the result of 3 year-long hard labour, anxious thought, and much compromise. The country will no doubt feel grateful to all those who have had a hand in the shaping of this Constitution. Our thanks are due to all members of the Drafting Committee - particularly to Dr. Ambedkar, and to you, Sir. Both of you have demonstrated how accommodating you can be to others.

The Constitution as it stands today, is the result of heated discussion and long debates carried over thousands of amendments moved by the honourable Members of this House. In fact there is not a single word in the Constitution which has not received the notice of some Member or the other. I can go to the length of stating that even punctuations, viz., comma, semicolon, and full stops, have received due notice from our vigilant friend, Mr. Naziruddin Ahmad. It is true that unanimity could not be achieved on every matter, but there is no doubt that all clauses passed by the House always had the support of a very large majority. Almost all the important controversial questions were postponed many times for fuller consideration and the achievement of unanimity, if possible.

In one word, I can say that the present Constitution is the result of many happy compromises effected as a consequence of the spirit of 'give and take' so liberally manifested by the Members of this House. In such circumstances you cannot expect that all the Members will have the same degree of satisfaction on all matters incorporated in the Constitution. This really explains the mixed reaction accorded to the Constitution by the various speakers. While I myself do not agree with every thing incorporated in the Constitution. I can say without the slightest fear of contradiction, that it has the substantial support of a very substantial section of this House.

It is no doubt true that the Constitution as originally drafted has undergone a radical change. Such a change was inevitable under the altered conditions of the country. When we began in December, 1946, the country was not divided and the then conditions did require a Constitution of a different type. By the partition of the country very many questions which were then important lost all significance. Prior to the partition of the country it was thought that all the provinces should be practically independent of the Centre except in certain matters - defence, communication etc.; - the residuary powers to vest in the units; but the partition did demand, and rightly demanded that the Centre should be made as strong as possible. The Constitution has effected this change, and I believe that this change is for the better. I am not satisfied by the

criticism that there should have been less of centralisation, and more decentralisation. I may perhaps agree to this criticism only in a small measure and not more. *A strong Central Government is the need of the hour*; and I prophesy that the future will tell you that this centralisation was a blessing. All along the ages, and our history bears ample testimony to this fact, the overmastering problem before India has been one of integration, and consolidation and unification. A unitary and highly centralised form of Government is suited to the needs of this country. However, in future if our experience shows that in certain matters some more powers should be given to the units, I feel there would be no difficulty in getting the change effected by the amendment of the Constitution as provided for in Sec. 368.

The other material change effected in the Constitution was due to the regrouping and consolidation of the 600 and odd princely States. Can any body say that this change has not been for the better? For effecting this merger all credit goes to our beloved Deputy Prime Minister, Sardar Patel, who performed this miracle in such a short time. The ruling chiefs of those states who voluntarily abdicated their authority in the interest of their motherland also deserve our sincere thanks.

We can now feel proud that ours is one country, one language, and one Constitution, to govern all - low or high, Scheduled Castes or high Castes, minorities or majorities. Our Constitution does not make any distinction whatsoever. In fact it has removed all traces of untouchability from the country. The Constitution has been hailed by all the Members of the Scheduled Castes in this House, and we can safely say that it is quite satisfactory from their point of view. The Constitution has, as a precautionary measure, given special rights to the Scheduled Castes, Anglo-Indians for a short time only.

The Constitution has placed women on absolute equal footing with the menfolk; and we can say that ours is the only Constitution giving these rights to women without any reserve or restrictions.

Another criticism levelled against this Constitution is that it is too lengthy. This also seems to be unjustified. Ours is a peculiar country where you have to provide for so many contingencies and conflicting interests. It is but natural, therefore, that the Constitution should be a detailed one. This codification of numerous details, which are likely to arise every day, must occupy considerable space in any constitution. Besides this, we have benefited by the comparative study of our own old Acts, including the Government of India Act of 1935. We have also

utilised the good points of the American, British, Australian, and other Constitutions and at the same time tried to save ourselves from many pitfalls of other Constitutions. Some honourable Members have termed it as a "Patch-work". This is not so. Our Constitution really consists of all that is best in other constitutions, modified to suit our peculiar needs.

Another good feature of the Constitution is that it has done away with the system of separate electorate and reservation of seats (except for a short duration in some cases).

This Constitution, for the first time, has provided for appeal against sentence of death to the Supreme Court under certain circumstances. It does not go far enough in so far as it fails to provide appeals in all cases where death penalty is imposed or confirmed by a High Court. I would have, however, preferred total abolition of death sentences.

The question of Zamindari abolition has been agitating the country for a long time. The payment of compensation at the market rate was beyond the means of the units concerned. This Constitution, while awarding equitable compensation, has provided in article 31 that the compensation shall be determined in accordance with certain principles. This enactment has made it possible to abolish the Zamindari system, root and branch.

Article 21 of the Constitution relating to protection of life and personal liberty of an individual is a clause which has attracted the attention of a large section of the public, specially lawyers and judges. Their contention is that the clause, as enacted, will not safeguard the rights of the individual sufficiently. Their fear is unjustified because no Government in the country can pass any legislation and then enforce it in a wanton or irresponsible manner. Sanction of the legislature is essential under the clause. There is no doubt the clause is wide enough to confer very wide powers on the legislatures of the country and I am sure that a resort to such extraordinary powers would be had only when the exigencies of the time would require them.

In the end, I shall request the Members of this house, and through them my countrymen outside this House, to work this Constitution in the spirit of devotees. If we work this Constitution and co-operate with each other, even the seemingly glaring shortcomings of this Constitution, which appear so great today, will gradually peter out. Let us swear by this Constitution and pledge ourselves "to protect, preserve, and defend" this Constitution - no matter what the price we may have to pay in so

doing.

**Mr. President**: The House now stands adjourned till ten o'clock tomorrow morning.

The Assembly then adjourned till Ten of the Clock on Friday, the 25th November, 1949.

---

*[Translation of Hindustani speech]*

# CONSTITUENT ASSEMBLY OF INDIA DEBATES (PROCEEDINGS) - VOLUME XI

**Friday, the 25th November, 1949**

**----------**

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

---

## GOVERNMENT OF INDIA ACT (AMENDMENT) BILL

**Mr. President:** The first thing today is to take up the Bill of which notice has been given by Dr. Ambedkar.

**The Honourable Dr. B. R. Ambedkar** (Bombay: General): Sir, I move for leave to introduce a Bill further to amend the government of India Act, 1935.

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

"That leave be given to introduce a Bill further to amend the Government of India Act, 1935."

The motion was adopted.

**The Honourable Dr. B. R. Ambedkar:** Sir, I introduce the Bill.

**Mr. President:** The Bill is introduced.

**The Honourable Dr. B. R. Ambedkar:** Sir, I move:

"That the Bill further to amend the Government of India Act, 1935, be taken into consideration by the Assembly at once."

**Mr. President:** Motion moved:

"That the Bill further to amend the Government of India Act, 1935, be taken into consideration by the Assembly at once."

**Shri Lokanath Misra** (Orissa: General): Sir, I welcome this amending Bill but I wish to make a few observations.

The statement of objects and reasons says that on demand from certain Provinces to alter their names, this Bill has come before the House. I beg to submit that instead of changing the names of certain Provinces, the Government or the Governor General should take steps to change the names of all the, Provinces as far as possible to fit in with our name Bharatvarsha. For instance, I have got a call from my own Province that the name may be changed from Orissa to Utkal. There are various cogent

grounds for changing that name. Our University is called the Utkal University. You know, Sir, the Congress calls it the Utkal Province. Then again, our revered Rabindranath Tagore in his Jana Gana Mana also describes our Province as Utkal. Utkal is an ennobling word. It means high art and high apprehension. I therefore, submit, if my words could reach the Governor General, steps should be taken to change the name of my Province Orissa to Utkal.

**Shri R. K. Sidhva** (C. P. & Berar: General): Mr. President, unfortunately, this Bill has been brought in this session for want of time. This subject really speaking, relates to this Constituent Assembly and it should have been brought earlier. But, it is neither your fault, Sir nor the fault of the Drafting Committee nor the fault of the House, because we are working against time.

Therefore, the second best method is sought to be adopted by the Drafting Committee. Therefore, certainly I do not find fault with them.

However, I feel, Sir, that the matter of changing names of the Provinces is such an important matter that I do not desire that only the provincial Governments or even the Congress Committees should decide amongst themselves and send it to the Governor General, and the Governor General should ditto it. We have a little sad experience here. We desired in the last session when we dispersed that this subject being of very great importance, if the Provincial Congress Committees and Provincial Governments come to a decision, this House will take a favourable consideration. But what has happened? The U. P. Government and U. P. Assembly decided that the name should be changed into Aryavarta. That was seriously objected to by this House on the ground that Aryavarta relates to the whole of India. The U. P. friends are always very anxious to monopolise to themselves the name of India and therefore it was by an overwhelming majority of this House that the motion of my Friend Mr. Shibban lal Saksena was rejected and that is on record in this House. In the year 1938 when the Indian National Congress held its session in Cawnpore in the All-India Congress Committee my friends from U. P. brought a resolution that the name of the U. P. Congress Committee should be changed into Hindustan Congress Committee. The A. I. C. C. rejected it My friends being so enthusiastic brought it in the Open Congress and I had to oppose it and the Congress threw it out. It was in '1938 under the Presidentship of Pandit Jawaharlal Nehru and I was the person who strongly opposed it in the open Congress and I was glad that the Open Congress seeing the force of the argument stated that U. P. cannot usurp to themselves the name of Hindustan and it was rejected. My fear is therefore again after Aryavarta has been rejected they may suggest Hindustan. As the previous speaker stated, Orissa should be called Utkal just as C. P. has been called Madhya Pradesh. Why not U. P. be called Samyukt Pradesh ? If that is not acceptable there are other very fine names like Avadh, Ayodhya, Ganga, etc. Why should they usurp the name of the whole of India and tell us they are the people who are the only custodians of India ? I strongly resent their monopolising the name of India. Therefore I feel that it is very risky to give the power to the Governor-General. I have an amendment to that effect and when the time comes. I shall move that. Therefore while I give my qualified support to this, I do desire that this power should not be entrusted to the Governor-General as it is the right of this House and if this House has no time to decide this, then Parliament should ultimately decide not the Governor-General.

**Shri Mohan Lal Gautam** (United Provinces : General) : Mr. President, I am not one of those who enter into these controversies which are in my opinion very small if

not petty. People always choose their names and if their names are changed, they will create a row in this House. If the name of our Province U. P. was changed two years back when we achieved independence, I assure you that this House would not have come in the way and it would have been swallowed by all of us.

**Honourable Members:** Question.

**Shri Mohan Lal Gautam:** You may question me. You may call it Utkal or Kerala or Malabar or Kannada-nobody bothers about it but when this question came up here, people are raising these objections. My friend Mr. Sidhva said that U. P. is always in the habit of monopolising the name of the whole of India. I assure you that U. P. has a gift and it is perhaps the only province in the country which can claim that it has no provincialism.

**Honourable Members :** Question.

**Shri Mohan Lal Gautam:** You may question but I give you a challenge hen and now that in all the Provinces you are so provincial.

**Honourable Members:** No.

**Shri Mohan Lal Gautam :** That you will not tolerate other people. I give a challenge to all the other provinces to give me examples where you have elected people who do not belong to your province to the Constituent Assembly. I give you a challenge where you can quote me since 1919 how many Ministers you have taken into your Ministries who did not belong to your province.

**Mr. President:** I would request the honourable Member not to go into matters which are not strictly germane to the motion under discussion. It is a simple proposition which is before the House and he should confine his remarks to that.

**Shri Mohan Lal Gautam:** I bow to your ruling but I assure you that U. P. does not want any name that you object to. This function of Brahmins--of giving names ought to have some background. You say why not give it the name of Avadh. Avadh is one of the very important parts of U. P. but it is only a part. Avadh has a tradition of Nawabs and feudal lords which we do not want.

**Mr. President:** Let us not discuss the names because the names are before the House.

**Shri Deshbandhu Gupta** (Delhi) : U. P. is also part of Aryavarta and not the whole.

**Shri Mohan Lal Gautam:** I am conscious of it that U. P. is only a part of Aryavarta.

**Mr. President :** I think you had better confine yourself to the provisions of the Bill.

**Shri Mohan Lal Gautam :** The justification of this Bill is that it is not very easy for this House without knowing the history of the Province, without understanding them, it

is not possible for one or two Members to stand up and propose the names. Another difficulty arises that if You had given any name to this Province yourself we might have accepted it or we might have tolerated it, but you referred the matter to the provincial Government and the Provincial Government consulted the Provincial Congress Committee and in consultation they suggested some name which is not acceptable to you. (interruption) I am not prepared to answer any question of Mr. Sidhva because, the Chair has ruled that the names are not to be discussed so Mr. Sidhva need not take the trouble of suggesting some names here and now without understanding the implication of those names. Therefore the difficulty is that the name that was suggested is not acceptable to this House and no new name can be suggested on the spur of the moment. Therefore I am grateful to -the Drafting Committee and the President of the Drafting Committee. Dr. Ambedkar-to find a via media in suggesting this amendment to the, Government of India Act, 1935. This will solve the difficulty. The solution is that the Provinces must be consulted and it must be acceptable to all-India authority and the all-India authority is the President and the President means the President and the Cabinet. Cabinet means if the Cabinet is responsible to the Party in power, they can consult you therefore the power really is transferred from this house to the Congress Party in the Parliament. If you do not want it, you may suggest some via media but to reject it would be something absolutely different. Therefore I am thankful to the Drafting Committee and I whole-heartedly support this amendment, because it is a *via media* and I would request Members of the House not to insist on their opposition.

**Mr. President:** Do you want to speak, Mr. Pataskar ?

**Shri H. V. Pataskar** (Bombay: General) : No, I do not want to oppose the motion, but would like to offer some remarks.

**Mr. President :** You can do so when we take up the clauses. Well, I then put this motion.

The question is:

"That the Bill further to amendment Lao Government of India Act, 1935, be taken into consideration by the Assembly at once."

The motion was adopted.

**Mr. President:** Then we take up the clauses of the Bill.

Clause 1; there is one amendment by Mr. Naziruddin Ahmad.

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

"That in sub-clause (1) of clause 1, for the words 'Fourth Amendment' the words Third Amendment' be substituted."

**Mr. President:** Or, alternatively ?

**Mr. Naziruddin Ahmad:** No, Sir, I do not wish to move the alternative

amendment.

Sir, I wish to point out what seems to be a glaring anomaly. We have already passed four Acts in this Constituent Assembly relating to the amendment of the Government of India Act. Though we have passed four Acts, yet the numbering is absolutely erratic. We have Act No. I Then we have Act No. II. Then we have Act No. III and then, by a big jump we have Act No. V, but it seems there is no Act No. IV. Sir, the usual or rather the accepted way of numbering Acts is serial. After Act III, we must have Act IV, and not Act No. V. There is thus, a gap in Act No. IV. I do not know whether this is the fact, but this is what I have understood as having happened here. So far as the amendments are concerned, of the four amendments, the first is called the Government of India Amendment Act, 1949. The second is called the Government of India Amendment Act Second, 1949, and the third Act is not numbered at all. So I submit that this Act should be called the Third Amendment. So, so far as the numbering of the Act is concerned, I do not know what will be the number of the present Act if it is passed.

**Mr. President:** I understand the Third Amendment Act related to evacuee property.

**Mr. Naziruddin Ahmad:** That may be, but that is another matter.

**Mr. President:** And so this is the Fourth.

**Mr. Naziruddin Ahmad:** But the point is absolutely different. My point is that in numbering the Acts, they must be consecutive. The numbering of the Acts should be consecutive, irrespective of the subject dealt with. Each Act passed by the Constituent Assembly must be numbered serially, as one, two, three, four and so on. The fourth Act has really been numbered Act No. V. This is the place to consider whether Act V should be considered as Act IV and whether this present Bill should be given retrospective effect, and be numbered IV, though it is passed after the fifth, or whether it will remain as it is, with a gap left in between. Should that gap be allowed to remain or should it be corrected at this stage ? These are the considerations which seem to me to be very important. There is some sort of lapse somewhere, and I beg to point this out so that it may be corrected by this House.

**The Honourable Dr. B. R. Ambedkar:** Sir, I am sure that there is some confusion in the mind of my friend Mr. Naziruddin Ahmad, as I find by reference to the various Acts that are passed by the Constituent Assembly the proposal in the Bill that it should be called the Fourth Amendment Act is the proper wording. The first Act that was passed by the Constituent Assembly is called the Government of India (Amendment) Act, 1949. The second one is called the Government of India (Second Amendment) Act, 1949, which deals with the removal of prisoners from one unit to another unit. The third Amendment Act, 1949, deals with evacuee property, and the Bengal election.

**Mr. Naziruddin Ahmad:** It is not called an Amendment Act at all, it has got a different name.

**The Honourable Dr. B. R. Ambedkar:** If you look at Clause 1, there you will see, "This Act may be called the Government of India (Second Amendment) Act, 1949." The next one is called the Third Amendment Act, 1949, which deals with the custody

management and disposal of evacuee property and the election in West Bengal.

The confusion, I think, has arisen from the fact that we have passed two other Acts in the Constituent Assembly, one relating to the Abolition of Privy Council Jurisdiction and another amending the Central Government and Legislature Act, 1946. Those Acts are not amendments of the Government of India Act, at all. Although those Acts may have indirect effect on the Government of India. Act, they are not amendments to the Government of India Act. We are, therefore, entitled to class this as the Fourth Amendment, because, so far as direct amendment of the Government of India Act, 1935 is concerned, this Assembly has passed only three Acts and no other.

**Mr. Naziruddin Ahmad :** But there, is. no Third Amendment Act, at all.

**The Honourable Dr. B. R. Ambedkar:** Of course there is. The third Act deals with the custody, management and disposal of evacuee property. I have got the Act here before me.

**Mr. President:** There seems to be a little confusion about this matter. Fourth is not the number of the Act. What is described here is the fourth amendment of the Act. That is not the number of the Act itself. The number of the Act is separate.

**The Honourable Dr. B. R. Ambedkar:** It is a description of the present Act. It is a short title.

**Mr. President:** It is only a description. The number will be Act No. 6 of 1949.

**The Honourable Dr. B. R. Ambedkar:** That is so. This is a short title.

**Mr. President:** The Constituent Assembly has passed five Acts up to now, in 1949 and this will be the sixth. But so far as amendments are concerned it is the fourth amendment to the Government of India Act, and therefore it is called the Fourth amendment.

**Pandit Hirday Nath Kunzru** (United Provinces: General): If out of the five Acts that we have already passed.....

**Mr. President:** This is the sixth.

**The Honourable Dr. B. R. Ambedkar:** We have passed in this Assembly five Acts. Out of them two have nothing to do with any amendment of the Government of India Act, 1935.

**Pandit Hirday Nath Kunzru:** Why were they placed before the Constituent Assembly if they were not of a constitutional character ?

**The Honourable Dr. B. R. Ambedkar:** The short title is quite different from the purport of the Act.

**Pandit Hirday Nath Kunzru :** The question is whether the right of a litigant to appeal to the Privy Council could have been taken away without an amendment to the

Government of India Act, 1935.

**The Honourable Dr. B. R. Ambedkar:** The short title of the next Act was the Central Government and Legislature Amendment Act, 1949. That Act' sought to amend the India (Central Government and Legislature) Act, 1946 which is an Act of Parliament and not the Government of India Act, 1935. The other Act was the abolition of Privy Council Jurisdiction Act, 1949.

**Pandit Hirday Nath Kunzru:** But the earlier Act to which my honourable Friend has referred, namely, the Amendment to the Central Legislature Act was itself an amendment of the Government of India Act.

**The Honourable Dr. B. R. Ambedkar:** No, no. That is not. There was a separate Act passed by Parliament called the India (Central Government and Legislature) Act 1946. This amendment was an amendment to that Act. That Act was outside the Government of India Act, 1935.

**Shri R. K. Sidhva:** Perhaps Dr. Ambedkar will remember that the amendment to the Act from Cotton Seeds to Cotton was really an amendment to the Government of India Act, to which he has made no mention.

**The Honourable Dr. B. R. Ambedkar:** This would mean a sixth Act no doubt but the short title is something quite different to the number of the Act. We are discussing the short titles.

**Shri T. T. Krishnamachari** (Madras : General) : This is a matter of nomenclature and in fact in the previous Acts amended by Parliament, they have given different names for Acts which in purport amended the Government of India Act, such as the India-Burma Emergency Powers Act, 1942. The matter of nomenclature need not be pursued to its logical and bitter end. I suggest the House to proceed with the consideration of the Bill.

**Mr. Naziruddin Ahmad :** Is there any Act No. IV?

**Mr. President :** There seems to be

**The Honourable Dr. B. R. Ambedkar:** There is.

**Mr. Naziruddin Ahmad :** I have not got it.

**The Honourable Dr. B. R. Ambedkar:** If you have not a copy, what can we do ?

**Mr. President:** After all, nothing will turn upon the title!

**The Honourable Dr. B. R. Ambedkar:** I can give him the number also, if he wants it.

Act No. I of 1949 is called by the short title of "The Government of India (Amendment) Act 1949."

Act No. II of 1949 is called "The Government of India (Second Amendment) Act, 1949."

Act No. III of 1949 is called "The India (Central Government and Legislature) Amendment Act, 1949."

Act No. IV of 1949 is called "The Government of India (Third Amendment) Act 1949."

Act No. V of 1949 is called "The Abolition of Privy Council Jurisdiction Act, 1949."

Acts III and V have nothing to do with the Government of India Act, 1935 and that is why we call this the Fourth Amendment of the Government of India Act.

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

"That in sub-clause (1) of clause 1, for the words 'Fourth Amendment' the words Third Amendment' be substituted."

The amendment was negatived.

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

"That Clause 1 do stand part of the Bill."

The motion was adopted.

Clause 1 was added to the Bill.

**Clause 2**

**Mr. Naziruddin Ahmad** : Sir, I beg to move :

"That clause 2 be deleted."

Sir, I also beg to move :

"That in clause 2, the following statute reference be appended :

'52 & 53 Vict., C.63.' "

These amendments are of a formal character. So far as the last amendment is concerned, I move it because unlike the ordinary powers of the Secretary.....in ordinary legislation, we have in our rules no power given to the Secretary to make any changes in the Bill after it is passed. This statute reference is necessary and it should be given.

So far as my earlier amendment is concerned, namely, the deletion of Clause 2, it arises in this way. When the last Act was passed, namely, Constituent Assembly Act No. V. at that time there was no such thing as Clause 2 in that Bill. Clause 2 is to the

effect "that the interpretation Act 1889 applies for the interpretation of this Act as it applies to the interpretation of an Act of Parliament." In the earlier Acts this clause appears but not in the Bill which really culminated in Act No. V. At that time I suggested that a clause like this would be necessary but Dr. Ambedkar told the House at the time that this clause was; not at all necessary. It was not necessary in the case of Act No. V, I suppose it would not be necessary in the case of this Bill too. There should, after all, be some kind of uniformity. In the earlier Acts we have this clause but not in the last. We should adopt a definite and settled policy as to drafting. It should not depend on the mood of the moment. I would therefore ask Dr. Ambedkar to consider whether he should link himself with the drafting of Act No. V or really go back to the earlier Acts so as to retain this clause ?

**The Honourable Dr. B. R. Ambedkar** : All that I can say is that this is the uniform clause that has been passed by this Assembly in the other Acts amending the Government of India Act. Therefore, in order to keep up the uniformity and to provide for the interpretation of this particular Act, Clause 2 is a very necessary part of the Bill.

With regard to the suggestion of my friend all that it means is that there should be a marginal note giving the chapter number of the Interpretation Act of 1889. That is a matter for the Draftsman to consider, and if he thinks such a marginal note is necessary, he will no doubt consider the matter. But this marginal note is not added against the clause of the other Acts which amend the Government of India Act of 1935.

**Mr. Naziruddin Ahmad** : Although Dr. Ambedkar says that in all the previous Acts this clause appears, yet I beg to point out that in Act No. V, there is no such clause. I pointed out the omission but I was over-ruled.

**The Honourable Dr. B. R. Ambedkar** : That was a self-contained Act. It required no reference to the Interpretation Act at all.

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

(a) "That clause 2 be deleted."

(b) "That in clause 2, the following statute reference be appended :

'52 & 53 Vict. C.63.'"

The amendments were negatived.

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

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

## Clause 3

**Mr. Naziruddin Ahmad** : This is only a punctuation amendment which, I think, the Drafting Committee would accept, though not openly, at least secretly.

**Shri H. V. Pataskar** : Sir, I move :

"That in clause 3, after the words 'alter the name of any Province' the words 'after ascertaining the opinion of the members of the Legislature of the Province whose name is proposed to be changed' be added."

Now, Sir, my reasons for moving this amendment are these. From the Statement of objects and reasons it appears that the present Bill has been brought in this House for three reasons : the first is that certain Provincial Governments have expressed their desire to alter the name of the province – that is exactly what is mentioned in the statement of objects and reasons. The second reason for bringing this Bill is that these provincial Governments have further desired that these names should be altered before the commencement of this Constitution, that is, before the 26th of January 1950. The third reason is that there is no provision for doing that in the present Government of India Act, 1935.

Now, Sir, it is true that there is no provision in the Government of India Act, 1935, for changing the name of a province. So far as the principle of my amendment is concerned, it is this that any change in the name should be effected after ascertaining the views of the legislature of the province whose name is proposed to be altered. I would like to draw your attention to article 3 which we have already passed. Article 3 makes provision for the alteration of the name of any state, which the provinces are going to be called hereafter. The proviso to article 3 reads :

"Provided that no Bill for the purpose shall be introduced in either House of Parliament except on the recommendation of the President and unless, where the proposal contained in the Bill affects the boundaries of any State or States specified in Part A or Part B of the First Schedule or the name or names of any such State or States, the views of the Legislature of the State or, as the case may be, of each of the States both with respect to the proposal to introduce the Bill and with respect to the provisions thereof have been ascertained by the President."

Therefore, we have already provided for such a change; if it is to be made after the 26th of January it can be made only by the introduction of a Bill, and such a Bill can be allowed to be introduced only after ascertaining the wishes of the Legislatures of the States concerned.

Now, it may be argued that the Provincial Government have already expressed their desire. I do not know which Provincial Governments have expressed their desire, because from the nature of the discussions over the name "Aryavarta", and the heat which it generated I do not think, changing the name of a province is going to be such an easy thing as it is sought to be made out.

It may again be argued that it is because of the Provincial Governments' desire that the names are going to be changed and therefore it practically amounts to ascertaining the views of the Legislature. I would here like to point out that the views of the Legislatures and the views of the Provincial Governments do not always coincide. It is one thing to ascertain the views of the Legislature which is composed of the representatives of the people, and another thing to consult the Provincial Governments which are concerned with the day to day administrative problems of the provinces. The principle that we have laid down in article 3 is a highly sound one

inasmuch as it is a better method of ascertaining the views of the people in general, because the legislatures are expected to reflect the views of the people of the province.

Now, Sir, without going into details I can easily show how anomalies are bound to arise. Take the case of West Bengal. At one time they were in favour of changing the name from West Bengal to Bengal. Subsequently, there was a change of mind and they wanted to retain it as West Bengal itself. In fact, in our final draft we have mentioned it as West Bengal. At the Third Reading Stage we again reverted back to the word "West Bengal". All these clearly show that even if a name is to be changed, we should ordinarily follow the sound principle which we have enunciated in article 3 that it should not be by the wishes of the Government which may be changing from time to time, but by the wishes of the Legislature which are likely to be more formal and firm.

Then, Sir, take the name of Koushal Vidharbh. In our first draft we mentioned it as Koushal Vidharbh which must have been after consultation with the Provincial government. Subsequently they changed their mind and wanted to have it as Madhya Pradesh. Would it not be better, therefore to follow the sound principle laid down in article 3? Governments change their views with changing circumstances and Governments are not really representative of the people in the sense in which Legislatures of the provinces are.

**Mr. President** : I do not think that this is a proposition which requires so much of argument.

**Shri H. V. Pataskar** : Another point that I want to make is this. In the Constitution we have laid down the principle which is enunciated in article 3. Today, just one day prior to the passing of the constitution, we want to go back on that principle, because some people seem to be in hurry to change the names of provinces. After all changing the name does not make much difference. As the poet said, a rose will smell as sweet if called by any other name. Therefore, why not stick to the principle enunciated in article 3? Why flout it at this stage? Well, Sir, I would strongly urge that it is a bad precedent, showing scanty regard for the principles which we have so solemnly laid down for those who come after us to follow.

I would, therefore, request that this simple amendment of mine will be accepted by the Members of this House. The only argument against it would be that it would involve some time. Most of the names of the provinces, are names given by foreigners. It is much better that the changes in their names are made after ascertaining the views of the different legislatures and in a more calm atmosphere rather than hastily as is tried to be done by the introduction of this Bill.

**Shri R. K. Sidhva** : Mr. President, my amendment reads thus :

"That at the end of the proviso to sub-section (1) of section 290 of the Government of India Act, 1935, the following shall be added, namely :-

'and any such Order made by the Governor-General shall be placed before the Parliament within three days of its making, and the Parliament shall have the right to either accept or reject the name contained in that Order.' "

Sir, section 290 is in such a limited form that it is very difficult for any honourable

member to move a comprehensive amendment to avoid any discrepancy or any suggestion which may not be found acceptable to the House or to the country; therefore within the limit within which the section is confined, namely to change the name of the Province, I had no other alternative but to move this amendment in order to safeguard the right of parliament and the people of this country in not allowing any province to change the name according to its whim and fancy. While I have every regard for any province which wants to change its name quite historically or quite suitably otherwise, the necessity for my amendment has been substantiated by the arguments advanced by my friend Mr. Mohan Lal Gautam. He came in a challenging mood and said his province was the supermost compared to all the other provinces. (*Interruption*.) My point is that if there are some Provinces with that kind of mentality, this House has a right to see that such a mentality does not prevail. I am glad, Sir, that among their own provincial Members there was difference of opinion in naming the province as Aryavarta.

**Mr. President** : Please do not bring in any particular name. You go on the merits of the case.

**Shri R. K. Sidhva** : Well, Sir, what is the remedy? My friend Mr. Pataskar rightly apprehended the position and said there is no other alternative but to consult the legislature. The purpose of consulting the legislature also will not be served because the majority of the Members there would say, "Have it Aryavarta or Hindustan". Supposing they change it to Hindustan, what will be the remedy if the Provincial Legislature also says that U. P. will be known as Hindustan? India in future will be called Bharat but that does not mean that we discard the name Hindustan. Therefore you must tell me Sir how to safeguard the interests of the country in setting that this word Hindustan is not adopted by the U. P. as they did make a venture in the past unofficially to introduce it in the Congress Committee but in which they failed? Therefore, I want a little guidance in this matter either from the Chairman or from you, Sir, as to what safeguard we have. It is not a Province which can change the name, it is the Governor-General who does it.

**Pandit Balkrishna Sharma** : (United Provinces : General) : If it will satisfy my honourable friends, I may say I hate the word 'Hindustan'.

**Shri R. K. Sidhva** : That is all right, but you did suggest for your Provincial Congress Committee the name of 'Hindustan Congress Committee' in 1939.

**Shri Mahavir Tyagi** : (United Provinces : General) : You tell us those names which you do not want.

**Mr. President** : We are simply wasting time over a matter which does not require any interruption at all. The honourable Member may confine himself to his amendment.

**Shri R. K. Sidhva** : I only want to safeguard the interests of the country, in the event of the Governor-General subscribing to the views of the Provincial Government or whosoever it may be, because it naturally seems that the Governor-General will adopt whatever suggestion a Province may make. In that event, if we feel that name which has been adopted is not proper in the interests of India, then my amendment seeks that parliament should have a right – because that will be the only body after the dissolution of this Constituent Assembly – to consider that subject. That is the only

remedy I find. I do not find proper the remedy which you suggest that the Governor-General is himself the safeguard because according to me Parliament is the proper body in such an important matter. My friend Mr. Pataskar has rightly stated that we are doing this in a hurry. Why should we unnecessarily hurry about this matter? Why cannot we do it after 26th January ? Let us decide in a calm mood. Let us consult everybody. You decided on one or two names and as Mr. Pataskar pointed out you had to change in this very Assembly two names within a short period.

I have no other suggestions to make for safeguarding the proper method of avoiding any name which may be detrimental to the interests of the country. Therefore, I suggest this method. I hope my friend Dr. Ambedkar will kindly bear in mind my suggestion which I make with the best of intentions. If he has any suggestions let me know them I am prepared to accept them. My U. P. friends are unnecessarily annoyed. My suggestion is put forward with the best of intention as my experience has shown in the past. I hope my amendment will be accepted or alternatively any other suggestion may be put forward to safeguard the interests of the country.

**Mr. President** : Shri Jaspat Roy Kapoor, I request the honourable Member not to go into the merits of any particular names or any particular action which may have been taken by somebody in the past. He may confine himself to the proposition before the House.

**Shri Jaspat Roy Kapoor** : (United Provinces : General) : Mr. President, Sir, I am opposed to both the amendments, the one moved by Mr. Pataskar and the other by Mr. Sidhva. The question of naming of a Province has assumed very great importance, greater importance than honourable Members would like to attach even to the question of creation of a new Province or increasing or diminishing the area of any Province, for Shri Pataskar's amendment suggests that if the Governor-General passes an order changing the name of a Province only he must consult the Provincial Legislature before passing the order, and Shri Sidhva's amendment seeks that even after the Order is passed, by the Governor-General changing the name of a Province it should be placed before the Parliament and the Parliament should have the right to accept or reject the order previously made by the Governor-General. In the case of any other order passed by the Governor-General under section 290, creating a new Province, changing the boundaries of an existing Province, may be quietly accepted by the country as a whole with neither the legislature of that Province being consulted nor the Parliament having the right of say in the matter. It appears to me rather fantastic that the question of change of name should be considered so vitally important whereas the more vitally important question relating to the creation of a Province should not attract any attention of honourable Members at all. I must submit that the manner in which the United Provinces has been dragged in in this controversy hurts us because we of the United Provinces had always thought that we have been throughout acting in a manner which would receive the approbation of the rest of the country. As my honourable Friend Mr. Mohan Lal Gautam had said, there is absolutely no provincialism in our Province and we had therefore thought that some credit would be given to us by Members of other Provinces and they would give us at least the freedom of giving a suitable name to our province.

**Mr. President** : Your Province does not come in here.

**Shri Jaspat Roy Kapoor** : I was mentioning it just incidentally, Sir. I would not

pursue it in view of the shortness of time.

My objection is to Mr. Pataskar's amendment, firstly on the ground that it simply does not fit in with section 290, and then that if it is accepted as it is worded it would simply set the legislature against the Government of the province and the Government against the Legislature, for Mr. Pataskar does not want to make any amendment to the proviso to section 290 of the Government of India Act which says that before an order under that section is passed by the Governor-General the Provincial Government should be consulted. According to the proviso the views of the Government of the province should be ascertained. Now what Mr. Pataskar suggests is that the views of the legislature should also be ascertained. Therefore it comes to this that firstly the views of the legislature should be ascertained and thereafter under the proviso, the views of the Government should be also ascertained. If it is presumed that the views of the Government and those of the legislature will not be different the amendment of Mr. Pataskar will be unnecessary and redundant. If their views are going to be different.....

**Shri H. V. Pataskar** : There are instances in which those views have been different.

**Shri Jaspat Roy Kapoor** : Well, if there are such instances, we sitting here in the Constituent Assembly should not give encouragement for such differences of opinion. Our object should be to bring about conciliation between the legislature and the Government and not to create further occasions for such differences of opinion. Therefore I submit that the amendment simply does not fit in here.

As regards the amendment moved by Mr. Sidhva, I would say that Mr. Sidhva has a very fertile brain and he can conceive of all sorts of amendments. But I never thought that even he is capable of conceiving an amendment of this kind which is almost meaningless. He suggests that the order of the Governor-General should be placed before Parliament and that Parliament should have the right either to accept it or reject it. Of course it would not have any power to amend the order. It can only either accept the name which has been approved by the Governor-General or reject it. Now, what will happen if the name proposed in the order is rejected by Parliament? That will create a lacuna. Therefore I suggest that Mr. Sidhva's amendment is almost meaningless. Then again, this amendment of Mr. Sidhva is that it should be added to existing proviso. It means that the amendment of Mr. Sidhva would apply to all the orders which would be passed by the Governor-General under section 290 such as those relating to the creation of a new province, changing the boundaries of a province, etc. I do not think it is the intention of Mr. Sidhva that his amendment should be of such an all-embracing nature. But, as it has been worded, it would be applicable to all the orders passed by the Governor-General under section 290. I think Mr. Sidhva has not given careful consideration to his amendment. On reconsideration I am sure he will not press it. For these reasons I oppose both these amendments.

**Shri M. Thirumala Rao** : (Madras : General) : May I say a word, Sir?

**Mr. President** : I cannot stop any Member from speaking. But Members will remember that we have still several Members desirous of speaking on the Constitution.

**Shri M. Thirumala Rao** : I assure you, Sir, that I am not standing up merely to

join in the debate. I have one point to make in connection with this Bill.

**Mr. President** : All that I can say is that the honourable member is taking away the time of others who want to speak, but have not been allowed an opportunity to do so. The honourable Member has had his say already on the Constitution.

**Honourable Members** : 'Closure'.

**Mr. President** : I would draw the attention of the honourable member to the demand for closure of the debate.

**Shri M. Thirumala Rao** : Is it fair, Sir, that I should be asked to sit down because closure has just now been moved ?

Sir, I have only a simple proposition to make. I do not mind whether the House accepts or rejects my proposition. I do not know why, when the Government bring in a measure before the House, the House should be deprived of an opportunity of judging whether the proposition is right or wrong. But this can be brought up after January 26. Nothing is going to happen if this proposition is brought before the House under article 3 of the Constitution. The Government can very well, in view of the discussion that has been raised here, withdraw the Bill now.

**Shri Rohini Kumar Chaudhuri** : (Assam : General) : Sir, may I.

**Mr. President** : No further discussion please.

**Shri Rohini Kumar Chaudhuri** : I want to say that when a provincial Government agrees to change the name of its province, as in the case of Assam which wanted to change the spelling of the name of the Province from 'Assam' to 'Assam', and the Prime Minister.....

**Mr. President** : The question does not arise in connection with this Bill.

**Shri Rohini Kumar Chaudhuri** : An amendment to bring about this change was not allowed to be moved. But I understand from the Premier of Assam that the Government have agreed.....

**Mr. President** : You may raise this question at the appropriate time, but not in this connection.

**Shri Rohini Kumar Chaudhuri** : But, Sir, I have .....

**Mr. President** : I have ruled that the question does not arise now.

**The Honourable Dr. B. R. Ambedkar** : Sir, dealing first with the amendment of Mr. Pataskar, I am afraid I must point out that it would not fit in within the framework of section 290. My friend does not seem to have noticed that to the various sub-clauses of clause (1) of section 290 there is a general proviso which applies to all the sub-clauses (a), (b), (c) and (d). If he refers to that proviso he will find that his amendment would introduce double conditions for the operation of the new clause, namely sub-clause (e). Sub-clause (e) would be subject to the condition he wants to

lay down in his amendment, namely, 'after ascertaining the opinion of the members of the legislature of the province whose name is proposed to be changed'. In addition to that, sub-clause (e) would also be governed by the proviso, namely that the Governor-General shall ascertain the views of the Government of the province. In view of this there would arise a very difficult condition. According to his amendment, the Governor-General will be bound to ascertain the wishes of the legislature. According to the proviso to section 290, he will be bound to ascertain the views of the Government of the province. He will therefore put himself in a double difficulty by reason of the fact that the Governor-General will have to consult two different bodies. That is not going to be a very easy matter. Secondly, he would realise that it is not quite justifiable that sub-clause (a) to (d) should be governed by a single proviso, while the new sub-clause (e) should be governed by two provisos.

**Shri H. V. Pataskar** : That is not so.

**The Honourable Dr. B. R. Ambedkar** : That is what I say. How do you know? Therefore it seems to me that he is putting himself and the Governor-General in a somewhat difficult position by making such a suggestion. I do not therefore think that at this stage it would be logical to accept it, whatever be the merits of the suggestion.

Coming to the amendment of my friend, Mr. Sidhva, he seems to me to have completely confused the intention of this article and the provisions contained in the new Constitution. He speaks of Parliament and requires that the Order made by the Governor-General be placed within three days of its making before Parliament. Mr. Sidhva has evidently forgotten that, when he speaks of the Parliament, he speaks of the Legislature which comes into being on the 26th January 1950. On that date the Governor-General disappears, and this section 290 as well as the sub-clause (e) which I am trying to introduce by this measure will also disappear. On the 26th January what will be on the Statute Book and operative would be the provisions contained in article 3 of the new Constitution. He has, I am sorry to say, not paid sufficient attention to the point that I have sought to make.

**Shri R. K. Sidhva** : What the Governor-General does will be binding upon the President.

**The Honourable Dr. B. R. Ambedkar** : It seems to me that both these suggestions are impracticable. As to the general proposition whether Parliament should be brought in or not, we have to deal with two matters. One is that there is a general desire on the part of some of the provinces that the names by which they have been called under the Government of India Act 1935 do not smell sweet according to them, and they would like to begin with the names which they think are good enough for them on the date on which the Constitution commences. The Constituent Assembly felt at the time when the matter was discussed last time that this desire of some of the provinces whose names are not good enough in their own opinion has a good case and therefore a provision ought to be made for the Governor-General before the commencement of this Constitution to take such action as he thinks necessary to carry out the desires of the Provinces. Therefore it seems to me that such a provision is necessary.

A certain amount of fear has been expressed that some provinces might suggest to the Governor-General names which may not be possible in the opinion of the other provinces, and consequently names which have been rejected by this House or

disapproved by this House may be given to the new provinces without the knowledge of this Constituent Assembly or without the consent of the provincial legislatures concerned. It seems to me that that sort of suggestion is reading too much into section 290 as amended by this Bill, because under section 290 the Governor-General has absolute discretion in this matter and is not bound to act upon the suggestion made either by the Provincial Government or, if I accept the amendmen t of Mr. Pataskar, the opinion of the legislature. He is free to act and the only authority who is to advise him to act is the Cabinet at the Centre. All that is required under section 290 is to ascertain the views of the Government of the Province. That does not mean that the Governor-General is bound to accept any name that has been suggested. I am quite certain in my own mind that the discussion that has taken place in this House, the opinions expressed by this House on the suggestion made by Professor Saksena in regard to the name of the United Provinces will be taken into consideration by the Central Executive and by the Governor-General before he decides to take any action under the proposed amendment to article 290.

**Mr. President** : I will now put the amendments to the vote. Mr. Naziruddin Ahmad, do you want your amendment to be put to the vote? It is only a matter of punctuation?

**Mr. Naziruddin Ahmad** : It may be left to the Drafting Committee.

**The Honourable Dr. B. R. Ambedkar** : It is a wrong amendment.

**Mr. Naziruddin Ahmad** : If it is openly put to the vote, it will be rejected. Otherwise, they might accept it.

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

"That in clause 3, after the words 'alter the name of any Province' the words 'after ascertaining the opinion of the members of the Legislature of the Province whose name is proposed to be changed' be added."

The amendment was negatived.

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

"That at the end of the proviso to sub-section (1) of section 290 of the Government of India Act, 1935, the following be added, namely: -

'and any such Order made by the Governor-General shall be placed before the Parliament within three days of its making, and the Parliament shall have the right to either accept or reject the name contained in that Order."

The amendment was negatived.

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

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 wad added to the Bill.

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

"That the Preamble stand part of the Bill."

The motion was adopted.

The preamble was added to the Bill.

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

"That the title stand part of the Bill."

The motion was adopted.

The title was added to the Bill.

**The Honourable Dr. B. R. Ambedkar** : Sir, I move :

"That the Bill further to amend the Government of India Act, 1935, as settled by the Assembly, be passed."

**Mr. Tajamul Husain** (Bihar : Muslim) : Mr. President, Sir, we have, got before us a Bill to amend the Government of India Act of 1935 the repeal of which is to take effect from the 26the January 1950. Therefore, Sir, we want this Bill only for two months. Why this hurry? Under the Government of India Act there is no provision for altering the names of provinces. We want to alter the name of one province or more than one province. Therefore we have this Bill. I am absolutely unable to understand the necessity of this Bill at all. I have come here to oppose this Bill entirely. I feel we can very well wait for two months more. We want that this Bill should take effect from the 26th November, that is from tomorrow, instead of waiting for two months more. The whole of the Government of India Act will itself be repealed by our passing this Constitution. We have mentioned there that the Government of India Act 1935 will stand repealed from the 26th January 1950. Then why this hurry for the change in the names of Provinces? You can very well do it after two months. You can decide now that you want to change the name of the U. P. or any other province and then that can take effect from the 26th January. I have very strong objection to this. We are spending on this Constituent Assembly Rs.30,000 a day. We work for five hours a day.

That means that we are spending Rs.6,000 per hour. How we have been talking on this Bill which I consider to be absolutely unnecessary for an hour and twenty minutes, and by the time I finish, it will be an hour and a half. It means that Rs.9,000 will be wasted, because I think this is an absolute waste of time. With these words, Sir, I want to oppose this. I think it should not be pressed and should be withdrawn. With these words, Sir, I oppose the Bill entirely.

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

"That the Bill further to amend the Government of India Act, 1935, as settled by the Assembly, be passed."

The motion was adopted.

---

**DRAFT CONSTITUTION –** *(Contd.)*

**Mr. President** : Then we take up the discussion of the Draft Constitution. I am afraid I had thought that this Bill would take about a quarter of an hour, but instead it has taken six quarters of an hour and naturally as many speakers as could have been accommodated if we had started say at quarter past Ten cannot be accommodated now. Even in the list I have, I have got about 20 names still there. I thought of accommodating at least fifteen today but now I do not think I can accommodate anything like that number. I will leave it to the Members who will speak to take as little time as possible so that as many of them as wish to take part in the debate may be accommodated. I may assure them that. I have been all through the debate from the beginning; I have not missed a single word or a single sentence of any Member; there is nothing new that can be said by any Member and the only object in speaking at this stage is not to add anything to the knowledge or to the information which has been given to the House to enable it to decide about the merits of the Constitution but to enable Members to have their names recorded, so that when the reports are published, they may know that they also participated in the final discussions of the Bill and that can be done with one sentence. I assure them that their names will go down on the record even if they support the Bill with one single sentence and with this suggestion I now ask the honourable Members to take up the discussion.

**Mr. Frank Anthony** : (C. P. & Berar : General) Mr. President, Sir, first of all I wish to thank you for the unfailingly courteous and gracious manner in which you have invariably presided over the deliberations of this House. Deserving tribute has already been paid to the Drafting Committee for the way in which it has performed its arduous and responsible duties. I would like very briefly to pay a particular tribute to my honourable Friend, who is sitting on my right, Dr. Ambedkar. I do not believe that any one of us can really gauge the volume of work and the intensity of concentration that must have been involved in the production of this voluminous and by no means easy document. And while, on occasions, I may not have agreed with him, it always gave me the very greatest pleasure to listen to his tremendous grasp not only of fundamentals but of details, of the clarity with which he invariably presented his case. It has been said that this Constitution has received a mixed reception. It is inevitable that its reception should have been mixed because, inevitably, it is a mixed

constitution. It is composite in character. I believe that it is a blend and a proper blend between idealism on the one side and realism on the other. I know that some of my ardently idealistic friends have criticized it. They would like to have seen instead of this blend something in the nature of a decalogue or the Ten Commandments, something which was so wholly idealistic that it would have wilted and died under the first impact of administrative realities and political difficulties.

As I have said, I believe that we have borrowed enough from idealism to make the Constitution a fairly attractive and an aspiring document and on the other hand we have not based it entirely on material, from mundane considerations so as to retard or in any way to take away from this the inspiring elements. I realize, sir, that it is not a perfect document, but at the same time I feel that in hammering it out, we have traversed all the processes of the democratic manufactory, that we have ranged through the whole gamut of democratic factors; there has been careful thought; there has been close analysis; there has been argument and counter-argument; there has been fierce controversy and at one time I thought that the controversy was so fierce that we might reach the stage of what the Romans called *Argumentum ad baculum* that is, settling it by actual physical force. But in the final analysis has pervaded a real sense of accommodation and a real feeling of forbearance.

So far as the minority provisions are concerned, Sir, I cannot speak on behalf of any other minority but I do claim to speak on behalf of the Anglo-Indian Community. I have paid repeated tributes to the generous and understanding way in which the Anglo-Indian Community has been dealt with under this Constitution. All I feel I need say at this moment is to reiterate my own gratitude and appreciation for the very generous way in which the Anglo-Indian community has been treated.

Now I shall deal very briefly with certain aspects of the Constitution. I agree with my honourable Friend, Pandit Hirday Nath Kunzru when he says that it might have been wiser for us not to have extended the franchise at one bound to universal suffrage. I recall the experience in Britain and the precedent of Britain. I am aware that the precedents and experience in other countries are not sacrosanct for us. But what happened in Britain in this matter of franchise? Representative parliamentary Government was introduced in Britain in the 19$^{th}$ Century but it was not till as recently as 1928 that universal franchise or adult suffrage was introduced. Though some of us are in the habit of talking about democracy without understanding its real purpose and its real content, to my mind a mere counting of heads has never constituted democracy. Democracy has always carried the postulate, the implication that at least the exercise of the franchise would be made, if not on an essentially rationalistic basis, would be made at least on a common-sense basis. And my own feeling is, Sir, that if we had pursued the path of wisdom – more than that – of statesmanship, that we would have been justified to hasten slowly in this matter, that we would have not at one bound adopted the device of adult franchise but will have proceeded progressively not necessarily gradually but progressively. As it is I am one of those who can only express the very sincere hope that when the next elections are fought or the elections after that and with an electorate which will be predominantly illiterate, with an electorate which will be predominantly unaware of exercising the franchise on a basis of being able to analyse political issues in a rational way, that this electorate will not be stampeded by empty slogans by meretricious shibboleths into chasing political chimeras which will not only lead to chaos but to the very destruction of the democracy which we have chosen to give them.

And, Sir, I feel that there has been unjustified criticism of what has been stigmatized as over-centralization. I will say quite frankly that I was very happy, I was jubilant at every provision that tended to place more and more power into the hands of the Centre. Here again, we tend to mouth slogans about democracy but in the final analysis, in its actual spirit and content, what does democracy imply? It does imply the greatest good of the greatest number I say it with regret, I say it without pointing a finger, what is the increasing evidence which rises every day before our eyes, evidence with regard to most of the Provincial administrations? Do we not see that there is an increasing evidence every day, of increasing maladministration, of an increasing negation of the fundamental principles of democracy? Quite frankly, in the transition stage I would have been one of those who would have supported our going the whole hog that we should have avowedly and without any qualification accepted a unitary form of Government. We might have administered the provinces either through Governors or Rajpramukhs supported by a permanent civil service. At any rate, Sir, I feel that I ought to place on record my disappointment that certain vital subjects like Education, Health and Police should have been left entirely within the ambit of provincial autonomy. We have given a head to provincial regimes in the matter of education, and today, I regret to say, within a very short time, they have taken the bit between their teeth and are running wild. What is happening in the Central Provinces? When I say this, I say advisedly, that the educational policy of the central Provinces represents a deliberate negation of democracy, represents a travesty of the provisions of secular democracy. The linguistic minorities in the Central provinces only look forward to educational and linguistic death. That is what is happening. They have no regard for the linguistic minorities. Overnight they are pursuing an intolerant, parochial, aggressive linguistic policy which, as I said, is an absolute negation of every provision we have embodied in the fundamental rights. Not only that. You have given a head to these provinces and they are running amock. National progress, the larger interests of the country mean nothing to them. My own conviction is that a few years will be sufficient to make the leaders of the country realise the great blunder that we have committed in allowing education to remain entirely in the provincial sphere. You will see balkanisation of the country will take place so quickly, because through this powerful lever which you have left in the hands of the provinces they will split this country up into linguistic enclaves, seal one from the other, so that the idea of a common nationality will recede more and more into the background. I feel very strongly about this. I do not know how the damage that is going to be done can be undone, unless some radical steps are taken in the not distant future.

Another matter which I would have liked to have brought at least in the Concurrent List is Health. May is say, Sir, in some provinces, it is all right. Bombay is fortunate in having a person of the stature of Kherji. The country would have been more fortunate to have transported outstanding men from the provinces to the Centre to administer the country on a unitary basis. As I said, about health, we have left it in the hands of the provincial Governments and inevitably this greatest nation building subject will be dealt with in a feeble, halting manner, according to the different capacities of the different provincial regimes.

Last but not least, I should like to have seen police made central subject. Police in a province like Bombay have a deservedly good reputation. But, let us be honest. What kind of reputation or lack of reputation do the police administrations in many of the provinces enjoy? What does the man in the street think of the police regimes in many of the provinces? I know what he thinks you know what he thinks. The police have fallen into disrepute in many of the provinces. They are not regarded as

guardians of law and order but as agencies of corruption and oppression. I should like very much to have been the Police administration at least brought on to the Concurrent List.

May I say a word about the Directive Principles? I know my honourable Friend Mr. Kher will not agree with what I say and my views will be regarded as heterodox and as perhaps striking a discordant note. I would not like to have seen prohibition put in the Directive Principles. I am not advocating the cause of drunkards or drunkenness. Far from it. I think prohibition as an ideal is a very good ideal. But, what I am afraid of is this : having put this into the Directive Principles, once again, you are giving a head to certain provinces which, without considering the realities, may rush ahead with this scheme. I am one of those who regard it probably from a rationalistic point of view or from the point of view of a psychologist. I regard this question of prohibition fundamentally as a psychological problem. I believe that there is a fundamental similarity in human nature everywhere, and that an Indian is no different in certain fundamentals from an European. I believe that essentially legislation in this matter has tended to be resented and regarded as an entrenchment on the domain of private life and private liberty. As I was trying to explain to my honourable Friend Mr. Kher will you be able to legislate for morality? Can you create morality through legislation? You can ever do it; it has never been possible. I agree you may be able to wean certain people from drinking provided your process and programme of prohibition was so graduated and you accompanied it *pari passu* with measures of social reform. As long as you have your *chawals* for workers in the urban areas, and you cannot even provide them with a semblance of decent living conditions, what is the good of trying to make them moral or weaning them from drunkenness by legislation? As an ideal, I have nothing against it. What I am against is this. While the Prime Minister keeps on asking us to let first things come first, we have fallen into the unfortunate habit of making last things come first. What should be the first priority in any administration? What are the most urgent nation-building activities on which we should concentrate? Surely, health and education. But, today, ask your average provincial Government what it is doing in these matters. It pleads poverty on the one hand in the matter of the most urgent nation-building subjects which should have received top priority, and on the other hand chases these idealistic chimeras. We are throwing away crores and crores of Rupees. That is my main objection to the precipitate introduction of a measure like prohibition. Not that I have any radical objection against it; as an ideal it is a very good thing and if we succeed, it will be a great boon to many families.

While on the matter of Directive Principles, I would like to refer to this provision regarding cow slaughter. I know, again, here, that I will be treading on difficult ground. But, I want to make my position clear. What I resent in this Directive Principle is the insidious way in which this provision with regard to the banning of cow slaughter has been brought in. It was not there before. I cannot help saying that those fanatics and extremists who could not bring in this provision through the front door have succeeded in bringing it through the back-door. Sir, I am not a beef eater; I am not holding a brief for beef eaters. I say, you may ban co-slaughter, but we should have done it honestly without our tongues in our cheeks, without resorting to methods which may give rise to the accusation of subterfuge. I ask my Hindu friends, does cow-slaughter offend your religious susceptibilities.

**Shri K. Hanumanthaiya** : (Mysore State) : Yes; it does.

**Mr. Frank Anthony** : All right; I am glad you have said so. I you had said that, I

would have sponsored a provision that a ban on cow-slaughter should have been introduced in the Fundamental Rights and that cow-slaughter should be made a cognisable offence. But, there were not people who were prepared to do that. Why bring in this provision in an indirect way? If it offends your religious susceptibilities, just as much as I expect you to respect my religious susceptibilities. I am prepared to respect yours. As I said, why bring it in, in this indirect way, as an afterthought into the Directive Principles? Look at the way you have brought it in. The clause reads :

"for the purpose of protecting the cattle wealth of India, for the purpose of protecting cattle, milch and draught cattle, a ban on cattle slaughter may be imposed."

**Shri K. Hanumanthaiya** : On a point of order, Sir, is it right for the honourable Member to attribute motives, subterfuge and all that? I draw your kind attention to it. The honourable Member is saying that we have introduced a provision by way of a subterfuge. He has attributed motives in regard to the way we have put in this provision in the Directive Principles. Whether attributing motives is right, I leave it to you, Sir to Judge.

**Mr. Frank Anthony** : I apologise to you and to the House if what I may have said even remotely raises the suggestion of unparliamentary language. I was not attributing motives. I am merely stating objectively what had happened. As I have said, what has happened raises the accusation that perhaps motives may have been there to bring in this provision in an indirect way; I will not say it tantamounts to subterfuge. As I have said, I repeat, if this gives you offence, I would have been the first person to suggest that it should have formed part of the Fundamental Rights. In the way it has been done, it has been attached to a clause purporting to protect the cattle wealth of this country. Any child knows that in this country, in proportion to the population, we have more cattle than in any other country in the world. Any intelligent child also knows that in spite of this huge cattle population, our output for milch and draught purposes is the lowest per capita in the world. The preservation of cattle-wealth and the preservation of the best interests of the country would have required not the banning of cattle slaughtering but the slaughtering of over half of your present cattle population in this country. That is why I say, it should not have been done in this particular way. I only draw your attention to it and I leave it at that.

Finally I wish, to say a word about article 21. As a lawyer I will say quite clearly that this article 21 which says that a person may not be deprived of his life or liberty except by procedure of law as established, gave me cause for considerable misgivings. I am afraid, that in this form article 21, if the Executive and Government of the day choose to, can be abused and made a handle for totalitarian oppression. The Executive can make it a handle for superseding rule of law they can make it a handle for depriving citizens of the elementary principles of natural justice, and of jurisprudence. But the reason why it was disposed not to oppose this particular article, the reason why we are prepared to suffer an abatement of what I regard as a Fundamental human right – was because we are in a period of transition – and it may be necessary to give Governments and administrators extraordinary powers, not to be abused but in order to prevent any drift towards chaos and towards anarchy. And with that warning I sincerely hope that there will be no tendency on the part of any Provincial Government or on the part of Central Government to misuse or abuse the tremendous powers which we have given them under article 21. If they choose to, all that is required is that the procedure of law should be observed. We hope that the procedure of law which will be prescribed by provincial or Central Government will not be such as to

represent the negation of the principle of natural justice.

May I end on this note – I believe that by and large we have hammered out a good Constitution. It will be fallible and it will be necessarily imperfect as it is the product of imperfect human beings. But I believe we have done a good job of work and I believe that this Constitution deserves not only our good wishes but our blessings. But in sending it out on its mission with these blessings, I feel that the paramount consideration which should be before us permanently is not that we have framed a voluminous and important document – not that we have sought to give careful and elaborate guarantees to minorities, but that ultimately the final test by which this Constitution will be judged and by which it will stand or fall, the final test will be the intention and the spirit with which the provisions of this Constitution are worked.

**Dr. B. Pattabhi Sitaramayya** : (Madras : General) : Mr. President, Sir, it is rather hard lines for one who is garrulous to be limited to stated time, the more so, when he is called upon to speak at the fag end of the deliberations of this Assembly. On the eve of our concluding our deliberations it is not without some trepidation that I come to speak and it is aggravated by the fact that I am to speak for a very short time. I had intended to review the whole position but this is not the opportunity for it. You very well remember how we had lisped, - we hesitated to talk in full and in clear language, the words "Constituent Assembly " in 1927; then we renewed our talks in 1934, soon after the failure of our Second Salt' Satyagrahic campaign and then we thought we were covering our retreat with bluff. Finally we came to a stage – all unawares –when this Constituent Assembly of a sort was thrust upon us with its *sections* and *groups* which we fortunately got rid of by paying a very heavy price for it and when we began our deliberations on the 9th December 1946 we were anxious to finish them and some of us had even hoped to finish our deliberations within six months. If we had finished our Constitution in 1946 it would have been a mess, if we had finished it in 1948 it would have been a medley. Fortunately this delay that has occurred has enabled us to see things in their true perspective and it has enabled us to develop administrative changes *pari passu* political developments. Supposing we had finished this before 15th August 1947, what would have been the nature of the Constitution? It would have been quite different. This delay has enabled the legacy which we had inherited from the British to be set right. Many people have considered that this Constitution is a base or bare imitation of the 1935 Act – that the Constitution is not a 'revolutionary document' and that we have merely imitated where we should have originated. These are all half-truths. A 'revolutionary document' is a contradiction of terms. Revolutions do not yield documents nor documents beget revolutions. We have imitated the 1935 Act because through a fortunate or unfortunate chance, it turned out that it was not through a bloody revolution that we have worked out our emancipation. It was by an imperceptible transition from the stage of bureaucracy and dependence to the stage of a *republic* and *cooperative commonwealth* that we have wrought these transformations. Accordingly we have never faced martial law, we have never hanged people at street-corners or on tree tops, we have never shot down people for their crimes and we have never shed a drop of blood either our own or of our enemies and therefore we have been obliged to pass from a civil government where tranquility prevailed unaffected by the perturbations of the moment into another kind of civil government which was our own and which was also a popular government. This delay has enabled us and our new administrators to piece together the 562 States which were detached and altogether unconnected with one another. Thus it is that while we were developing the Constitution or making efforts in the process of developing this Constitution, we were also taking up administrative measures in order to consolidate

this country which we had inherited from the British in a very disorganized condition.

What is it that we inherited ? We inherited a country that was divided longitudinally into Provinces and States, horizontally into communities, transversely into rural and urban areas and obliquely into Scheduled and non-Scheduled Tribes. All these have been pieced together – the Provinces must be there for purposes of administration convenience, but the States have been assimilated in their forms of Government into those of the Provinces. Thus we have one homogeneous country under one Central Government with one federal Structure. Then we have disestablished the separate electorates which the Britishers had brought into existence assiduously from 1906 onwards dividing one community from another, first the Muslims from Hindus, later the Sikhs from the Hindus and finally the Harijans from Hindus. All these groups have been pieced together into one joint electorate and this is not a small achievement.

And next, you have also been able to remove untouchability which had divided one section of Hindus from the rest. Mahatmaji began his fast unto death on the 20th September 1932 and worked a miracle in the space of six days. Now we have removed untouchability not merely in name, not merely in word and spirit, but also in law, so that nobody can hereafter say that so-and-so is an untouchable, for he would be punished with fine and imprisonment. We have also assimilated the tribes in our frontiers in the north-west and north-east and in other places as far as possible to progressive forms of Government, and we have built up tribal republics. In this manner we have implemented in developing our Constitution, those principles which have been advocated by Mahatmaji. You may remember in his tours of 1921, he was always mentioning only three sentences in each village and taking away three to thirty thousands of rupees from there. These related to Khaddar, Untouchability and Hindu-Muslim Unity. Khaddar we have perpetuated as the fore-runner of village industries and we have emphasised the development of cottage handicrafts in the development of the country. Untouchability we have removed by law. Hindu-Muslim unity we have carved out by joint electorates.

**An Honourable Member** : Prohibition?

**Dr. B. Pattabhi Sitaramayya** : Prohibition is a thing which has been left to the Provinces to be worked out. We have included it as one of the Directives in our Constitution. It will be great moral reform, the monetary equivalent of which may mean loss to the government of the province, but the moral equivalent of it would be a great asset to the nation in future years. *(Cheers)*

And, finally, we have extended the franchise which gave us three and a half crores of voters at the time when the British left this country, to seventeen crores of voters who will adorn the electoral rolls immediately next year.

It is thus that we have converted a dependency into a cooperative commonwealth. Who dares to say that this not an achievement worthy of our labours, and worthy of this great country, and all in the space of three years? When Canada was emancipated, her people assembled in 1842 when Lord Durham, the Lord High Commissioner was dubbed by the *London Times* as the "Lord High Seditioner," and the Canadian Constitution was only finalised in 25 years thereafter, *i.e.* in 1867, whereas we have taken three years in order to complete this Constitution.

I wish to draw attention only to two points with regard to the contents of our

Constitution, the one dealing with the Fundamental Rights and the other dealing with the Comptroller and Auditor-General.

The Fundamental Rights chapter is of great interest to me since we had laid down the foundations of it at my house at Masulipatam through the labours of a committee which was appointed in Karachi in April 1931. Then we wanted to speak of not merely fundamental rights but also fundamental duties. But it did not look as if these were capable of being tabulated, because in the first instance every right implies and includes a duty. What is my right is my neighbour's duty to me. The right of the wife to equality with the husband is the duty of the husband towards the wife in respect of the matter of equality. The right of the people to rebel against a government is also the duty of the government to hang the people for the rebellion. These go together. They are opposites, rather they are the obverse and the reverse of the coin, and the criticism that has been levelled by some friends in this House that the duties were not mentioned, is not quite correct because every right implies and includes a duty.

The second point on which I wish to say something is about the Comptroller and the Auditor-General, and in that we have done a great thing, in respect of the position that we have assigned to the Comptroller and the Auditor-General. No matter how perfect your Constitution may be, no matter how numerous may be the checks and the balances and safeguards for the right conduct of business of the future, it is money that counts, and we have to deal with about three hundred and seventy crores at the Centre and as much money in the provinces, and if all this money is not spent aright, and if the people deliver cheap gibes at men like me who count rupees, annas and pies, and to whom every rupee means sixteen annas and every anna means twelve pies, then there is no government at all worth mentioning, it is anarchy, it is chaos. It is loot. It is dacoity. And who is to control this? Is it to be a man who is appointed by the Ministry that should control this? No. The Comptroller and the Auditor-General must be as supreme and independent as the Judges of the Supreme Court perhaps even more so. He is not merely an Accountant-General, but he represents a judicial authority with a judicial frame of mind, and his acts must be acts of justice between what he considers to be right and what is actually done by the executive. At times he is called upon to criticise the executive and to expose it even to contempt. He should not therefore, come under the ire of the government or of any party or of the treasury or of the Finance Department. Till 1806 in England the Auditor-General was not independent, and till 1921 in this country we never thought of the independence of the Auditor-General. Later on we have built up this kind of independence, step by step and stage by stage, so that today, we have installed him as the supreme master, who has his own judgment to look to and who has no frowns or favours to be guided by from outside. Even so this is not yet perfect. The Auditors' Act is yet to be passed in this country, as in other self-governing countries and when this is done, we shall have placed the Auditor-General and the Comptroller as the supreme arbiter of India's finances, and then alone our Swaraj will be a proper Swaraj.

Finally let me ask you :- "What after all is a constitution?" It is a grammar of politics, if you like, it is a compass to the political mariner. However good it may be, by itself it is inanimate, it is insensitive, and it cannot work by itself. It is of use to us only in the measure in which we are able to use it, because it has tremendous reserve force, and everything depends upon the manner in which we approach it, whether we observe the letter and ignore the spirit or whether we observe both the letter and the spirit in equal measure. The words of the lexicon are the same, but they give rise to different styles of composition with different authors. The tunes and the notes are the

same, but they give rise to different music with different singers. The colours and the brushes are the same, but they are rendered into different pictures by different painters. So it is with a Constitution. It depends upon how we work it. I shall take only one simple example – the joint electorate. We have established the joint electorate. Have we discharged our duty? Shall we leave the electorate to do what it pleases? The Muslims are some thirty-five millions in this country, less than about 8 to 7 per cent. of the whole population. Is it possible for them in the joint electorate to win a single seat by their own unaided strength, without our co-operation? It is a gentleman's agreement that we have entered into, a terrible responsibility that we have taken upon our shoulders, when we asked them to give up their reservations and their separate electorates. We have to find as many representatives from the Muslim community through the medium of the joint electorate as would have been their legitimate share, if they had their separate electorates. Even so with the Indian Christians and others. And the way to all this was pointed by our women. I admire the women who in the Provincial Model Constitution Committee and in the Central Constitution Committee came forward and said, "No separate electorate for women, no reservation for women". Of course, they stand to gain now. But it required courage and imagination to say so then. They showed the way to the Muslims. The Christians had all along been fighting against reservation and separate electorates. But they had been compartmentalized. All the electorates were made not only water-tight, and air-tight but vote-tight; nobody from this compartment could cast his vote to one in the other.

The majority community has to see to it that this implied gentlemen's agreement is honoured in letter and in spirit and that we give our friends more seats that their population entitles them to receive. If we are not able to do that we shall not be able to justify the great concessions that they have made.

Then again, there is the question of non-violence. Have we been true to Gandhiji's teachings? Yes. We have been. We have carried out his wishes to the last. If at all, Gandhiji was not able to get his wishes carried out, it was only during his own life-time that he failed; for he had set his face against partition yet ultimately he had to yield to it. Otherwise, the cardinal principles, like the four-pronged attack against the British and also the mission of reconstruction in the country, we have incorporated in our Constitution and therefore with a clean conscience we can say that we have carried out his wishes.

So far as non-violence is concerned, it is not a thing that can be worked into the laws of the country through a non-violent state. It is an attitude and an approach, a direction and not a destination. It is an attempt, not an attainment. Therefore, so long as we are working towards the direction of non-violence, so long our labours are bound to bear fruit. The only example I can cite on this point is the great achievement of our Prime Minister in his recent tour of America where he won laurels as the key man of the age and possibly as the first Prime Minister of a World-State. He has been able to impress the westerners with this philosophy of ours. There is no doubt that we are saturated and surcharged with the spirit of non-violence, no matter if we still employ the police on the one hand and the military on the other, or even if we be prepared to wage wars in anticipation of wars in which we may be involved.

When all is said and done, we must realize how much we owe to the half a dozen men that have fashioned this constitution and given it a shape and form. Our friend, Dr. Ambedkar, has gone away, else I should have liked to tell him what a steam-roller

intellect he brought to bear upon this magnificent and tremendous task : irresistible, indomitable, unconquerable levelling down tall palms and short poppies : whatever he felt to be right he stood by, regardless of consequences.

Then there was Sir Alladi, with his oceanic depths of learning, and a whole knowledge of the Constitutional Law of the world on his finger tips. He has made great contributions towards the drawing up of this Constitution. He only has to perfect it all by writing a commentary upon it. That was the latest request of Mr. Santhanam to him and I hope he will fulfil it.

Then we have Mr. Gopalaswami Ayyangar : copy as a maiden and unobtrusive, but rising to the full heights of the necessities of the occasion, combining always the real with the ideal, and bringing a soft and kindly judgment on to a severe issue.

Next you have Mr. Munshi, the like of whom we cannot see for his resiliency and receptivity; his wide and varied knowledge, his sharp intellect and his ready resourcefulness have been a tremendous aid to us.

Mr. Madhava Rao is not here now. He was a Diwan of Mysore. He had laboured hard in our Committee. He had vast experience from that of an Assistant Commissioner, Mysore, when I was still in my medical studies, until he became Diwan. He too has done his good bit in this work.

Then there is a man, who is almost unnoticed, and whose name has not been mentioned by any of my friends, to whom I would like to refer, the sweet and subdued Sa'adulla, who has brought a rich experience to bear upon the deliberations of this House.

Finally, comes the slim, tall man, who sits opposite to me, with his ready and rapier thrusts of repartee and rejoinder, whose (sharp-pointed) intellect always punctures or lacerates the opposition. But he is always able to cover up the injury with his plastic surgery and recuperative powers : and that is Mr. T. T. Krishnamachari.

We have all had the help of these people, but, Sir, the work of all these friends would have been of no use but for the sweetness, the gentleness, with which you turned towards a person when you wanted him to stop in his further speaking : the patience with which you waited in order to catch his eye, - not he to catch your eye, - and the very gentle manner in which you cast the hint that he should now wind up; and when some of us were rebellious, disorderly and chaotic, you simply smiled in order to choke that attitude.

It is a great thing I tell you that we have achieved. It is not right to under-estimate what we have achieved. Much has been done behind the curtains and but for the discipline and drilling of the majority party in this House, these deliberations would not have come to this happy end.

I thank you all for the great task that you have achieved and I congratulate you on it.

All that remains for me to say is that this Constitution is a good enough Constitution for us to begin with. Work it, work upon it : work at it : work it out for all

that you are worth and as the great Parliamentarian said in the seventies of the 19th Century when the franchise was developed, in the British House of Commons, say to yourselves. "Let us educate our Masters."

**Shri Jagat Narain Lal** : (Bihar : General) : Sir, following the speech of Dr. Sitaramayya made in his lofty style, there is hardly very much left for me to say. But I want to add a few words about this Constitution. It has been attacked and criticized by various friends and supported by various others. I consider this Constitution to be both Federal and Unitary. It is a Federal Constitution, yet it is Unitary. It is a Unitary Constitution yet it is Federal. Neither is it based entirely on the American model, nor on the British model. It combines both these models and has added something of its own to suit our Indian conditions. The powers of control which have been given to the Centre, are, I consider very necessary. The one crying need of our country has been the maintenance of solidarity. Time after time in its history, we have found this solidarity being broken and India falling at the feet of foreign Conquerors. Therefore, Sir, at a time when all foreign rule has been eliminated, the one crying need of the hour is the maintenance of solidarity and unity in this country. Following upon that, I would further add that any distribution of provinces on a linguistic basis must be completely avoided. We have strongly held the view that if a redistribution of provinces is to take place, it should be carried out on an administrative basis. Sir, the formation of an Andhra province is to be welcomed from that point of view. In our deliberations and enquiries we found that if there was a strong case, there could not be a stronger and a riper case than for the formation or an Andhra Province on administrative grounds. We also came to the conclusion that there was necessity of a redistribution of provinces on administrative grounds in the case of certain other provinces too. If and when the necessary-conditions are there, and an opportune time comes, that redistribution may also take place.

I have found that even the incorporation of directive principles in our Constitution has been attacked by some people inside and outside too. But, these directive principles are very necessary. They contain the principles on which our State has to act and those principles are both Gandhian and socialistic, a mixture of both in their character. Article 45 of the Irish Constitution also contains those directive principles.

Now, Sir, I come to some of the drawbacks, or, I might say, some of those omissions which I regret. For example, Sir, I would have liked the name 'Bharat' to come before India. It is a fact that 'Bharat' and India have come in, but I would have liked 'Bharat' to come before India.

I am sorry, Sir, that there has been an undue anxiety in our minds about the avoidance of the name of God. Looking to the foreign constitutions, Constitutions of other countries, I find that there is at least one constitution, the Constitution of South Africa which in its very first article says : "The people of the Union acknowledges the sovereignty and guidance of Almighty God." In our country, Sir, which has always remained religious and has retained its spiritual character and which has produced one of the greatest spiritual personalities in the world in modern times too, I would have liked that the name of God should have been introduced. Again, the words "Secular State" should not have come into the Constitution. It would have been enough if it had been said that the State should not interfere with any religion. Or, we could have said that the State should have a spiritual and moral outlook, instead of saying that it should be secular. The introduction of these words has created a lot of

misunderstanding.

Many of us do not like the introduction or the acceptance of international forms of numerals. But, I have all along held the view that we should not force our views on others and whatever has been achieved by unanimity is welcome. I hope that when the time comes, we shall be able to see one another's point of view.

I also dislike reservation in the case of Anglo-Indians. Anglo-Indians are a cultured and enlightened community and they do not need any reservation. They should be able to come on their merits.

So far as the question of the banning of Cow-slaughter is concerned, I agree with the previous speaker that it should have been brought in a clear and direct manner into our Constitution. Banning of cow killing should not have been introduced in the way it has been done. The majority of the people of this country hold the cow sacred. They hold very strong views on this question and the cow represents, as Mahatma Gandhi said the entire animal kingdom. There was a time in this country when not only the killing of the cows but also of any other animal was prohibited.

I do not want to take more time of the House. With these few reservations, I support the Constitution. I hope and trust the dawn of a new era is near at hand which will lead the country to a brighter future and which will make the state stronger, more solid, more prosperous and more stable.

In the end, I wish to pay my high tributes both to the Chair, or President, and to the Members of the Drafting Committee, particularly, to Dr. Ambedkar, Mr. Munshi and Mr. Krishnamachari amongst many others.

**Mr. President** : I might inform the House that Dr. Ambedkar will take up one hour in the afternoon; Mr. Krishnamachari will take the rest of the time from now up to one o'clock. So we have an hour in the afternoon and I shall try to accommodate as many Members as possible.

May I have the permission of the House – because it is not provided in the rules – to accept the written speeches of Members ?

**Some Honourable Members** : No. Sir.

**Mr. President** : I take it, it is not the wish of the House. But within that one hour in the afternoon, I shall try to accommodate as many Members as possible.

**Shri T. T. Krishnamachari** : Mr. President, Sir, at the outset I would like to express the thanks of the Drafting Committee to the Members of this Honourable House, who, whatever their views might be on certain provisions of this Constitution, have, practically, one and all, paid tributes, to the work of the Drafting Committee – and, Sir, not the least of them all to my septuagenarian leader who in such kind terms singled out every member of the Drafting Committee for recognition of his services, which I think we would all cherish to the end of our lives.

Sir, so far as the criticism that has been levelled against the Constitution or some provisions thereof are concerned, it would not be possible for me to cover the entire

ground and perhaps it is not necessary. But at this stage it is likely that the public and those for whose purpose this Constitution has been framed are likely to get an erroneous view of the provisions of this Constitution if certain criticisms voiced by certain Members of this House which in my view arise out of certain misconceptions, about or out of an imperfect understanding of the provisions of the Constitution are not controverted. In the time at my disposal and with the permission o the House and your goodself, I propose to deal with some of these criticisms.

Sir, if I am to catalogue the various criticisms, it might take the entire time at my disposal. But I would like to tell the House that they form a bewildering complexity, one criticism contradicting the other. I might read out a few of the criticisms that I have jotted down. One of the basic defects of this Constitution is supposed to be that it is not a federal constitution, but a unitary one. There are other Members who feel that it is a constitution midway between the two –whatever that might mean. A third class of persons said it is a decentralised unitary state – I think it is Mr. Gupte who said it. And then again Mr. Gupte took objection to our using the word "state", as statehood is not conferred on the units of this Federation. The general complaint has been that there is too much centralisation in the Constitution which deprives the units of any initiative. One complaint which has been common to the criticisms voiced by most of the people claiming to speak for the Provinces is that the Provinces have been left in a bad way financially. Another complaint has been that we have merely copied the provisions from other Constitutions. Reference has also been made that we would have been wiser to have modelled the Constitution on the United States Constitution or the Soviet Constitution. Mr. K. T. Shah, Who is not here, has said that we have not provided for a working democracy.

Another set of complaints – mostly coming from speakers whose speeches I was not able to understand in their entirety, because of my own particular defect of not being able to understand the language in which they spoke was that it is entirely un-Indian in outlook and does not bear the stamp of Indian culture. Yet another complaint was that it does not have any economic guarantees. This was the complaint voiced by Mr. Damodar Swarup who, therefore, wanted the rejection of this Constitution.

Then the complaint was made that it is too long and goes into unnecessary details and thus stifles growth. A Member from Travancore State (I think somebody also repeated that criticism) that the Weimar Constitution produced a Hitler and this Constitution might very well be the means of producing another Hitler. Of course, the complaint generally has been about Fundamental Rights particularly about those provisions which deal with individual liberty and about the emergency provisions. Article 360 and 365 have come in for a lot of criticism.

Some of the Members from the Indian States have complained that the States have been treated badly. On the other hand, some Members from the Indian States have said that the States should not have been treated on the same footing as the Provinces. Separation of powers is another theoretical consideration that has been urged and the speakers said that that has not been recognised and provided for in this Constitution. There have been honourable Members who have said that this Constitution makes the President an autocrat. Others have said that the Prime Minister has been made an autocrat in this Constitution. Yet another point which is perhaps of fundamental character is that there is no mention that the President is a constitutional head of the State. There are other matters like the suggestion that the language provisions are halting and that the Constitution must have been framed in Hindi. Of

course the cow has figured largely in the debates for these last seven days. The cry has been that socialism is not possible under this Constitution and more or less tacked on to it has been the complaint of some honourable Members that property rights have been safeguarded beyond necessity. Yet again, there was my honourable Friend Begum Aizaz Rasul who made the complaint that property rights have not been adequately safeguarded. So honourable Members will please note that there have been contradictory criticisms, one cancelling the other, and perhaps if the whole lot of criticisms are put together it might be that we might feel, - the Drafting Committee and the Members of this House might feel, - that we have not done a bad job after all.

Sir, I would like to go into a few fundamental objections because as I said it would not be right for us to leave these criticisms uncontroverted. Let me take up a matter which is perhaps partly theoretical but one which has a validity so far as the average man in this country is concerned. Are we framing a unitary Constitution? Is this Constitution centralising power in Delhi? Is there any way provided by means of which the position of people in various areas could be safeguarded, their voices heard in regard to matters of their local administration? I think it is a very big charge to make that this Constitution is not a federal Constitution, and that it is a unitary one. We should not forget that this question that the Indian Constitution should be a federal one has been settled by our Leader who is no more with us, in the Round Table Conference in London eighteen years back. I suppose his stand had to some extent shaped the provisions of the Government of India Act, though the question of Provincial autonomy had been decided largely because of the likes or dislikes of the Muslim members of the Round Table Conference. Now, what is a federation? I am glad that my honourable Friend Pandit Hirday Nath Kunzru is here because he alone of all Members of this House warned us against going into details in regard to what is a federation. It is not a definite concept, it has not got any stable meaning. It is a concept the definition of which has been changing from time to time. Leaving alone political theories of the ages before Christ and in the middle ages, in modern times or in relatively modern times, the first time that people who have exercised their minds about a federal constitution were the people of the thirteen American colonies and we find a reference to it in the writings of those who have framed the American Constitution, who produced several articles which were brought together in a book called the "Federalist". It does happen that the connotation which is now current so far as the theoretical circles are concerned has been given to it by the Federalists in America in the 18$^{th}$ century but even between that connotation and the modern one there is a considerable amount of difference. Students of politics will know that Hamilton did not think the same way as Jefferson or as Madison did. Though the issues between them were comparatively narrow and dictated by considerations that obtained at the time they framed the American Constitution, they were nevertheless wide enough in so far as they affected the interpretation of the Constitution subsequently. In fact, honourable Members who are familiar with the American Constitution will realise that Marshall who gave more or less a tone to the Status of the national Government in America has been taking the view that Hamilton did and whatever he did by way of strengthening the national Government's power was more or less neutralized by his successors, particularly Chief Justice Taney who was an out and out Jeffersonian. Sir, I do not want to go into the details of the American Constitution and its progress, but the one fact which we have to realise is that whatever might have been the intention of the frames of that Constitution and their own particular connotation of what federalism should be, the whole thing changed after the American Civil War and from that day right to today there has been a progressive increase in the power of the National Government by a series of interpretations of the provisions of the Constitution, excepting for a very short period

somewhere in 1919-20 when there was reversion to Jeffersonian ideas. I am laying stress on this particular point even though it might appear theoretical, to cover a number of criticisms against this Constitution. I would also like honourable Members to note these points merely because that would answer partly the charge that the Constitution is very long.

Many honourable Members have said that we should have copied the American Constitution. Some very worthy leaders outside who have the reputation of being students of constitutional law occupying high positions, have stated that we should have copied the American Constitution and that this long Constitutional document is worthless, or that we should have had a Constitution outlining only a few general provisions which would have allowed for growth. But I would ask those gentlemen outside and honourable Members here just to look at the decisions that are today an integral part of the American Constitution and they will then find that to understand the American Constitution it will be necessary to take into account not only the bare text but also the decisions of the supreme court over these hundred and fifty years. From 1862 onwards the powers of the national Government have been steadily augmented by various devices. For instance, even Marshall said there were implied powers. Subsequent judicial pronouncements have said there are inherent and express powers assigned to the national Government. Then again, judicial decision have granted powers to the national Government because they were necessary for the exercise of the main functions of the Government. Again the Federal legislatures have enlarged their scope because they were incidental and necessary for their function. Sometimes some of these powers have been called resulting powers mainly because of the action of the exercise of the powers that have been enumerated. The treaty-making power of the national Government that finds mention in the American constitution has been considerably enlarged. In fact, sometimes the Centre has made inroads into the provincial power as a result of this power. The legislative power for the grant of judicial power has also made inroads into the State power but not the least of them all are the three powers which have had a wide implication one was the general welfare power which finds mention in the Preamble and in article (1), Section 8, then the Commerce clause and the taxing power. In fact my honourable friend Mr. Alladi Krishnaswami Ayyar had made mention of these in his speech. Again, the taxing power has been further stretched by using the appropriate spending power of the Centre so that in America today there is a central federal public health service, there are various other bureaus which administer directly their own departments in the various States.

I have gone into these details merely to tell the honourable Members of this House that if we should frame a Constitution on the American model we should perhaps have gone into greater detail, than what we have done and we should perhaps have given the Centre greater powers than we have given in this Constitution.

Sir, it is rather difficult to say what the present position of Federalism is in so far as the American Constitution is concerned. But, in the latest book on the American Constitution written by Laski, practically in its closing paragraphs, he says "that if people want to understand the American Constitution, let them look at the position of the President. The significant increase in the powers and the Status of the President has been the greatest charge in the Federal system in America." He thinks that the classic theory of federalism would become obsolete in its historic form before long.

Are we, Sir, in framing our Constitution, merely to take only those features that

are obsolete, only those features which have only historical value in the American Constitution and really leave the operative portion of that Constitution in order to please the aesthetic susceptibilities of certain honourable Gentlemen here or elsewhere who feel that we should have a Constitution that would be short like a Prayer Book capable of being put in the Ladies handbag and taken along wherever one wanted. A Constitution should give the average man an idea as to what it really means. He should not be left in such a position as to make him dependent on judicial decisions and the advice of expert lawyers to expound it to him.

I would in this connection deal with a point raised regarding the vesting of the residuary powers. I think more than one honourable Member mentioned that the fact that the residuary power is vested in the Centre in our Constitution makes it a unitary Constitution. It was, I think, further emphasised by my honourable Friend Mr. Gupte in the course of his speech. He said : "The test is there. The residuary power is vested in the Centre'. I am taking my friend Mr. Gupte quite seriously, because he appears to be a careful student who has called out this particular point from some text book on federalism. I would like to tell honourable Members that it is not a very important matter in assessing whether a particular Constitution is based on a federal system from the point of view whether the residuary power is vested in the States or in the Central Government. Mr. K. C. Where who has written recently a book on Federalism has dealt with this point. But he has dismissed it as of no account. But even at the risk of going into some detail, I would like to mention that it is the German political philosophers who evolved the peculiar theory called the Competence – Competence theory. This theory is whether the national Government or the State is allowed to appropriate competences which have been formally left to one or the other or had come into being at a later date. Only when the State is left with this competence such a Constitution would, be a Federation. In actual practice such states had never come into being. 'If so happens that a component State has to concede the power categorically to the Central Government it would not be a Federation. It would be a Confederation. It has been pointed out that definitions attaching such conditions are futile for the reason that the change sought to be made can be achieved by the amending power. And so far as the amending power is concerned, the initiative is always with the Centre.

I am glad that Mr. Pataskar in a very devastating but superficial criticism of the Constitution was able to concede that the best point in this Constitution was the amending power. I agree that the best point is the amending power and observe that in regard to most of the matters covered by the Constitution the amending power rests with the Centre. Applying the logic of the unitary this fact alone makes it a Federal Constitution.

**Shri H. V. Pataskar** : I did not say it was the only satisfactory provision but said that it was a satisfactory provision.

**Shri T. T. Krishnamachari** : I am quite prepared to accept my honourable Friend's emendation of his speech. These factors do not go to constitute whether a Constitution is a federation or not. If you look into detailed provisions of any Federal Constitution you will find that so long as there is a National Government there is a sector in that Constitution which has a unitary character. But that does not mean that the Constitution becomes a Unitary Constitution merely because of the fact that whenever there is a National Government there are certain powers given to it whether by enumeration or otherwise. When those powers are exercised it would not merely by

reason of this fact alone become a Unitary Constitution.

I would ask my honourable Friend to apply a very simple test so far as this Constitution is concerned to find out whether it is federal or not. The simple definition I have got from the German school of political philosophy is that the first criterion is that the State must exercise compulsive power in the enforcement of a given political order, the second is that these powers must be regularly exercised over all the inhabitants of a given territory, and the third is the most important and that is that the activity of the State must not be completely circumscribed by orders handed down for execution by the superior unit. The important words are 'must not be completely circumscribed', which envisages some powers of the State are bound to be circumscribed by the exercise of federal authority. Having all these factors in view, I will urge that our Constitution is a Federal Constitution. I urge that our Constitution is one in which we have given power to the Units which are both substantial and significant in the legislative sphere and in the executive sphere.

Now if you ask me why we have really kept the residuary power with the Centre and whether it means anything at all, I will say that it is because we have gone to such absolute length to enumerate the powers of the Centre and of the States and also the powers that are to be exercised by both of them in the concurrent field. In fact, to quote Professor Where again, who has made a superficial survey of the Government of India Act, the best point in the Government of India Act is the complete and exhaustive enumeration of powers in Schedule VII. To my mind there seems to be the possibility of only one power that has not been enumerated, which might be exercised in the future by means of the use of the residuary power, namely the capital levy on agricultural land. This power has not been assigned either to the Centre or to the Units. It may be that following the scheme of Estate Duty and succession duty on urban and agricultural property, even if the Centre has to take over this power under the residuary power after some time, it would assign the proceeds of this levy to the provinces, because all things that are supposed to be associated with agriculture are assigned to the provinces. I think the vesting of the residuary power is only a matter of academic significance today. To say that because residuary power is vested in the Centre and not in the provinces this is not a Federation would not be correct.

Let me draw the attention of my honourable Friends to one or two good things we have done in regard to this question of the relationship between the Centre and the Provinces. We have dealt very carefully with the possibility of a vacuum in Governmental power. There will be no chance of a defect of power so far as the enumeration of powers is concerned even without going to the residuary power, which would leave a vacuum in the field of governmental action. We have avoided to the extent possible the possibility of matters being taken to court on the ground that there is overlapping of federal and units powers which are mutually exclusive. This is one of the defects of the Canadian Constitution. The powers enumerated under Section 91 and section 92 of the Canadian Constitution are supposed to be mutually exclusive that it has resulted in a lot of overlapping or to use a legal term in the creation of "a twilight zone" between the Central field and the provincial field, and has also resulted in a large number of judicial decisions. We have taken care, while copying these federal constitutions to avoid the pitfalls into which the Canadian Constitution has fallen.

Again, so far as the concurrent field is concerned, we have made a considerable

improvement both on the Government of India Act and the Australian Constitution the only other Constitution where concurrent powers are specifically mentioned. So far as the Australian Constitution is concerned, its concurrent field has given rise to a lot of conflict. There is no clear demarcation of division of jurisdiction in the field of executive action. This has given rise to a lot of conflict. We have tried to avoid these defects which were copied in the Government of India Act, by the wording of article 73. Though that particular article was the subject of a lot of discussion in this House, I still feel that that is one of the wisest decisions which have been taken by this House. In this we have avoided the ambiguity of section126 of the Government of India Act. Here under the new Constitution, whenever the Centre interferes in the concurrent field, in matters of legislation, if it wants to have the executive power, it must take it explicitly. I am laying emphasis on this point because of the charge made here by honourable Members that the provincial governments are left without any responsibility. I would like to say even if it savours of boasting that in the Drafting Committee I have been rather keen to seen that there is no blurring of responsibility. Some Members in this House have been very keen that the responsibility of the Governments concerned should be clear; and I think this article avoids blurring of responsibility.

Another question that I would like to deal with is the question of the fiscal power, the sharing of fiscal powers between the units and the Centre. The charge has been very generally made in this House that the provinces have been left without any resources, and the Centre has taken away everything. I am afraid I must join issue with this statement that is either made merely because it has got a propagandist value or is made from a superfluous examination of the position as is revealed by the Constitution. What happens today in the provinces is – here I do not want to enter into any controversy with provincial Finance Ministers – that the provincial Finance Minister in order to support their own financial policies have been saying, "we have no money; the Centre would not give us any money; the Centre has got all sources of taxation." I have heard recently one or two provincial Finance Ministers making the statement that after the introduction of the new Constitution, the provinces will have no financial power whatsoever. I am laying particular emphasis on this criticism because I think it is wholly wrong, wholly inaccurate, and even mischievous. In fact, this Constitution has not made any fundamental change so far as the apportionment of the finances is concerned between the Centre and the units, from the scheme of the Government of India Act. As honourable Members of this House know, we have not been able to have a complete and comprehensive examination of the question. There has been no taxation inquiry in recent times. You, Sir, appointed an expert Committee. It had naturally very limited terms of reference and their report was made in a perfunctory sort of way. Therefore we had to adopt the scheme of the Government of India Act more or less. Now I would like to mention that in a conference between the Finance Ministers and Premiers of the Provinces and the States and some of the Ministers of the Central Government and the Drafting Committee, I put forward the suggestion that the difference between agricultural and on-agricultural property so far as direct taxes are concerned may be done away with, so that it would help in putting more money in the poor : and that, the entire income from income-tax on agricultural income can be handed over to the provinces. A few provincial Ministers did appreciate this suggestion, but the tallest amongst them said that they were not yet ready for the change. So it happens that conditions have more or less forced us to incorporate the provisions of the Government of India Act so far as finances of the Centre and the Units are concerned. It may be that in one or two matters certain restrictions have been placed upon the financial power of the provinces, for example in the matter of the levy of sales tax, but that does not mean

that the Centre gets any benefit whatever thereby. It is merely to benefit the economy of this country rather than to benefit the Centre that such restrictions were placed on the levy of sales tax. I cannot understand the basis of the complaints made during the last seven days that this Constitution has deprived the provinces of the initiative because they would have no finances, that the Centre has all the financial resources in its hands, and therefore the Constitution is a unitary one. I would beg honourable Members of this House, most of whom are going to be Members of Parliament in the future, to examine this matter in all seriousness, and here I would like to recall the words of Dr. John Mathai when he appeared before us or rather on the only occasion in which he appeared before us, when he categorically stated that there was really no rivalry between the Centre and the units so far as the financial power is concerned. In reality the Centre's needs are covered largely by defence, administrative expenses and so on, and the Centre has no territory so to speak in which it has any special interest and on which it might want to spend money.

Here I think I had better take note of the complaint made by honourable Members from Assam. I agree that Assam may be in a very bad way, partly because of the exigencies of circumstances, and partly because of the acts of its Government. Whatever it may be, it would be the duty of the Centre and the responsibility of the future national governments to see that no province, no frontier province, no province which is economically weak, is allowed to go under for want of finances. As I told the House before, there is really no rivalry between the Centre and the units in this matter. The provisions that we have made so far as finances are concerned are article 268 under which there will be Central levy and State collection of certain duties, particularly on medicinal and toilet preparations, the proceeds being earmarked for the States. Under 269 there will be Central levy and Central collection for the benefit of the States of the proceeds of succession duties, estate duties and so on. Article 270 is the one which deals with income-tax. Honourable Members know that income-tax pure and simple goes into the pool to be divided between the States and the Centre, Article 271 gives power to the Centre to levy a surcharge on income-tax and other taxes for the benefit of the Centre. Article 272 gives the Union the power to levy excise duties, the proceeds of the whole or part of which may be distributed among the States. Article 273 covers export duty on jute and jute products, which for a period of ten years will be distributed among certain States. Article 280 deals with the Finance Commission which will advise the Centre on the distribution of the proceeds of taxes between the Centre and the units and the determination of the criteria that will govern grants made available from the Centre to the provinces. That is the best that we could possibly do in the Constitution in the light of the facts before us. I agree that what we want is that the total amount of financial resources available both for the Centre and the units has to be augmented and it has to be augmented if the ultimate purpose of this Constitution, namely, the economic betterment of the common man is to be undertaken; but the remedy does not lie in throwing stones at the Centre or at the Constitution and merely trying to shirk responsibility, so far as Provincial Ministries are concerned by saying that the Centre has got all the taxing power and we have none. Let me tell my honourable Friends in the House that the drift of taxing power in all Constitution has been towards the Centre and merely because of circumstances that have now come into being that the States have become, where it is federal or unitary, welfare states from being Police States and the ultimate responsibility as for the economic well-being of the country has become the paramount responsibility of the Centre. Switzerland has handed over Income-tax to the Centre. By the sixteenth amendment the U.S.A. Constitution hands over the entire income-tax to the national Government without any burden or any obligation to be distributed to the States by the Centre. Australia by means of a compact has taken over income-tax from the

States and the Rowell-Sirvois report so far as the dominion-provincial relations in Canada are concerned has recommended the complete obliteration of any power to levy income-tax on the part of the provinces, while it has also laid down certain duties and obligations has to be assumed by the Centre. It has not been recognised that there is no natural coincidence between the ability of a Government to handle a set of functions and its ability to collect revenues, and if today we hand over the excise duties to the units, what will happen? What happens in so far as the sales tax is concerned, would be repeated in a much worse form. There would not be any uniformity; there will be a large field open for evasion and in the result the economy of the whole country will suffer. If the money that the Centre will collect, which will be surplus to its requirements is intended for the States *i.e.*, the units and we have made a provision so far as the distribution of this surplus is concerned, I think the charge that the Centre has taken over all the financial powers and along with all the money that goes with it is completely baseless.

There is only one point which I would like to make before going to the next subject, though I have made a note of a number of points on this subject with which I cannot possibly deal with now, and it is the intricate question which my honourable Friend Mr. Gupte raised and I think it was also raised in this House on previous occasions also, though not explicitly. It has been mentioned that one of the chief defects of this Constitution is that we have not anywhere mentioned that the President is a Constitutional head and the future of the President's powers is, therefore, doubtful. I am referring to this point merely because it has a certain amount of validity in that in certain dominions attached to the British Empire this problem has been raised because of the peculiar circumstances In which the Governor-General of that particular dominion has been acting in the past. Chief Justice Evatt, as he then was, Mr. Evatt the Minister for External Affairs in Australia, has written a book in which he wanted specific provisions to be made in regard to the exercise of power by the Governor-General as the Constitutional head of the Dominion and incidentally mentions therein that even in the case of the king of England it would be better if it is laid down that he should exercise this power in a certain manner and on certain occasions by means of a statute. This is a matter which has been examined by the Drafting Committee to some extent. The position of the President in a responsible Government is not the same as the position of a president in a representative Government like America and that is a mistake that a number of people in the House have been making, when they said that the President will be an autocrat, and no one appears to realize that the President has to act on the advice of the Prime Minister. There might be some truth in the charge made that the Prime Minister might be an autocrat. Yes, the Prime Minister would be an autocrat if the party that elects him as leader and the Parliament to which he is responsible are both inactive because the tenure of office of a Prime Minister is perhaps only that amount of time that is necessary to pass a vote of no confidence on him. How a Prime Minister can be an autocrat when his tenure of office is so limited, unless there are other reasons which gives him the pull both over the Parliament and his party, is difficult for me to understand. So far as the relationship of the President with the Cabinet is concerned. I must say that we have so to say completely copied the system of responsible Government that is functioning in Britain today; we have made no deviation from it and the deviations that we, have made are only such as are necessary because our Constitution is federal in structure. Otherwise, that is the scheme of responsible Government that is envisaged both in the Centre and in the units. So far as the units are concerned the responsibility of the ministers has perhaps been in a very small measure curtailed only to the extent that it is absolutely necessary and has been expressly laid down in the Constitution. Honourable Members will please note that in

article 163 we have said that the Governor should take the advice of the ministers excepting where he has been expressly asked to act in his discretion. An honourable Member asked me today what that meant. That was necessary because of Schedule VI, paragraphs 9 and 18 referring to Assam, which is the only matter in which the Governor has to use his discretion; in paragraph 9 of the Sixth Schedule which is a matter of arbitration and in paragraph 18 of the Sixth Schedule he has to report to the President; otherwise, there is no discretionary power at all vested in the Governor and we want the Governor to act in a manner which would mean that he will be taking the advice of his ministers in all matters. It has been expressly laid down in regard to assent of bills which he had to reserve for the assent of the President by reason of the fact that it falls in the concurrent field or that it is a matter which relates to the High Courts. But the position of the President in not the same as the King of England because he has no prerogatives such as the King of England possesses. His part in the assent to Bill is a matter which has been defined. All the powers that are left to him are perhaps those in which there will be a marginal use of discretion, perhaps when there happens to be a question of dissolution of the Parliament that is the dissolution of the House of the People, the question of calling upon any particular person to form the Ministry and the question of dismissing the Ministry. Sir, the time at my disposal is very short but I would like to assure my honourable Friends that in all these points, the conventions that have grown round the powers of the King of England in so far as his relationship with his Cabinet is concerned today are sufficiently strong for us to rest content with the there will be no misuse of these marginal powers by the President. The power of the Prime Minister in England has been progressively increasing, and instances in which probably the King had to use his discretion, namely in 1924 when he agreed with the suggestion of Prime Minister MacDonald to dissolve the House and then again in 1931 when he called upon MacDonald to form the Government in spite of the fact that the party to which he belonged had gone over to the opposition, these were matters where the discretion were more or less of a marginal nature. There were subsequent instances, notably the instance where the Prime Minister felt that even the King should not remain on the throne because of certain things that he was going to do, his abdication and subsequently in matter in which he had to take the advice of the Prime Minister, in setting up of a temporary commission by counsellors to act in his stead. These and other things in England have more or less established that the Prime Minister's advice is paramount, paramount in so far as the King cannot even call any people for consultation unless it be the Leader of the Opposition, and even then he has to tell the Prime Minister what transpired between them. The conventions are sufficiently strong and well established but a marginal instance might come into being and therefore, we cannot put in the Constitution precisely where the President must do this and what the Prime Minister can ask him to do and where he can use his judgment between two matters which are rather difficult to decide. Of course there may be an error or misassessment of facts or an error of judgement or it happens to be *bona fide* and it cannot be helped. We have considered this matter and on balance of considerations we felt that we ought to leave it to conventions and to such conventions that have been established in other countries following a system of responsible Government.

May I ask for 15 minutes in the afternoon, Sir?

**Mr. President** : Yes, Then we adjourn to three o' clock.

The Assembly then adjourned for Lunch till Three P.M.

The Assembly re-assembled after Lunch at Three P.M., Mr. President (The Honourable Dr. Rajendra Prasad) in the Chair.

---

**Shri T. T. Krishnamachari** : Mr. President, Sir, I would like to deal with the points raised by honourable Members in regard to the Fundamental Rights. With many of the provisions in that Part, honourable Members have been in agreement. But the attack has been focussed on two sets of provisions, one dealing with the liberty of the individual citizen, and the other dealing with property. Sir, it is a moot question whether in a country with a Parliament elected on the basis of adult suffrage, where the common man is supposed to have a preponderant voice in the administration of the country and the making of the laws, it is necessary to have a set of fundamental rights incorporated in the Constitution. My honourable Friend Shrimati Purnima Banergi mentioned that she would have preferred that the fundamental rights were left without any subtraction therefrom in the same manner as is found in the American Constitution. Again, I have to mention that those friends who wanted a set of fundamental rights, particularly those dealing with individual liberty and so on, copied from the American Constitution, forgot the historical background of the incorporation of such fundamental rights in the American Constitution. These were incorporated merely because of the fear of a group of people who framed the Constitution, who felt that the newly-created Centre would develop to be a monster and would make inroads not merely into the rights of the States, but also into the rights of the individual-the natural abhorrence of those people of the same type of mind as Jefferson who were responsible for the incorporation of the fundamental rights in the American Constitution to a powerful national Government was the main cause. But, it would not be right to incorporate those provisions without any variations, or any amendment or subtraction in a Constitution that we are framing in 1949.

Let me take the provision in regard to economic matters, particularly, article 31. As I said at the outset, my honourable Friend Begum Aizaz Rasul said that they did not go far enough. I agree; I think she is perfectly right. Fundamental rights are intended only for the people who represent a certain class of persons usually called the vested interests. It is the vested interests that are afraid of the future Parliament elected on adult suffrage which might want to democratize, socialise and equalise the wealth and opportunities in the country. It is the vested interests that have to be afraid of the future. It is perfectly correct, though it may not be on merits proper to concede, for Begum Aizaz Rasul to make the complaint that the Fundamental Rights in regard to property do not go far enough.

On the other hand, a number of my friends here, including my honourable Friend Shrimati Renuka Ray, felt that the rights conceded to property owners in article 31 went far.

**An Honourable Member** : Too far.

**Shri T. T. Krishnamachari** : The position of these people who took up that attitude should be that fundamental rights are not necessary to be safeguarded in a constitution where adult suffrage is the order of the day, where Parliament will be elected by every adult citizen in the country. That is the natural corollary. On the merits of the question, I have a little more to say.

I do want the House to understand that there are two conflicting moods in the minds of the people while approaching the fundamental rights : those that feel that the fundamental rights have gone too far, and those that feel that the fundamental rights have not gone far enough. Let me take up the position of my honourable Friends Pandit Kunzru and Pandit Thakur Das Bhargava whose objections to articles 19, 21 and 22 and even to some other ones, were that there has been a subtraction of the rights conceded to the individual. Well, I must say that on pure merits, and in the light of what is happening now about us and what has happened in the past my sympathies are entirely with them. All of us who came into politics as a result of a desire for freedom and dislike of the British rule, have done so because we were attracted by libertarian traditions attached to the rights of the individual. We wanted those rights to be safeguarded at a time when a foreign ruler was ruling over us. But today, if there is to be any subtraction of those rights, it would be effected by Parliament and by the legislatures of the States; in fact, Parliament will have the ultimate say, because most of the subjects which cover personal liberty are in the Concurrent List and Parliamentary enactments will predominate. If objection is taken to Parliament passing any act, it means that there is a certain amount of lack of confidence in the Parliament which would be elected on adult suffrage. It might appear to be an ingenious argument; but that is a grim fact. My honourable Friends might choose between the two. Yes; what we have done is merely to state the proposition, and we have stated that if Parliament so wills, it can subtract from the propositions (a), (b), (c), (d) and (e), the rights conferred to the extent stated. If Parliament does not want it, it need not, and the fundamental rights stated will be there without any diminution therefrom, Any subtraction can only be done by a positive Act by Parliament enacting laws in regard to every particular right. That is the point I want honourable Members to understand. I also want those people who criticise the Constitution on the basis that the fundamental rights conceded are worthless because they have been subtracted from to understand the point that the subtraction can only be affected by Parliament, and if they have any confidence in Parliament, Parliament will not do it unless it is absolutely necessary. I agree that the present circumstances colour our vision make us look at them in a way which distorts the picture. I have not been in charge of law and order in any province; I have not been in power; so it is fairly easy for me to sympathise with my friends who feel that notwithstanding the fact that the British have gone, the hangover is still there both ways. It affects us citizens who criticise the Government. It affects those in Government because they have imbibed the traditions of our former rulers. I do not for one moment question the validity of the objections raised by my honourable Friend Pandit Thakur Das Bhargava or Pandit Kunzru on the ground that at the present moment there has been a certain amount of what appears to be miss-use of authority or rather extra use of authority. But I do not think that is a matter which would exist for all times. At any rate if the Parliament of the future is not going to safeguard the liberty of the individual, I do not think that anything we put in this Constitution can possibly safeguard it. Therefore any insistence on putting into the Constitution Fundamental Rights, completely unabridged and in a manner that was done somewhere about 160 years back by a country which had different ideals and different hopes is. I think, an argument which is besides the point and out of place altogether.

In regard to the economic provisions I should like to say a few more words. I perfectly agree with the tenability of the objections raised by friends like Shrimati Renuka Ray and others. In fact I have a lot of sympathy with these objections though I have always felt that the provisions as they now stand – the provisions which were originally the provisions of Section 299 of the Government of India Act did not permit any legislation undertaken by Parliament or the Legislature of a State relating to the

principle of compensation to be taken to a court of law and to be decided thereafter. But why I feel that my honourable Friends who have criticized the provisions are right is because I see – in spite of my holding that view that view-in spite of the fact that my earned colleague Alladi Krishnaswamy Ayyar held the opposite view about a year and a half ago and now holds the view that those principles are not justiciable – the possibility of the matter being taken to Court is there and I feel that in this country we can not afford to have matters which are of great economic moment and importance to the average man in the country to be taken to court and for a period of uncertainty to ensue.

But I am coming to the most vital portion of the manner in which the structure of the Constitution was undertaken. Honourable Members must realize that this Constitution as it has been mentioned by other members-before me is a result of compromise. 296 people who have assembled here hold different views on economic matters and we cannot frame a Constitution in which if I say that I am not going to allow a particular thing to be done and other people must follow that, then there will be no agreement. The whole constitution practically – very important parts of this Constitution have been a matter of final agreement among the parties concerned and if anybody now objects to a single proposition after having agreed to most of the propositions. I am afraid they are doing something which is not proper. This Constitution has been completed as a result of agreement amongst most of us. I feel that in that particular matter we have exposed the common man to become the subject of litigation which might probably take years before a final decision is reached and might retard our economic progress. I have done so because there are a number of points in this Constitution which have been agreed to by friends who hold different views. Sir, I have no desire to stand in the way of honourable Friends who might like to speak for a few minutes.

**Shri P. T. Chacko** (Travancore State) : May I know one thing? In part VII there is no provision for the appointment of Rajparamukh. Under Section 155 there is provision for the appointment of Governor which is deleted in Part VII and in some States there is no right of succession to Rajpramukhs. I would like to know whether a provision for the appointment of Rajpramukh is not necessary in such cases where there is no right for succession.

**Shri T. T. Krishnamachari** : I would ask my honourable Friend to look into article 366 clause (21) which provides the answer. I did want to deal with this aspect but I do not think I have got time. Mr. Sarwate raised the point in regard to the position of a Rajpramukh who misbehave against which he felt there was no provision, whereas we have a provision against possible misbehaviour by a Governor. I think that particular clause which is there [*i.e.* article 366 clause (21)] is adequate for all purposes in regard to keeping Rajpramukhs in proper behaviour. In fact there is another point that was raised by an honourable Friend who spoke to me also about it in regard to article 371 and in particular in regard to the position of High Court Judges in the States. Article 371, as it has been conceded by other friends here-Mr. Malaviya who spoke yesterday wanted it-is a purely transitory provision and you must leave it to the government of the day to see that it is not put into operation against States which are advanced and so far as salaries of High Court Judges in the States are concerned, well, so long as the salary of a High Court Judge in States in Part A is high, if we impose the same standard on the States – the States will become bankrupt. Certain anomalies are bound to arise because we have put the Indian States and the provinces together; but without putting them together we will have created a

Constitution which would be something which will not be uniform. Actually that point has been raised by some of our honourable Friends but the limitations are there and we have aimed at uniformity subject to those limitations.

Before I close I would like to mention one matter which I think, the House will agree with me, is to be regretted. My honourable Friend and Colleague Shri K. M. Munshi was eager to participate in the debate at the final stages. In fact I think he has something constructive to say as well in regard to the criticisms made particularly about separation of powers, the nature of the Constitution and so on but unfortunately he has developed a temperature and has sore throat which keeps him more or less bedridden. I have no doubt the Members of this House who like him as much as I do would wish for his speedy recovery and regret that he is not with us today when we are finalising the work that we have carried on for over three years in which Shri K. M. Munshi had played a very important part.

Lastly, may I, Sir, mention the debts that we as Drafting Committee have to discharge particularly to the Ministries of the Government of India. The Ministry of Finance, the Ministry of External Affairs and the Home Ministry have been very good to us and have assisted us considerably. With regard to the States Ministry, we owe to Mr. V.P. Menon and his assistants this task of integrating the States into this Constitution and they have been very accommodating and helpful. So far as the Law Ministry is concerned, I should like to mention by name two persons –the Secretary and Joint Secretary –Mr. Sundaram and Mr. Bhandarkar – who have been of very great use to us insofar as ultimately the Constitution is to be handed over to them it is only right that they should do so but I think that I would be failing in my duty if I do not mention by name the great services they have rendered to us. I would also like to endorse what members of this House have said in regard to the services of Mr. B. N. Rau. His help we missed during the last stages but while missing his help we were aware of the enormous amount of assistance we had received from him during the earlier part of this work and particularly he was so progressive in his views, so sympathetic and so quick as to be able to evolve a formula whenever we had a difficulty. Sir, I should also be failing in my duty if I do not mention that very happy circumstance about which honourable Friends have also made mention – of the fact that we were able to find a Joint Secretary and Draftsman of the calibre of Shri S. N. Mukherjee. It is no exaggeration to say that he was a real find. Not only is his ability as a draftsman so profound, but more than that, his willingness to work was even greater. (*Cheers*) And the House will also like to be told that practically everybody from Mr. Khanna downwards, to the clerks, superintendents and the reporters, have had to work very hard. For the last eight to ten months having been closely associated with the work of the Drafting committee, and having voluntarily undertaken some portion of its mechanical work, I was in a position to see that these young people were working on most days till ten o'clock in the night, all because they were so enthusiastic : and the last one month has been a month of very severe strain to them; and I do hope that the House will recognise the work done by them in framing this Constitution which is of a very vital and important nature.

Sir, it would be out of place for me not to mention the services of the two great leaders, and it is a pity that they are not here today to say a few words. But the Prime Minister, Pandit Jawaharlal Nehru has been a source of great strength and help to us. In fact, he has followed the constitution and its various articles right from the beginning, and in many instances, we have had his very great abilities as a draftsman and writer to touch up particular articles put before this House. It was no doubt,

unfortunate that during the early portion of our work, the Honourable Sardar Patel, was not in a position to be with us because of his illness; but during the last three or four months, we had to go to him on several occasions for advice which he so willingly and cheerfully gave us. After all, they are the real architects of the Constitution.

I know it is very embarrassing, very embarrassing to me and to you, to speak of the person who has been in charge of the destinies of the Constitution of this country. I feel myself fortunate in having been associated with the Drafting Committee – a fact which I owe primarily to another friend about whom I have to mention – Dr. H. C. Mookerjee – who during the short time that you were away, functioned so effectively and so well as the presiding officer and it would be improper not to mention his name. But, Sir, the fact that I was in the Drafting Committee had been a matter of good fortune to me primarily in that I have been able to see you at close quarters. I have no doubt that it has been a matter of intense personal profit to me, and a matter of great pleasure. Members in this House have already mentioned about the work that you have done and there is hardly any need for me to repeat it. But the House knows that the President has been in close touch with the Drafting Committee and has practically had some say in most of the work that we have done, and his advice and guidance have been of great help to us.

There is only one final word and that…….....

**Shri Mahavir Tyagi** : Let others also have some time, please.

**Shri T. T. Krishnamachari** : On final word before I sit down and it is this. Let honourable Members realise that even those of us in the Drafting Committee had notions of our own, had bias of our own; but we approached this work purely without any bias, and the result is what is before the House. It may be good in parts like the Curate's egg, or it may be very good taken as a whole, but I would only say this in conclusion that people worked on this Constitution only for the purpose of giving the common man of this country a Constitution which will make his life worth living, and I would suggest that this Constitution be dedicated to him, and in that dedication lies the hope of the future good of this country and the efficient and orderly working of this Constitution.

Thank you very much.

**Mr. President** : Dr. Subbarayan. I would request you not to take more than five minutes.

**Dr. P. Subbarayan** (Madras: General): Sir, I must thank you for giving me this opportunity, and I shall confine myself to the five minutes.

There are only two points which I would like to touch upon in this Constitution. There are two things that the British have left behind for us; one is the efficiency of the civil services and the other is the rule of law. And I think both these points have been carried out and incorporated in this Constitution, because without an efficient civil service, it will be impossible for the government to be carried on and for the continuity of policy to be kept. The importance of governmental administration, according to me, lies in the fact that there is continuity, and unless there is continuity there is bound to be chaos, and I think the Drafting Committee have been very careful to provide for this, and the Deputy Prime Minister himself made a plea for the services

and made a right plea, because I feel in the contentment of the services really lies the safety of a country.

The second point I wish to touch upon is the rule of law which I think is a peculiar part of the English legal system. If there is anything which I would like to cling to in the future of this country, it is this rule of law. Professor Dicey in his law of the Constitution has explained this position fully and I think we have provided in the Constitution, in the powers vested both in the Supreme Court and the High Courts of this country for any citizen to have his right established as against the government of the day, whether Central or Provincial, so that there is no question of encroachment of rights, and the judiciary has been left independent enough to fulfil this task. My friend Mr. Alladi Krishnaswami Ayyar pointed out, and rightly so, that the judiciary should not place itself as an *imperium in imperio*, and I feel satisfied that the provisions that have been made in this Constitution will not make the judiciary an *imperium in imperio*. Of course, there is always that danger also. When people talk of separation of power, this separation of power may be made in such a way that the judiciary may be invested with immense power that it might eventually lead to the break-down of the government of the day, which I think, is not the case in our Constitution.

One word more, sir, and I am done. Some people seem to have fears about adult franchise. It must not be forgotten that even today most of the voters under the franchise that obtains today are themselves illiterate. But the Indian humanity is such that they have enough common-sense, enough horse-sense, if I may say so, which will make it possible for them to chose their rulers with discrimination, and to choose the people whom they think would be able to carry on the administration in a manner which will be for the benefit of the common man, of whom we have talked so much in this House. I am sure, Sir, we are forgoing ourselves a Constitution which will stand the test of time and it will lead this country to take her proper place in the comity of nations.

I am done. Thank you, Sir.

**Mr. President** : Mr. Mahavir Tyagi, you will please take only four minutes.

**Shri Mahavir Tyagi :** Sir, I am grateful to you for giving me this opportunity.

Sir, I assure you these four or five minutes granted by you are the most precious of my life, past, present and future, and they are the most thrilling movements. I stand today face to face with the picture of my old, old dreams and the fruits of my strenuous labours of thirty years. I concrete picture is before us. Dr. Ambedkar who was the main artist has laid aside his brush and unveiled the picture for the public to see and comment upon. The House has already liberally commented on it. It is a picture drawn by us all and I do not want to enter into a further commentary about it. I am in support of whatever has been said in favour of this picture, and I fully support it. After all, in all sincerity and humility we must bequeath to our posterity whatever is best in us. we have put in our best labour and given our best thought to it, and after a lot discussions and deliberations we have arrived at this picture. We must now wholeheartedly bequeath it to posterity in the hope that they will forgive our shortcomings if any, and will make up these shortcomings with their wisdom. From the corner of my eye as I see it, and as also the world will see, the picture is also fraught with dangers and those dangers I want to bring on record.

We are experimenting with an experiment which has failed in the world. We are evolving a democracy; a democracy has not succeeded, in doing, any real good of the people and of the masses, wherever it was tried. We are making the same experiment but in an improved form. Our democracy is an improvement on both the Parliamentary democracy of England and the Republican democracy of America. It is perhaps a mixture of both. Let us see if this democracy succeeds here.

Yet there is another danger. Adult franchise has been supported by many friends. I am personally very glad, because when supporters of this Constitution could not get very many arguments, they harped on the few points which I and a few friends of my way of thinking had insisted on being put into the Constitution – I mean the village republics', the cottage industries' and prohibition.' These points were resisted by many responsible persons in the past. But now I see that those very persons are banking on these arguments to support this Constitution.

Another big argument they repeat in support of this Constitution is the great experiment of adult suffrage. My fears are that it is a monstrous experiment that we are going to make and this might work as a python. I do not know where it would lead us, but the experiment will have to be made. I hope the future generation will be responsible enough to come out successful from these experiments.

Although I have every respect and praise for this Constitution, yet there is one thing which I am most afraid of, and it is that this Constitution is tendenalous to create a class – a class that democracy has created everywhere – of professional politicians.' All democracies are run by professional politicians' and I am afraid that is the main cause of their failures, because such people begin to live on democracies. It becomes with them a profession, the Statecraft', becomes their only source of living. That is the bane of democracy and I want to make the future generations aware of this. It creates professional politicians' – those whose earning depend on politics, with the result that they cut themselves adrift from all creative professions. If this democracy is also to be run by such persons who will have nothing else to fall back upon, and who live on Ministries or on the memberships of the Parliament, then this democracy is doomed, I am sure.

Such is the danger. I therefore want the coming generations not to play into the hands of persons who are professional'. This Constitution should rather be run by political professionals' – persons who have their won professions to live upon, but who come here to run the State voluntarily or on small pays because along with their own personal professions they had an interest in politics and had a will to serve the country. This is how I would like this picture to work. But the picture from the villagers' point of view is dull and dead. I cannot give argument to convince the villager that from 26$^{th}$ January 1950 his lot will be better. Nor is there anything tangible through which he can better understand this Constitution; because we give the villager nothing but the vote, which we will take from him after two years. That is the only thing we give him. So, I submit that it is only when those who till the soiled are enabled to run this Constitution, that they would appreciate it to be their charter of rights and freedom. Otherwise the Constitution is dull. There must be a leader. I hope our Indian earth is not so sterile that it will not give birth to a leader who will whisper life into this mould of the Constitution so that it could speak. It would speak if only we had the courage of our conviction, and I tell you that the chanting of a Maha Mantr is necessary, and I am sorry that there is no one in India today who can whisper that Maha Mantr which could make the whole of our Nation dance about this little

book. And may I hint what it is? I know at this stage the House cannot accept anything, but future generations may. Only one thing will make this Constitution attractive. If the whole of this Constitution were provided with one supreme provision or safeguard, then I think the whole thing will be all right. It is this : if we could add a proviso to it as follows :

"Notwithstanding anything contained in this Constitution, no citizen of India shall draw for his personal use either from the public exchequer or from private enterprise a pay, profit or allowance which exceeds the rings of an average wage earner."

If that were there the whole of India will at once come round this Constitution. So long as this is not there, India will not appreciate it because this Constitution will only safeguard the bread of those whose hands are full of bread and not of those whose hands are empty.

**Shri Suresh Chandra Majumdar** : (West Bengal : General) : Mr. President, Sir, as the Constitution for a free, sovereign India is being finalised, may I be permitted by this august House to strike a personal note and recall the memory of a painful shock felt by a school boy's heart on a night nearly half a century back? On that night I was reading my school text book of Indian history and had arrived at the beginning of the so-called "British Period". Of course, it required no reading of history books to make one aware of the country's subjection to foreign rule – even a child could feel it. What shocked my young heart and filled it with anguish was to learn how the British Power, continuously fed on our internecine quarrels, raised itself on the ruins of Sivaji's dream that had almost come true. The failure of the Mahrattas struck me as the greatest of tragedies and the adolescent, who was already dreaming of a free Indian again, felt depressed and wondered whether we could ever triumph over our own past and emerge as a free united nation. Today I recall those bitter reflections and am all the more happy and proud of what the nation has achieved.

I shall not dilate on the events of the intervening years. Today I remember vividly the time when Sri Aurobindo came to Bengal from Baroda and inaugurated a renaissance movement and a new era of fearless, vibrant nationalism. He inspired an activist revolutionary organization and I had the privilege of becoming an humble camp-follower through my guru, the late Jatindra Nath Mukherji. Then followed the wonderful days of the Swadeshi and the Revolutionary movements with their trials and tribulations – people struggling on against the foreign domination with blood, sweat and tears. Then suddenly came the first World War and with it also came the mighty engine of oppression – the Defence of India Act. And under its wheels the whole freedom movement was mercilessly crushed – as if never to rise again. The whole country was plunged into impenetrable darkness; - not a speck of light was to be seen anywhere. But it was only a temporary phase. That is how I felt it then. With the end of the first World War there appeared on the Indian scene the refulgent figure of Gandhi – new India's man of destiny, the Father of the Nation, under whose incomparable leadership the Congress of the country remoulded itself into a mighty instrument of struggle of national freedom. The darkness began to melt away. Through a series of struggles the nation was led by him until he brought it to the goal – a free and sovereign India. One feels it was supreme privilege to have been an humble participant in this historical process as well as to be associated with my leaders and elders and colleagues in the making of a Constitution for the free Republic of India.

The Constitution – the fruit of so much labour and thought – is being discussed throughout the country. It has been praised to the skies and also abused in the harshest possible language. There are others – I think the majority – who see in it a mixture of things good and bad but on the whole practical and acceptable. How do I feel about this Constitution? There is on feeling in my mind which dominates every other – the feeling that this Constitution is wholly of our own, 100 percent. Indian making. It may be good, bad or anything but it is we, Indians, who have framed it. It has not been imposed upon us from outside nor by any alien authority. As we have made it, so we can amend it in the future if we want to. It is our very own with its good features and bad, if any. The making of this Constitution has been itself a supremely free act, a supreme expression of national freedom and I hail it as such. This gives me an immediate feeling of freedom and I would offer this personal testimony to that section of my countrymen who under a frenzied delusion are crying. *"Ye Azadi Jhutha Hai".* I think that cry is contradicted not only by my feeling but by that of all Indians barring a handful.

It is a commonplace but it would bear repetition, namely, that the success of a Constitution, even of the most meticulously written Constitutions, will depend not so much on its language as on the spirit in which it is worked. It depends on us, the people, to make it or mar it. I, therefore, humbly appeal to all my countrymen to approach the Constitution in a spirit of co-operation and to bring to its working all the patriotism and selfless devotion of which the nation is capable of and if they do so, I have no doubt that this Constitution will prove to be an instrument for the enlargement of our freedom, prosperity and happiness.

Sir, one other thing which I cannot help mentioning in connection with the making of this Constitution is this. When the Constituent Assembly was convened it was given the task of framing a constitution for the whole of India. But since then the country has been partitioned into two and necessarily the present Constitution covers one part only. Future alone knows whether it would again be possible to have a Constitutional covering the country as a whole.

In conclusion may I offer my respectful congratulations to Dr. Ambedkar and to my elders and colleagues in this House on the successful performance of a great, arduous and historic task? And I am sure I am echoing the sentiment of every one here when I thank you Mr. President, for the calm, patient, courteous and altogether exemplary manner in which you have guided the deliberations in this House.

Jai Hind!

Vande Mataram ! !

**Shri Deshbandhu Gupta** : *[Mr. President. I thank you that in spite of little time at your disposal you have been kind enough to give me a few minutes. Now is the time for rejoicing as we are closing the last chapter of the great work which we had started three years ago. This is the time of offering greetings and thanks and not criticism. For three years we have worked together and now we have given it a final shape. Now that we have framed the constitution bitter criticism is not proper but I

would like to remind my honourable Friends that the constitution which we, in Delhi have been making and which now has come before the country and the world, does to inspire enthusiasm in the hearts of the citizens of Delhi. I am not complaining because I am sure that the Members of this Assembly have every sympathy for the demand of the citizens of Delhi. If hey could they must have made such alteration in the Constitution which might have provided an occasion for rejoicing for the people of Delhi, and verily with the enforcement of this Constitution on the 26th of January, a better day must have dawned on Delhi. I know that the Members of the Constituent Assembly have their personal attachments towards Delhi and have also some idea regarding its hardships. But due to the misfortune of Delhi we have been facing some such problems which have put obstacles in our way. that is why there is no provision for Delhi in this Constitution. Today when the whole country has achieved freedom and peoples' Raj has been established, twenty lakh citizens of this province are under the impression that no change has taken place in the administrative system of Delhi – Delhi which fought the battle of freedom in 1857 and for six months her people faced the enemy cannons in the face of starvation, that Delhi every particle of which reflects the History of India. The set up which was here before August 1947 will continue. You can imagine the despondency of the citizens of Delhi.

There is however one ray of hope. It is the assurance given by our Prime Minister that before 26th January Parliament could make a provision which would enable the citizens of Delhi to have an appropriate share in its administration. I hope that when such a bill comes before the Parliament no Member of this Constitution Assembly will forget the assurance given by the Prime Minister and let the proverb "Nearer the church farther from Heaven" to be applied to Delhi. I hope that you will keep in mind the citizens of Delhi. The Citizens of Delhi are not putting forward a big demand, they only want to have a place in this beautiful boquet and in this beautiful picture that you have drawn.

There is yet another point to which I would like to draw the attention of the House, under the chapter of Fundamental Rights, there is no article regarding the Freedom of Press. We have drawn much in this Constitution from different constitutions of the world. We have copied many things from the Constitution of Ireland, America and other countries. But we have not derived any benefit from them regarding Press which is called Fourth State. In our Constitution there is no mention of it.

Mr. Jefferson, a great American Constitutionalist said : "Were it left to me to decide whether we should have Government without newspapers or newspapers without Government I should not hesitate a moment to prefer the latter. But I should mean that every man should receive these papers and be capable of reading them". After the American Constitution was framed the article regarding the Freedom of Press was inserted in the Constitution as an amendment. I want that there should be a mention of the Freedom of Press in our Constitution also in specific terms. I am sure that time will come when the Members of our Parliament will also consider this issue and will not hesitate in inserting an amendment regarding this and our Press will also acquire the status which it deserves in our Constitution.

With these words I thank you once again and pray that may this Constitution be crowned with success.]*

**Pandit Balkrishna Sharma** : Mr. President, Sir, as I sat listening throughout this debate to the various speeches for and against this Constitution, I was reminded of

Victor Hugo's famous book, "The Ninety-three". In that book Hugo writes about the convention, and he says "now we approach the convention. Now we approach the Himalayas" and he proceeds further on saying perhaps we are not in a position to realize the fullest importance of this occasion because we are too near it. He is right. Look at the mountain from a distance and to a certain extent you are able to realize the grandeur thereof, but if you be too near it is not possible for you to realize that grandeur.

I think, Sir, those of my friends – the critics and the supporters – who have spoken at this third reading stage of our Constitution, appear to me not to have had that vision, that breadth of mind, that capacity to appreciate the historic importance of this occasion. We have come here and criticized our own Constitution. Yes, it is very likely that there be flaws in it, it is very likely that there may be people whose views do not tally *in toto* with all the provisions of this Constitution, but then it does not lie in our mouth to come here and address this august Assembly in the spirit of carping criticism. Who, after all is responsible if there are defects in the Constitution? Is it not we who have been at it for the last three years that should be held responsible for it? I can understand a man like my friend Seth Damodar Swarup standing up and saying this is a Constitution which the people of this country will not accept, but I can tell him that we here for the last three years have been sitting in the capacity of the representatives of the people. We are the will of the people, what the Russians call, "Narodnia Volia". We are the will of the people and in that capacity we have sat here for the last three years and I can tell you each and every clause of this Constitution is acceptable to the people in this country. Let there be no doubt about that.

There are four or five points about which this Constitution has been criticised. Firstly, it has been said that we have leaned too much on the side of centralization. Secondly, the objection has been raised that the Fundamental Rights have been hedged round by so many obstacles. The third objection has been that it is un-Indian in spirit and the fourth objection has been that it is more or less a copy of the Government of India Act. Fifthly, it has been said that this Constitution does not give any occasion for the country to feel that glow of that economic freedom which we all wish the country to enjoy.

These are the five points on which the Constitution has been criticised. Let us take into consideration each and every objection and try to bring to bear upon it the light of reason. When we say that we have erred too much on the side of centralisation and when we criticise our Constitution on this account, do we not lose sight of that historical tendency of drifting apart in our history, in our traditions? This country has been afflicted with that fissiparous tendency which has been the bane of its progress. And, remember, India has been able to raise her head in history only when there has been a strong Central Government established. Otherwise, there has been nothing like Indian history, nothing like the glory that was Indian. Therefore, we should not forget that when we have to counter that tendency, that fissiparous tendency, that centripetal tendency, let us not forget that it is very necessary that the Centre must be made strong.

The second objection has been that the Fundamental Rights have been given by one hand but have been taken away by the other. I have never been able to appreciate that argument. Does civil liberty, in the words of Mahatma Gandhi, mean criminal licence? Civil liberty does not mean criminal licence. If there is freedom of speech, it does not mean I should be free to go on abusing any and everybody that I

dislike, and it is this sort of subtractions that have been introduced in our Constitution, and therefore this argument seems to me to be very hollow and I have never been able to appreciate it.

With regard to the third argument that it is a copy of the government of India Act and that it is un-Indian, all I can say is that it is to the credit of the Drafting Committee and Dr. Ambedkar and all those who have been associated with him, that they were not inspired by any spirit of narrowness. Here, after all, we are framing a Constitution and the modern tendencies, the modern difficulties, the modern problems that are facing us are there and we have to provide for them all in our Constitution, and if we have leaned on the Government of India Act for that matter, then I do not think that we have at all committed any sin.

As for the criticism that it is un-Indian in spirit, all that I can say is that we Indians have sat here, we have framed a Constitution. The phraseology of course is un-Indian, but then there are so many problems facing us today which are un-Indian in nature and therefore I say even though the phraseology is there even though the English phraseology is there what of it? Let it be there, but is it un-Indian for that matter? Our difficulties are there in this Constitution and all those problems that we have to solve have been given in this Constitution and a certain line of conduct for the governance of this country has been laid down in the Constitution. Therefore, I say it is not un-Indian.

My friend Mr. T. T. Krishnamachari was rather apologetic about this centralisation business and about the Fundamental Rights. He said, "Yes, yes. looking to our past history, we are very sure on that point". I am not at all apologetic about it. Whatever you have decided, Mr. Krishnamachari, in your wisdom, whatever the Drafting Committee and Dr. Ambedkar have done, is just the right thing for us and it is the only thing which can save us from anarchy. Therefore, I say that those who criticise this point in this spirit are not justified in doing so.

Where is the spirit of this Constitution? The point is who is to work this Constitution? Will it be a clean, honest, pure, well-integrated political party or will it be a rabble that will administer this Constitution? Today I am seeing before my very eyes the great national organisation which the Father of the Nation created, in a disintegrating process. The question is who shall come today and take the torch and unite once again this great organisation which made one of the most wonderful Revolutions in human history, the freedom of the country, by non-violent means, of course under the inspiration of a superman, of course under the inspiration of a man who comes only once every two thousand years. But then what does the future hold for us? If the Congress is permitted to disintegrate, if the Congress is permitted to be spoiled by the self-seeks, then I tell you, even a better Constitution will not be able to work its way here in this country. Therefore, today somehow I feel that there is only one way to work this Constitution and that one way is that our great Prime Minister should resign from his office, should come back and accept the Presidentship of the Indian National Congress and thereby inspire a new confidence in the people and thereby create a thereby create a situation in which it would be easy to work the Constitution.

(Mr. Tajamul Husain rose to speak)

**Mr. President** : We shall go on with the discussion for another seven minutes during which I want to give an opportunity to speak to three or four Members.

**Shri Raj Bahadur** (Rajasthan) : Mr. President, Sir, I am grateful to you for giving me this me opportunity to associate myself with the high and well-deserved tributes that have been showered upon your good self, upon the Drafting Committee and the members of the staff of the Constituent Assembly. This is an occasion of the greatest historical significance. I say of the greatest significance because it is for the first time in our history that the chosen representatives of the nation have gathered together and framed a Constitution for the country. It is doubly so because the great and worthy leaders who brought freedom to our country have been the architects of our Constitution. Again for the first time in our history, Fundamental Rights, fundamental human rights, are being guaranteed and secured to the common citizen. I call the occasion great on account of these reasons. Sir, it is impossible in any human adventure of this type, namely that of framing a Constitution, to arrive at any degree of absolute unanimity. Unanimity may be possible perhaps only in a society of fools. So, if there are differences of opinion, it is only a sign of our intelligence, a sign that we are a thinking and thoughtful nation. It is impossible for all of us to agree on everything and on all points. The wonder is not that we have not been able to produce a better Constitution. The wonder is that we have been able to achieve and arrive at a degree of agreement that is incorporated in the Constitution. I would submit most respectfully that so far as the people of the Indian States are concerned, it is a matter of the highest gratification for all us. When we entered the portals of this great House we had lurking fears in our minds that the States would have to summon their own Constituent Assemblies as provided in the various covenants. Fortunately all such fears have proved unfounded. When the Constitution is now being finalized, when this stupendous task is coming to an end, it is a matter of deepest satisfaction to us that the same Constitution, which would be the symbol of our unity and the symbol of our national oneness and solidarity, shall apply to the States also. That does not, however mean that I have got no regrets altogether about the provisions of this Constitution. I regret certain provisions which relate to the States. I regret that because of the control of the centre that is sought to be imposed on the administration of these States for a period of ten years under article 371, a sort of double standard of democracy for the country is going to be provided for the various units. There is one type of democracy being provided for the States in Part A and another type of democracy for the States mentioned in Part B. Here I may give expression to the experience we have had in these States and State Unions. We have seen how in the States Unions the Ministries have been chosen by the States Ministry, the advisers and secretaries are appointed by the States Ministry, the day to day policies and programmes are controlled by the same Ministry,……

The President rang the bell at this stage.

and yet the blame from the people is borne by Congress man of the local Congress organisation. I would simply add at the end that whatever be the merits or the demerits of this Constitution, every thing depends upon the working of it. As Bryce has said, "it is easy to transplant a Constitution but it is not easy to transplant the temperament that is needed for the working of it." So, let us in all humility remind

ourselves of the words of the great American statesman Benjamin Franklin, which I would humbly commend to all inside and outside this House – "Let us prick the bubble of our vanity. Let us doubt our own infallibility." None of us is infaliable. This Constitution, whatever be its merit or demerit, is, without the least shadow of a doubt a workable constitution. The limitations of this Constitution are the limitations of our peculiar circumstances, its achievements are the achievements of this generation – the generation that led the country from the slavery unto freedom. I therefore hail it as a great achievement for our leaders. If we work the Constitution in the spirit of the preamble, I am sure this country of ours will have a great future.

**Mr. Tajamul Husain** (Bihar : Muslim) : Mr. President, Sir, we have been criticised for taking a long time for the framing of this Constitution. I would like to remind my critics that two Dominions started at or about the same time to frame their Constitution. We have finished, and the other has hardly yet begun.

Now, Sir, nothing in this world is perfect. Nobody says that we have got a perfect Constitution but it is the best that could possible be produced. I doubt if anyone else could have produced a better one. In may own opinion, this is a model Constitution. The judiciary will be independent; we shall have liberty, equality and fraternity; we have now a united India; the Princely order has gone; the minority question has been solved; there is no reservation of seats; not separate electorates; untouchability has been abolished. The credit for producing such a wonderful Constitution goes, Sir, to all of us in general because we, the Members of this House, extended our fullest co-operation to you, Sir. We were short in our speeches. We never tried to obstruct. We followed the procedure laid down by you. But I would like to mention the names of those who were mainly responsible for producing this Constitution in such a short time. First and foremost, I will mention your name. You guided and conducted the proceedings of this House in a most remarkable and effective manner. You tactfully handled difficult situations. You were a model of integrity and trustworthiness and your manner towards us was sympathetic….

**Mr. President** : Better leave that alone.

**Mr. Tajamul Husain** : You were kind and gentle in the extreme. You are the fittest person to occupy this exalted Chair. In your absence, Dr. Mookerjee occupied the Chair and conducted the proceedings in a dignified manner. The credit for framing this Constitution goes to the Law Minister. He is a genius. He knows everything about all the Laws and Constitutions of the world. What he does not know is not worth knowing. He has worked very hard room the beginning to end in s spite of his indifferent health. Due to his ceaseless labour, this remarkable Constitution has been framed. We owe a debt of gratitude to our Leader, the Prime Minister. He has raised the prestige of India. His charming personality is irresistible wherever he goes. He has on many occasions come to our rescue when we were confronted with difficult and knotty problems, our Deputy Prime Minister has proved himself to be a strong and able administrator. He has been able to do things which nobody else could have done. He has obliterated the Princely order. He has done away with separate electorates. New we can truly say that there is equality, fraternity and liberty in India. Last but not least is your staff, Sir, the spade work has been done by them; they have worked much harder than many of us; they have worked from early in the morning till midnight. In spite of some defects it is a unique and a remarkable Constitution and we should be proud of it. I shall now deal with a few defects. I have got only two.

(At this stage the President's bell rang.)

I will speak of at least one, Sir,

(The Bell was rung again).

I have been ordered by the Honourable the President to close my speech. I shall say no more but still I say that it is the best Constitution. There are two defects but they are worth mentioning and I do not want to mention it.

**Shri Kamalashwari Prasad Yadav** (Bihar : General) : *[Mr. President, many honourable Members here have expressed their great disappointment with this Constitution and have remarked that it is nothing but a fantastic mixture of the different Constitutions of the World. But, Sir, I am not aware of any constitution nor of any country which has not made use of the good provisions of the other constitutions. Perhaps no country will ignore to do so. We too have therefore taken some such selected provisions, as appeared to us to be useful, from other constitutions of the World. Our Constitution contains many note worth features. It lays down that India shall be a Union of States and that there will be one official language for the whole of the Union; it provides for the abolition of untouchability – a great sin – that has been tarnishing the name of our country. We are proud to have embodied such provisions in our constitution. The provision regarding adult franchise surpasses those of Australia, Canada and other countries. The same thing applies in case of the provisions regarding citizenship. Under the able leadership of Pandit Jawaharlal Nehru, we have made our Sate a secular one and have thereby maintained a very high ideal. There was a time, Sir, when the whole of Asia was looking to Japan but today the eyes of the whole of Asia are fixed towards India. They are watching if we are making any discrimination or not in our treatment to the citizens on the ground of religion, caste, language and race; they are keenly watching the progress we are making towards achieving our ideals.

Now coming to the shortcoming in the Constitution, the omission of a reference to the Father of the Nation – Respected Bapu – strikes me the most. It was Bapu who showed us the way, taught us to walk, moulded us to give the lesson of truth and non-violence. He taught us to make sacrifices. It is because of him that we have achieved our freedom; have been able to form this Assembly and to prepare the Constitution that we are going to adopt and enforce throughout the country. Really it is a very pity that we have not made any mention of him in the Constitution.

There should be no Legislative Councils in the small Provinces that have little income. I fail to understand why provision for Legislative Councils, has been made for these small Provinces. In the Legislative Assembly of Bihar a unanimous resolution was adopted to the effect that there should be no Legislative Council in Bihar. But that unanimous decision has been reversed there. We could have made some other provision to carry out our idea that experts and learned people must be brought into the Legislatures. We could have provided for their inclusion in the Legislature for a limited period of time by the way of nomination with powers to express their views and to participate in the debate but not to vote. The words "the State shall endeavour

to" or "the State shall take steps" have been used in all articles from 40 to 51 under the Directive Principles. So far the body of these articles is concerned they appear very attractive indeed but there is no life in them. Whenever one is unwilling to do something or wants to evade it, he just says "I shall try". The very motive seems to me to be behind the words "the State shall endeavour to" used in the articles under reference. The same thing can be said in regard to the provisions relating to prohibition. We have not put a complete stop to the slaughter of cows. The appointment of a Commission provided in article 340 to investigate the conditions of the backward classes, must be made within six months of the commencement of the Constitution for the problem is a serious one and unless they are brought at par with the advanced classes, the country can make no progress.

Lastly I would draw your attention, Sir, to the growing spirit of provincialism in the country. The bigger and more advanced Provinces want to devour the smaller and less advanced ones. For instance I may mention the case of Bihar. All the profit in respect of the mineral products of the Province is being drained away to Calcutta and Bombay. Something should be done to put a stop to it.]*

**The Honourable Dr. B. R. Ambedkar** : Sir, looking back on the work of the Constituent Assembly it will now be two years, eleven months and seventeen days since it first met on the 9th of December 1946. During this period the Constituent Assembly has altogether held eleven sessions. Out of these eleven sessions the first six were spent in passing the Objectives Resolution and the consideration of the Reports of Committees on Fundamental Rights, on Union Constitution, on Union Powers, on Provincial Constitution, on Minorities and on the Scheduled Areas and Scheduled Tribes. The seventh, eighth, ninth, tenth and the eleventh sessions were devoted to the consideration of the Draft Constitution. These eleven sessions of the Constituent Assembly have consumed 165 days. Out of these, the Assembly spent 114 days for the consideration of the Draft Constitution.

Coming to the Drafting Committee, it was elected by the Constituent Assembly on 29th August 1947. It held its first meeting on 30th August. Since August 30th it sat for 141 days during which it was engaged in the preparation of the Draft Constitution. The Draft Constitution as prepared by the Constitutional Adviser as a text for the Drafting Committee to work upon, consisted of 243 articles and 13 Schedules. The first Draft Constitution as presented by the Drafting Committee to the Constituent Assembly contained 315 articles and 8 Schedules. At the end of the consideration stage, the number of articles in the Draft Constitution increased to 386. In its final form, the Draft Constitution contains 395 articles and 8 Schedules. The total number of amendments to the Draft Constitution tabled was approximately 7,635. Of them, the total number of amendments actually moved in the House were 2,473.

I mention these facts because at one stage it was being said that the Assembly had taken too long a time to finish its work, that it was going on leisurely and wasting public money. It was said to be a case of Nero fiddling while Rome was burning. Is there any justification for this complaint? Let us note the time consumed by Constituent Assemblies in other countries appointed for framing their Constitutions. To take a few illustrations, the American Convention met on May 25th, 1787 and completed its work on September 17, 1787 *i.e.*, within four months. The Constitutional Convention of Canada met on the 10th October 1864 and the Constitution was passed into law in March 1867 involving a period of two years and five months. The Australian Constitutional Convention assembled in March 1891 and the Constitution became law

on the 9th July 1900, consuming a period of nine years. The South African Convention met in October, 1908 and the Constitution became law on the 20th September 1909 involving one years labour. It is true that we have taken more time than what the American or South African Conventions did. But we have not taken more time than the Canadian Convention and much less than the Australian Convention. In making comparisons on the basis of time consumed, two things must be remembered. One is that the Constitutions of America, Canada, South Africa and Australia are much smaller than ours. Our Constitution as I said contains 395 articles while the American has just seven articles, the first four of which are divided into sections which total up to 21, the Canadian has 147, Australian 128 and South African 153 sections. The second thing to be remembered is that the makers of the Constitutions of America, Canada, Australia and South Africa did not have to face the problem of amendments. They were passed as moved. On the other hand, this Constituent Assembly had to deal with as many as 2,473 amendments. Having regard to these facts the charge of dilatoriness seems to me quite unfounded and this Assembly may well congratulate itself for having accomplished so formidable a task in so short a time.

Turning to the quality of the work done by the Drafting Committee, Mr. Naziruddin Ahmed felt it his duty to condemn it outright. In his opinion, the work done by the Drafting Committee is not only not worthy of commendation, but is positively below par. Everybody has a right to have his opinion about the work done by the Drafting Committee and Mr. Naziruddin is welcome to have his own. Mr. Naziruddin Ahmed thinks he is a man of greater talents than any member of the Drafting Committee. The Drafting Committee does not wish to challenge his claim. On the other hand. The Drafting Committee would have welcomed him in their midst if the Assembly had thought him worthy of being appointed to it. If he had no place in the making of the Constitution it is certainly not the fault of the Drafting Committee.

Mr. Naziruddin Ahmed has coined a new name for the Drafting Committee evidently to show his contempt for it. He calls it a Drafting committee. Mr. Naziruddin must no doubt be pleased with his hit. But he evidently does not know that there is a difference between drift without mastery and drift with mastery. If the Drafting Committee was drifting, it was never without mastery over the situation. It was not merely angling with the off chance of catching a fish. It was searching in known waters to find the fish it was after. To be in search of something better is not the same as drifting. Although Mr. Naziruddin Ahmed did not mean it as a compliment to the Drafting committee. I take it as a compliment to the Drafting Committee. The Drafting Committee would have been guilty of gross dereliction of duty and of a false sense of dignity if had not shown the honesty and the courage to withdraw the amendments which it thought faulty and substitute what it thought was better. If it is a mistake, I am glad the Drafting Committee did not fight shy of admitting such mistakes and coming forward to correct them.

I am glad to find that with the exception of a solitary member, there is a general consensus of appreciation from the members of the Constituent Assembly of the work done by the Drafting Committee. I am sure the Drafting Committee feels happy to find this spontaneous recognition of its labours expressed in such generous terms. As to the compliments that have been showered upon me both by the members of the Assembly as well as by my colleagues of the Drafting Committee I feel so overwhelmed that I cannot find adequate words to express fully my gratitude to them. I came into the Constituent Assembly with no greater aspiration than to safeguard the interests of he Scheduled Castes. I had not the remotest idea that I would be called

upon to undertake more responsible functions. I was therefore greatly surprised when the Assembly elected me to the Drafting Committee. I was more than surprised when the Drafting Committee elected me to be its Chairman. There were in the Drafting Committee men bigger, better and more competent than myself such as my friend Sir Alladi Krishnaswami Ayyar. I am grateful to the Constituent Assembly and the Drafting Committee for reposing in me so much trust and confidence and to have chosen me as their instrument and given me this opportunity of serving the country. (*Cheers*)

The credit that is given to me does not really belong to me. It belongs partly to Sir B. N. Rau, the Constitutional Adviser to the Constituent Assembly who prepared a rough draft of the Constitution for the consideration of the Drafting Committee. A part of the credit must go to the members of the Drafting Committee who, as I have said, have sat for 141 days and without whose ingenuity of devise new formulae and capacity to tolerate and to accommodate different points of view, the task of framing the Constitution could not have come to so successful a conclusion. Much greater, share of the credit must go to Mr. S. N. Mukherjee, the Chief Draftsman of the Constitution. His ability to put the most intricate proposals in the simplest and clearest legal form can rarely be equalled, nor his capacity for hard work. He has been as acquisition tot he Assembly. Without his help, this Assembly would have taken many more years to finalise the Constitution. I must not omit to mention the members of the staff working under Mr. Mukherjee. For, I know how hard they have worked and how long they have toiled sometimes even beyond midnight. I want to thank them all for their effort and their co-operation. (*Cheers*)

The task of the Drafting Committee would have been a very difficult one if this Constituent Assembly has been merely a motley crowd, a tasseleted pavement without cement, a black stone here and a white stone there is which each member or each group was a law unto itself. There would have been nothing but chaos. This possibility of chaos was reduced to nil by the existence of the Congress Party inside the Assembly which brought into its proceedings a sense of order and discipline. It is because of the discipline of the Congress Party that the Drafting Committee was able to pilot the Constitution in the Assembly with the sure knowledge as to the fate of each article and each amendment. The Congress Party is, therefore, entitled to all the credit for the smooth sailing of the Draft Constitution in the Assembly.

The proceedings of this Constituent Assembly would have been very dull if all members had yielded to the rule of party discipline. Party discipline, in all its rigidity, would have converted this Assembly into a gathering of yes' men. Fortunately, there were rebels. They were Mr. Kamath, Dr. P. S. Deshmukh, Mr. Sidhva, Prof sexena and Pandit Thakur Das Bhargava. Alongwith them I must mention Prof. K. T. Shah and Pandit Hirday Nath Kunzru. The points they raised were mostly ideological. That I was not prepared to accept their suggestions, does not diminish the value of their suggestions nor lessen the service they have rendered to the Assembly in enlivening its proceedings. I am grateful to them. But for them, I would not have had the opportunity which I got for expounding the principles underlying the Constitution which was more important than the mere mechanical work of passing the Constitution.

Finally, I must thank you Mr. President for the way in which you have conducted the proceedings of this Assembly. The courtesy and the consideration which you have shown to the Members of the Assembly can never be forgotten by those who have taken part in the proceedings of this Assembly. There were occasions when the amendments of the Drafting Committee were sought to be barred on grounds purely

technical in their nature. Those were very anxious moments for me. I am, therefore, specially grateful to you for not permitting legalism to defeat the work of Constitution making.

As much defence as could be offered to the constitution has been offered by my friends Sir Alladi Krishnaswami Ayyar and Mr.. T. T. Krishnamachari. I shall not therefore enter into the merits of the Constitution. Because I feel, however good a Constitution may be, it is sure to turn out bad because those who are called to work it, happen to be a bad lot. However bad a Constitution may be, it may turn out to be good if those who are called to work it, happen to be a good lot. The working of a Constitution does not depend wholly upon the nature of the Constitution. The Constitution can provide only the organs of State such as the Legislature, the Executive and the Judiciary. The factors on which the working of those organs of the State depend are the people and the political parties they will set up as their instruments to carry out their wishes and their politics. Who can say how the people of India and their purposes or will they prefer revolutionary methods of achieving them? If they adopt the prophet to say that it will fail. It is, therefore, futile to pass any judgment upon the Constitution without reference to the part which the people and their parties are likely to pay.

The condemnation of the Constitution largely comes from two quarters, the Communist Party and the Socialist Party. Why do they condemn the Constitution? Is it because it is really a bad Constitution? I venture to say no'. The Communist Party want a Constitution based upon the principle of the Dictatorship of the Proletariat. They condemn the Constitution because it is based upon parliamentary democracy. The Socialists want two things. The first thing they want is that if they come in power, the Constitution must give them the freedom to nationalize or socialize all private property without payment of compensation. The second thing that the Socialists want is that the Fundamental Rights mentioned in the Constitution must be absolute and without any limitations so that if their Party fails to come into power, they would have the unfettered freedom not merely to criticize, but also to overthrow the State.

These are the main grounds on which the Constitution is being condemned. I do not say that the principle of parliamentary democracy is the only ideal form of political democracy. I do not say that the principle of no acquisition of private property without compensation is so sacrosanct that there can be no departure from it. I do not say that Fundamental Rights can never be absolute and the limitations set upon them can never be lifted. What I do say is that the principles embodied in the Constitution are the views of the present generation or if you think this to be an over-statement, I say they are the views of the members of the Constituent Assembly. Why blame the Drafting Committee for embodying them in the Constitution? I say why blame even the Members of the Constituent Assembly? Jefferson, the great American statesman who played so great a part in the making of the American constitution, has expressed some very weighty views which makers of Constitution, can never afford to ignore. In one place he has said:-

> "We may consider each generation as a distinct nation, with a right, by the will of the majority, to bind themselves, but none to bind the succeeding generation, more than the inhabitants of another country."

In another place, he has said :

> "The idea that institutions established for the use of the national cannot be

> touched or modified, even to make them answer their end, because of rights gratuitously supposed in those employed to manage them in the trust for the public, may perhaps be a salutary provision against the abuses of a monarch, but is most absurd against the nation itself. Yet our lawyers and priests generally inculcate this doctrine, and suppose that preceding generations held the earth more freely than we do; had a right to impose laws on us, unalterable by ourselves, and that we, in the like manner, can make laws and impose burdens on future generations, which they will have no right to alter; in fine, that the earth belongs to the dead and not the living;"

I admit that what Jefferson has said is not merely true, but is absolutely true. There can be no question about it. Had the Constituent Assembly departed from this principle laid down by Jefferson it would certainly be liable to blame, even to condemnation. But I ask, has it? Quite the contrary. One has only to examine the provision relating to the amendment of the Constitution. The Assembly has not only refrained from putting a seal of finality and infallibility upon this Constitution by denying to the people the right to amend the constitution as in Canada or by making the amendment of the Constitution subject tot he fulfilment of extraordinary terms and conditions as in America or Australia, but has provided a most facile procedure for amending the Constitution. I challenge any of the critics of the Constitution to prove that any Constituent Assembly anywhere in the world has, in the circumstances in which this country finds itself, provided such a facile procedure for the amendment of the Constitution. If those who are dissatisfied with the Constitution have only to obtain a 2/3 majority and if they cannot obtain even a two-thirds majority in the parliament elected on adult franchise in their favour, their dissatisfaction with the Constitution cannot be deemed to be shared by the general public.

There is only one point of constitutional import to which I propose to make a reference. A serious complaint is made on the ground that there is too much of centralization and that the States have been reduced to Municipalities. It is clear that this view is not only an exaggeration, but is also founded on a misunderstanding of what exactly the Constitution contrives to do. As to the relation between the Centre and the States, it is necessary to bear in mind the fundamental principle on which it rests. The basic principle of Federalism is that the Legislative and Executive authority is partitioned between the Centre and the States not by any law to be made by the Centre but by the Constitution itself. This is what Constitution does. The States under our Constitution are in no way dependent upon the Centre for their legislative or executive authority. The Centre and the States are co-equal in this matter. It is difficult to see how such a Constitution can be called centralism. It may be that the Constitution assigns to the Centre too large field for the operation of its legislative and executive authority than is to be found in any other federal Constitution. It may be that the residuary powers are given to the Centre and not to the States. But these features do not form the essence of federalism. The chief mark of federalism as I said lies in the partition of the legislative and executive authority between the Centre and the Units by the Constitution. This is the principle embodied in our constitution. There can be no mistake about it. It is, therefore, wrong to say that the States have been placed under the Centre. Centre cannot by its own will alter the boundary of that partition. Nor can the Judiciary. For as has been well said:

> "Courts may modify, they cannot replace. They can revise earlier interpretations as new arguments, new points of view are presented, they can shift the dividing line in marginal cases, but there are barriers they cannot pass, definite assignments of power they cannot reallocate. They can give a broadening construction of existing powers, but they cannot assign to one authority powers explicitly granted to another."

The first charge of centralization defeating federalism must therefore fall.

The second charge is that the Centre has been given the power to override the States. This charge must be admitted. But before condemning the Constitution for containing such overriding powers, certain considerations must be borne in mind. The first is that these overriding powers do not form the normal feature of the constitution. Their use and operation are expressly confined to emergencies only. The second consideration is : Could we avoid giving overriding powers to the Centre when an emergency has arisen? Those who do not admit the justification for such overriding powers to the Centre even in an emergency, do not seem to have a clear idea of the problem which lies at the root of the matter. The problem is so clearly set out by a writer in that well-known magazine "The Round Table" in its issue of December 1935 that I offer no apology for quoting the following extract from it. Says the writer :

"Political systems are a complex of rights and duties resting ultimately on the question, to whom, or to what authority, does the citizen owe allegiance. In normal affairs the question is not present, for the law works smoothly, and a man, goes about his business obeying one authority in this set of matters and another authority in that. But in a moment of crisis, a conflict of claims may arise, and it is then apparent that ultimate allegiance cannot be divided. The issue of allegiance cannot be determined in the last resort by a juristic interpretation of statutes. The law must conform to the facts or so much the worse for the law. When all formalism is stripped away, the bare question is, what authority commands the residual loyalty of the citizen. Is it the Centre or the Constituent State ?"

The solution of this problem depends upon one's answer to this question which is the crux of the problem. There can be no doubt that in the opinion of the vast majority of the people, the residual loyalty of the citizen in an emergency must be to the Centre and not to the Constituent States. For it is only the Centre which can work for a common end and for the general interests of the country as a whole. Herein lies the justification for giving to all Centre certain overriding powers to be used in an emergency. And after all what is the obligation imposed upon the Constituent States by these emergency powers? No more than this – that in an emergency, they should take into consideration alongside their own local interests, the opinions and interests of the nation as a whole. Only those who have not understood the problem, can complain against it.

Here I could have ended. But my mind is so full of the future of our country that I feel I ought to take this occasion to give expression to some of my reflections thereon. On 26th January 1950, India will be an independent country (*Cheers*). What would happen to her independence? Will she maintain her independence or will she lose it again? This is the first thought that comes to my mind. It is not that India was never an independent country. The point is that she once lost the independence she had. Will she lost it a second time? It is this thought which makes me most anxious for the future. What perturbs me greatly is the fact that not only India has once before lost her independence, but she lost it by the infidelity and treachery of some of her own people. In the invasion of Sind by Mahommed-Bin-Kasim, the military commanders of King Dahar accepted bribes from the agents of Mahommed-Bin-Kasim and refused to fight on the side of their King. It was Jaichand who invited Mahommed Gohri to invade India and fight against Prithvi Raj and promised him the help of himself and the Solanki Kings. When Shivaji was fighting for the liberation of Hindus, the other Maratha noblemen and the Rajput Kings were fighting the battle on the side of Moghul Emperors. When the British were trying to destroy the Sikh Rulers, Gulab Singh, their principal commander sat silent and did not help to save the Sikh Kingdom. In 1857, when a large part of India had declared a war of independence against the British, the Sikhs stood and watched the event as silent spectators.

Will history repeat itself? It is this thought which fills me with anxiety. This anxiety is deepened by the realization of the fact that in addition to our old enemies in the form of castes and creeds we are going to have many political parties with diverse and opposing political creeds. Will Indian place the country above their creed or will they place creed above country? I do not know. But this much is certain that if the parties place creed above country, our independence will be put in jeopardy a second time and probably be lost for ever. This eventuality we must all resolutely guard against. We must be determined to defend our independence with the last drop of our blood. (*Cheers*)

On the 26th of January 1950, India would be a democratic country in the sense that India from that day would have a government of the people, by the people and for the people. The same thought comes to my mind. What would happen to her democratic Constitution? Will she be able to maintain it or will she lose it again. This is the second thought that comes to my mind and makes me as anxious as the first.

It is not that India did not know what is Democracy. There was a time when India was studded with republics, and even where there were monarchies, they were either elected or limited. They were never absolute. It is not that India did not know Parliaments or Parliamentary Procedure. A study of the Buddhist Bhikshu Sanghas discloses that not only there were Parliaments-for the Sanghas were nothing but Parliaments – but the Sanghas knew and observed all the rules of Parliamentary Procedure known to modern times. They had rules regarding seating arrangements, rules regarding Motions, Resolutions, Quorum, Whip, Counting of Votes, Voting by Ballot, Censure Motion, Regularization, *Res Judicata*, etc. Although these rules of Parliamentary Procedure were applied by the Buddha to the meetings of the Sanghas, he must have borrowed them from the rules of the Political Assemblies functioning in the country in his time.

This democratic system India lost. Will she lost it a second time? I do not know. But it is quite possible in a country like India – where democracy from its long disuse must be regarded as something quite new – there is danger of democracy giving place to dictatorship. It is quite possible for this new born democracy to retain its form but give place to dictatorship in fact. If there is a landslide, the danger of the second possibility becoming actuality is much greater.

If we wish to maintain democracy not merely in form, but also in fact, what must we do? The first thing in my judgment we must do is to hold fast to constitutional methods of achieving our social and economic objectives. It means we must abandon the bloody methods of revolution. It means that we must abandon the method of civil disobedience, non-cooperation and satyagraha. When there was no way left for constitutional methods for achieving economic and social objectives, there was a great deal of justification for unconstitutional methods. But where constitutional methods are open, there can be no justification for these unconstitutional methods. These methods are nothing but the Grammar of Anarchy and the sooner they are abandoned, the better for us.

The second thing we must do is to observe the caution which John Stuart Mill has given to all who are interested in the maintenance of democracy, namely, not "to lay their liberties at the feet of even a great man, or to trust him with powers which enable him to subvert their institutions". There is nothing wrong in being grateful to great men who have rendered life-long services to the country. But there are limits to

gratefulness. As has been well said by the Irish Patriot Daniel O'Connel, no man can be grateful at the cost of his honour, no woman can be grateful at the cost of her chastity and no nation can be grateful at the cost of its liberty. This caution is far more necessary in the case of India than in the case of any other country. For in India, Bhakti or what may be called the path of devotion or hero-worship, plays a part in its politics unequalled in magnitude by the part it plays in the politics of any other country in the world. Bhakti in religion may be a road to the salvation of the soul. But in politics, Bhakti or hero-worship is a sure road to degradation and to eventual dictatorship.

The third thing we must do is not to be content with mere political democracy. We must make our political democracy a social democracy as well. Political democracy cannot last unless there lies at the base of it social democracy. What does social democracy mean? It means a way of life which recognizes liberty, equality and fraternity as the principles of life. These principles of liberty, equality and fraternity are not to be treated as separate items in a trinity. They form a union of trinity in the sense that to divorce one from the other is to defeat the very purpose of democracy. Liberty cannot be divorced from equality, equality cannot be divorced from liberty. Nor can liberty and equality be divorced from fraternity. Without equality, liberty would produce the supremacy of the few over the many. Equality without liberty would kill individual initiative. Without fraternity, liberty equality could not become a natural course of things. It would require a constable to enforce them. We must begin by acknowledging the fact that there is complete absence of two things in Indian Society. One of these is equality. On the social plane, we have in India a society based on the principle of graded inequality which elevation for some and degradation for others. On the economic plane, we have a society in which there are some who have immense wealth as against many who live in abject poverty. On the 26$^{th}$ of January 1950, we are going to enter into a life of contradictions. In politics we will have equality and in social and economic life we will have inequality. In politics we will be recognizing the principle of one man one vote and one vote one value. In our social and economic life, we shall, by reason of our social and economic structure, continue to deny the principle of one man one value. How long shall we continue to live this life of contradictions? How long shall we continue to deny equality in our social and economic life? If we continue to deny it for long, we will do so only by putting our political democracy in peril. We must remove this contradiction at the earliest possible moment or else those who suffer from inequality will blow up the structure of political democracy which is Assembly has to laboriously built up.

The second thing we are wanting in is recognition of the principle of fraternity. what does fraternity mean? Fraternity means a sense of common brotherhood of all Indians-if Indians being one people. It is the principle which gives unity and solidarity to social life. It is a difficult thing to achieve. How difficult it is, can be realized from the story related by James Bryce in his volume on American Commonwealth about the United States of America.

The story is- I propose to recount it in the words of Bryce himself- that-

"Some years ago the American Protestant Episcopal Church was occupied at its triennial Convention in revising its liturgy. It was thought desirable to introduce among the short sentence prayers a prayer for the whole people, and an eminent New England divine proposed the words `O Lord, bless our nation'. Accepted one afternoon, on the spur of the moment, the sentence was brought up next day for reconsideration, when so many objections were raised by the laity to the word nation' as importing too definite a recognition of national unity, that it was dropped,

and instead there were adopted the words `O Lord, bless these United States."

There was so little solidarity in the U.S.A. at the time when this incident occurred that the people of America did not think that they were a nation. If the people of the United States could not feel that they were a nation, how difficult it is for Indians to think that they are a nation. I remember the days when politically-minded Indians, resented the expression "the people of India". They preferred the expression "the Indian nation." I am of opinion that in believing that we are a nation, we are cherishing a great delusion. How can people divided into several thousands of castes be a nation? The sooner we realize that we are not as yet a nation in the social and psychological sense of the world, the better for us. For then only we shall realize the necessity of becoming a nation and seriously think of ways and means of realizing the goal. The realization of this goal is going to be very difficult – far more difficult than it has been in the United States. The United States has no caste problem. In India there are castes. The castes are anti-national. In the first place because they bring about separation in social life. They are antinational also because they generate jealousy and antipathy between caste and caste. But we must overcome all these difficulties if we wish to become a nation in reality. For fraternity can be a fact only when there is a nation. Without fraternity equality and liberty will be no deeper than coats of paint.

These are my reflections about the tasks that lie ahead of us. They may not be very pleasant to some. But there can be no gainsaying that political power in this country has too long been the monopoly of a few and the many are only beasts of burden, but also beasts of prey. This monopoly has not merely deprived them of their chance of betterment, it has sapped them of what may be called the significance of life. These down-trodden classes are tired of being governed. They are impatient to govern themselves. This urge for self-realization in the down-trodden classes must no be allowed to devolve into a class struggle or class war. It would lead to a division of the House. That would indeed be a day of disaster. For, as has been well said by Abraham Lincoln, a House divided against itself cannot stand very long. Therefore the sooner room is made for the realization of their aspiration, the better for the few, the better for the country, the better for the maintenance for its independence and the better for the continuance of its democratic structure. This can only be done by the establishment of equality and fraternity in all spheres of life. That is why I have laid so much stresses on them.

I do not wish to weary the House any further. Independence is no doubt a matter of joy. But let us not forget that this independence has thrown on us great responsibilities. By independence, we have lost the excuse of blaming the British for anything going wrong. If hereafter things go wrong, we will have nobody to blame except ourselves. There is great danger of things going wrong. Times are fast changing. People including our own are being moved by new ideologies. They are getting tired of Government by the people. They are prepared to have Governments for the people and are indifferent whether it is Government of the people and by the people. If we wish to preserve the Constitution in which we have sought to enshrine the principle of Government of the people, for the people and by the people, let us resolve not to be tardy in the recognition of the evils that lie across our path and which induce people to prefer Government for the people to Government by the people, nor to be weak in our initiative to remove them. That is the only way to serve the country. I know of no better.

**Mr. President** : The House will adjourn till Ten of the clock tomorrow morning

when we shall take up the voting on the motion which was moved by Dr. Ambedkar.

The Assembly then adjourned till Ten of the Clock on Saturday, the 26th November 1949.

---

*[Translation of Hindustani speech.]*

# CONSTITUENT ASSEMBLY OF INDIA DEBATES (PROCEEDINGS) - VOLUME XI

**Saturday, the 26th November,1949**

**----------**

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

---

## ANNOUNCEMENT RE. STATES

**Mr. President**: I understand that Sardar Patel has to make some announcement regarding the position of the States. Before putting the motion formally to vote I would ask him to make the statement.

**The Honourable Sardar Vallabhbhai J. Patel** (Bombay: General): Sir, I have a short announcement to make. As honourable Members will recall, in the course of the detailed statement I made before this house on the 12th October on the position of the States under the new Constitution, I appraised honourable Members of the procedure we contemplated regarding the acceptance of the Constitution by the States. I am glad to inform the House that all the nine States specified in Part B of the First Schedule of the Constitution, including the State of Hyderabad, have signified, in the manner indicated in my statement made on October 12th, their acceptance of the Constitution which the House is now going to adopt.

---

## DRAFT CONSTITUTION-*(Contd.)*

**Shri B. Das** (Orissa: General): Sir, I would like to know if you are going to make a pronouncement as to whether *Vandemataram* should be the national song and what should be our national anthem.

**Mr. President:** I am not going to make any announcement now. That matter will be considered later on, if necessary, by the Assembly when we meet in January.

I have received two messages from two gentlemen, one of them who was a Member and the other who still continues to be a Member of the Assembly.

The first Message is from His excellency Shri Sri Prakasa:

"Offer hearty respectful felicitations solemns auspicious occasion putting the Presidential seal confirming Nation's self-wrought Charter of liberty. Earnestly pray we prove worthy of freedom and loyal to Constitution spontaneously availing ourselves of opportunities afforded for country's devoted service -Shri Prakasa".

The second Message is from Dr. Sachchidananda Sinha:

"If permissible kindly convey Assembly my message. Though privileged to inaugurate as First President its proceedings in December, 1946 but not to take part in their closing tomorrow, due to continued ill-health. I have, with keenest interest and deepest

sympathy followed the work of constitution making and remembering that nothing in this world is or can be perfect or please all and also the patent facts that the area to be covered was tremendous the population multitudinous of hundreds of millions with multiplicity of languages and conflicts of vast and varied interests, it is not at all surprising that there are several problems unsolved. But, to me, it is marvellous that so much unity and integrity should have been evolved in almost all matters reflecting thereby highest credit on the good sense of the Assembly. And no less redounding to you as highly tactful President. As the seniormost Member of the Assembly, I invoke Divine Mercy that your labours may be crowned with fullest success and that the ancient historic land of Bharat may again stand forth great and glorious in the scale of Nations – Sachchidananda Sinha".

**Shri Algu Rai Shastri** (United Provinces: General): *[Mr. President, before you resume the day's work. I would like to know from you as to when and in which form the Hindi Translation of this Constitution would appear. I had suggested the other day that when we meet before the 26th January, we should give two or three days for general discussion of that translation and authenticate it. Are you going to consider this humble request of mine? You would recollect that you had yourself declared that the Constitution of our Nation would be framed in our own National Language but you have not yet made any definite announcement on this question. I would request that some announcement should be made in this respect. We can sit for two or three days and adopt the Constitution in our National Language. We should pass our Constitution in the language of the country. This language (English) is not the language of the people, it is not the language of the common man. I, therefore, request you in the name of Indian nationalism and in the name of Indian people to make a definite announcement in this respect.]

**Mr. President:** *[You would be aware that some articles have been adopted in the Constitution wherein it has been decided which would be the language for official use. Therein it has also been decided that for the next 15 years all official work at the Centre would be carried in English. And if it is considered necessary and expedient, Hindi may also find some place therein. At present perhaps it will not be possible to place the Constitution in Hindi before this House and to get it adopted. Besides this, the Constituent Assembly has itself passed a resolution directing me to publish the Hindi translation of the Constitution by the 26th of January. I am making arrangements for that and the translation would be published by the 26th of January.

I would also, as soon as possible, get it translated and published in other languages. It is therefore not opportune to get the Constitution prepared in Hindi, discuss it and to adopt it here.]

**Shri R. V. Dhulekar** (United Provinces: General): *[Will it be possible to get it signed by us, when the Constituent Assembly adopts it here?]

**Mr. President:** *[I do not know whether all the Members of the Assembly would be prepared to accept the translation. It can be done after full consideration of every word and every phrase. This may perhaps take as much time as had been taken by the English version. So it does not seem to be possible. But the translation will be ready.]

**Shri R. V. Dhulekar**: *[My request is not that the translation should be adopted by the Assembly on the 26th January, but it should be decided that it would come into force from that day.]

**Mr. President:** *[That translation will be published on my behalf. The people would judge it for what it is worth.]*

Before I formally put the motion which was moved by Dr. Ambedkar, I desire to say a few words.

I desire to congratulate the Assembly on accomplishing a task of such tremendous magnitude. It is not my purpose to appraise the value of the work that the Assembly has done or the merits or demerits of the Constitution which it has framed. I am content to leave that to others and to posterity. I shall attempt only to point out some of its salient features and the method which we have

pursued in framing the Constitution.

Before I do that, I would like to mention some facts which will show the tremendousness of the task which we undertook some three years ago. If you consider the population with which the Assembly has had to deal, you will find that it is more than the population of the whole of Europe minus Russia, being 319 millions as against 317 millions. The countries of Europe have never been able to join together or coalesce even in a Confederacy, much less under one unitary Government. Here, in spite of the size of the population and the country, we have succeeded in framing a Constitution which covers the whole of it. Apart from the size, there were other difficulties which were inherent in the problem itself. We have got many communities living in this country. We have got many languages prevalent in different parts of it. We have got other kinds of differences dividing the people in the different parts from one another. We had to make provision not only for areas which are advanced educationally and economically; we had also to make provision for backward people like the Tribes and for backward areas like the Tribal areas. The communal problem had been one of the knottiest problems which the country has had before it for a pretty long time. The Second Round Table Conference which was attended by Mahatma Gandhi failed because the communal problem could not be solved. The subsequent history of the country is too recent to require narration here; but we know this that as a result, the country has had to be divided and we have lost two big portions in the north-east and north-west.

Another problem of great magnitude was the problem of the Indian States. When the British came to India, they did not conquer the country as a whole or at one stroke. They got bits of it from time to time. The bits which came into their direct possession and control came to be known as British India; but a considerable portion remained under the rule and control of the Indian Princes. The British thought at the time that it was not necessary or profitable for them to take direct control of those territories, and they allowed the old Rulers to continue subject to their suzerainty. But they entered into various kinds of treaties and engagements with them. We had something near six hundred States covering more than one-third of the territory of India and one-fourth of the population of the country. They varied in size from small tiny principalities to big States like Mysore, Hyderabad, Kashmir, etc. When the British decided to leave this country, they transferred power to us; but at the same time, they also declared that all the treaties and engagements they had with the Princes had lapsed. The paramountcy which they had so long exercised and by which they could keep the Princes in order also lapsed. The Indian Government was them faced with the problem of tackling these States which had different traditions of rule, some of them having some form of popular representation in Assemblies and some having no semblance of anything like that, and governing completely autocratically.

As a result of the declaration that the treaties with the Princes and Paramountcy had lapsed, it became open to any Prince or any combination of Princes to assume independence and even to enter into negotiations with any foreign power and thus become islands of independent territory within the country. There were undoubtedly geographical and other compulsions which made it physically impossible for most of them to go against the Government of India but constitutionally it had become possible. The Constituent Assembly therefore had at the very beginning of its labours, to enter into negotiations with them to bring their representatives into the Assembly so that a constitution might be framed in consultation with them. The first efforts were successful and some of them did join this Assembly at an early stage but others hesitated. It is not necessary to pry into the secrets of what was happening in those days behind the scenes. It will be sufficient to state that by August 1947 when the Indian Independence Act came into force, almost all of them with two notable exceptions, Kashmir in the north and Hyderabad in the South, had acceded to India. Kashmir soon after followed the example of others and acceded. There were standstill agreements with all of them including Hyderabad which continued the *status quo*. As time passed, it became apparent that it was not possible at any rate for the smaller States to maintain their separate independence existence and then a process of integration with India started. In course of time not only have all the smaller States

coalesced and become integrated with some province or other of India but some of the larger ones also have joined. Many of the States have formed Unions of their own and such Unions have become part of the Indian Union. It must be said to the credit of the Princes and the people of the States no less than to the credit of the States Ministry under the wise and far-sighted guidance of Sardar Vallabhbhai Patel that by the time we have been able to pass this Constitution, the States are now more or less in the same position as the Provinces and it has become possible to describe all of them including the Indian States and the Provinces as States in the Constitution. The announcement which has been made just now by Sardar Vallabhbhai Patel makes the position very clear, and now there is no difference between the States, as understood before, and the provinces in the New Constitution.

It has undoubtedly taken us three years to complete this work, but when we consider the work that has been accomplished and the number of days that we have spent in framing this Constitution, the details of which were given by the Honourable Dr. B. R. Ambedkar, yesterday, we have no reason to be sorry for the time spent.

It has enabled the apparently intractable problem of the States and the communal problem to be solved. What had proved insoluble at the Round Table Conference and had resulted in the division of the country has been solved with the consent of all parties concerned, and again under the wise guidance of Honourable Sardar Vallabhbhai Patel.

At first we were able to get rid of separate electorates which had poisoned our political life for so many years, but reservation of seats for the communities which enjoyed separate electorates before had to be conceded, although on the basis of their population and not as had been done in the Act of 1919 and the Act of 1935 of giving additional representation on account of the so-called historical and other superiority claimed by some of the communities. It has become possible only because the Constitution was not passed earlier that even reservation of seats has been given up by the communities concerned and so our Constitution does not provide for reservation of seats on communal basis, but for reservation only in favour of two classes of people in our population, namely, the depressed classes who are Hindus and the tribal people, on account of their backwardness in education and in other respects. I therefore see no reason to be apologetic about the delay.

The cost too which the Assembly has had to incur during its three year's existence is not too high when you take into consideration the factors going to constitute it. I understand that the expenses up to the 22nd of November come to Rs. 63,96,729/-.

The method which the Constituent Assembly adopted in connection with the Constitution was first to lay down its ‘terms of reference’ as it were in the form of an Objective Resolution which was moved by Pandit Jawaharlal Nehru in as inspiring speech and which constitutes now the Preamble to our Constitution. It then proceeded to appoint a number of committees to deal with different aspects of the Constitutional problem. Dr. Ambedkar mentioned the names of these Committees. Several of these had as their Chairman either Pandit Jawaharlal Nehru or Sardar Patel to whom thus goes the credit for the fundamentals of our Constitution. I have only to add that they all worked in a business-like manner and produced reports which were considered by the Assembly and their recommendations were adopted as the basis on which the draft of the Constitution had to be prepared. This was done by Mr. B. N. Rau, who brought to bear on his task a detailed knowledge of Constitutions of other countries and an extensive knowledge of the conditions of this country as well as his own administrative experience. The Assembly then appointed the Drafting Committee which worked on the original draft prepared by Mr. B. N. Rau and produced the Draft Constitution which was considered by the Assembly at great length at the second reading stage. As Dr. Ambedkar pointed out, there were not less than 7,635 amendments of which 2,473 amendments were moved. I am mentioning this only to show that it was not only the Members of the Drafting Committee who were giving their close attention to the Constitution, but other Members were vigilant and scrutinizing the

Draft in all its details. No wonder, that we had to consider not only each article in the Draft, but practically every sentence and sometimes, every word in every article. It may interest honourable members to know that the public were taking great interest in its proceedings and I have discovered that no less than 53,000visitors were admitted to the Visitors gallery during the period when the Constitution has been under consideration. In the result, the Draft Constitution has increased in size, and by the time it has been passed, it has come to have 395 articles and 8 schedules, instead of the 243 articles and 13 schedules of the original Draft of Mr. B. N. Rau. I do not attach much importance to the complaint which is sometimes made that it has become too bulky. If the provisions have been well thought out, the bulk need not disturb the equanimity of our mind.

We have now to consider the salient features of the Constitution. The first question which arises and which has been mooted is as to the category to which this Constitution belongs. Personally, I do not attach any importance to the label which may be attached to it – whether you call it Federal Constitution or Unitary Constitution or by any other name. It makes no difference so long as the Constitution serves our purpose. We are not bound to have a constitution which completely and fully falls in line with known categories of constitutions in the world. We have to take certain facts of history in our own country and the Constitution has not to an inconsiderable extent been influenced by such realities as facts of history.

You are all aware that until the Round Table conference of 1930, India was completely a Unitary Government, and the provinces derived whatever power they possessed from the Government of India. It was there for the first time that the question of Federation in a practical form arose which would include not only the provinces but also the many States that were in existence. The Constitution of 1935 provided for a Federation in which both the provinces of India and the States were asked to join. But the federal part of it could not be brought into operation, because terms on which the Princes could agree to join it could not be in settled in spite of prolonged negotiation. And, when the war broke out, that part of the Constitution had practically to be abrogated.

In the present Constitution it has been possible not only to bring in practically all the States which fell within our geographical limits, but to integrate the largest majority of them in India, and the Constitution as it stands practically makes no difference so far as the administration and the distribution of powers among the various organs of the State are concerned between what were the Provinces and what were Indian States before. They are all now more or less on the same footing and, as time passes, whatever little distinction still exists is bound to disappear. Therefore, so far as labelling is concerned, we need not be troubled by it.

Well, the first and the most obvious fact which will attract any observer is the fact that we are going to have a Republic. India knew republics in the past olden days, but that was 2,000 years ago or more and those republics were small republics. We never had anything like the Republic which we are going to have now, although there were empires in those days as well as during the Mughal period which covered very large parts of the country. The President of the Republic will be an elected President. We never have had an elected Head of the State which covered such a large area of India. And it is for the first time that it becomes open to the humblest and the lowliest citizens of the country to deserve and become the President or the Head of this big State which counts among the biggest States of the world today. This is not a small matter. But because we have an elected President, some of the problems which are of a very difficult nature have arisen. We have provided for the election of the President. We have provided for an elected legislature which is going to have supreme authority. In America, the legislature and the President are both elected and, there both have more or less equal powers – each in its or his own sphere, the President in the executive sphere and the legislature in the legislative sphere.

We considered whether we should adopt the American model or the British model where we have

a hereditary king who is the fountain of all honour and power, but who does not actually enjoy any power. All the power rests in the Legislature to which the Ministers are responsible. We have had to reconcile the position of an elected President with an elected Legislature and, in doing so, we have adopted more or less the position of the British Monarch for the President. This may or may not be satisfactory. Some people think too much power has been given to the President; others think that the President, being an elected President, should have even more powers than are given to him.

If you look at it from the point of view of the electorate which elects the Parliament and which elects the President, you will find that practically the entire adult population of the country joins in electing this Parliament and it is not only the Members of the Parliament of India but also the Members of the Legislative Assemblies of the States who join in electing the President. It thus comes about that, while the Parliament and Legislative Assemblies are elected by the adult population of the country as a whole, the President is elected by representatives who represent the entire population twice over, once as representatives of the States and again as their representatives in the Central Parliament of the country. But although the President is elected by the same electorate as the Central and State Legislatures, it is as well that his position is that of a Constitutional President.

Then we come to the Ministers. They are of course responsible to the Legislature and tender advice to the President who is bound to act according to that advice. Although there are no specific provisions, so far as I know, in the Constitution itself making it binding on the President to accept the advice of his Ministers, it is hoped that the convention under which in England the King acts always on the advice of his Ministers will be established in this country also and, the president, not so much on account of the written word in the Constitution, but as the result of this very healthy convention, will become a Constitutional President in all matters.

The Central Legislature consists of two Houses known as the House of People and the Council of States which both together constitute the Parliament of India. In the Provinces, or States as they are now called, we shall have a Legislative Assembly in all of them except those which are mentioned in Parts C and D of Schedule I, but every one of them will not have a Second Chamber. Some of the provinces, whose representatives felt that a Second Chamber is required for them, have been provided with a Second Chamber. But there is a provision in the Constitution that if a province does not want such a Second Chamber to continue or if a province which has not got one wants to establish one, the wish has to be expressed through the Legislature by a majority of two-thirds of the Members voting and by a majority of the total number of Members in the Legislative Assembly. So, even while providing some of the States with Second Chambers, we have provided also for their easy removal or for their easy establishment by making this kind of amendment of the Constitution not a Constitutional Amendment, but a matter of ordinary parliamentary legislation.

We have provided for adult suffrage by which the legislative assemblies in the provinces and the House of the People in the Centre will be elected. It is a very big step that we have taken. It is big not only because our present electorate is a very much smaller electorate and based very largely on property qualification, but it is also big because it involves tremendous numbers. Our population now is something like 320 millions if not more and we have found from experience gained during the enrolment of voters that has been going on in the provinces that 50 per cent. roughly representing the adult population. And on that basis we shall have not less than 160 million voters on our rolls. The work of organising election by such vast numbers is of tremendous magnitude and there is no other country where election on such a large scale has ever yet been held.

I will just mention to you some facts in this connection. The legislative assemblies in the provinces, it is roughly calculated, will have more than 3,800 members who will have to be elected in as many constituencies or perhaps a few less. Then there will be something like 500 members for the House of the People and about 220 Members for the Council of States. We shall thus have to provide

for the election of more than 4,500 members and the country will have to be divided into something like 4,000 constituencies or so. I was the other day, as a matter of amusement, calculating what our electoral roll will look like. If you print 40 names on a page of foolscap size, we shall require something like 20 lakhs of sheets of foolscap size to print all the names of the voters, and if you combine the whole thing in one volume, the thickness of the volume will be something like 200 yards. That alone gives us some idea of the vastness of the task and the work involved in finalising the rolls, delimiting Constituencies, fixing polling stations and making other arrangements which will have to be done between now and the winter of 1950-51 when it is hoped the elections may be held.

Some people have doubted the wisdom of adult franchise. Personally, although I look upon it as an experiment the result of which no one will be able to forecast today, I am not dismayed by it. I am a man of the village and although I have had to live in cities for a pretty long time, on account of my work, my roots are still there. I, therefore, know the village people who will constitute the bulk of this vast electorate. In my opinion, our people possess intelligence and commonsense. They also have a culture which the sophisticated people of today many not appreciate, but which is solid. They are not literate and do not possess the mechanical skill of reading and writing. But, I have no doubt in my mind that they are able to take measure of their own interest and also of the interests of the country at large if things are explained to them. In fact, in some respects, I consider them to be even more intelligent than many a worker in a factory, who loses his individuality and becomes more or less a part of the machine which he has to work. I have, therefore, no doubt in my mind that if things are explained to them, they will not only be able to pick up the technique of election, but will be able to cast their votes in an intelligent manner and I have, therefore, no misgivings about the future, on their account. I cannot say the same thing about the other people who may try to influence them by slogans and by placing before them beautiful pictures of impracticable programmes. Nevertheless, I think their sturdy commonsense will enable them to see things in the right perspective. We can, therefore, reasonably hope that we shall have legislatures composed of members who shall have their feet on the ground and who will take a realistic view of things.

Although provision has been made for a second chamber in the Parliament and for second chambers in some of the States, it is the popular House which is supreme. In all financial and money matters, the supremacy of the popular House is laid down in so many words. But even in regard to other matters where the Upper Chamber may be said to have equal powers for initiating and passing laws, the supremacy of the popular House is assured. So far as Parliament is concerned, if a difference arises between the two Chambers, a joint session may be held; but the Constitution provides that the number of Members of the Council of States shall not be more than 50 percent. of the Members of the House of the People. Therefore, even in the case of a joint session, the supremacy of the House of the People is maintained, unless the majority in that very House is a small one which will be just a case in which its supremacy should not prevail. In the case of provincial legislatures, the decision of the Lower House, prevails if it is taken a second time. The Upper Chamber therefore can only delay the passage of Bills for a time, but cannot prevent it. The President or the Governor, as the case may be, will have to give his assent to any legislation, but that will be only on the advice of his Ministry which is responsible ultimately to the popular House. Thus, it is the will of the people as expressed by their representatives in the popular Chamber that will finally determine all matters. The second Chamber and the President or the Governor can only direct reconsideration and can only cause some delay; but if the popular Chamber is determined, it will have its way under the Constitution. The Government therefore of the country as a whole, both in the Centre and in the Provinces, will rest on the will of the people which will be expressed from day to day through their representatives in the legislatures and, occasionally directly by them at the time of the general elections.

We have provided in the Constitution for a judiciary which will be independent. It is difficult to suggest anything more to make the Supreme Court and the High Courts independent of the influence

of the Executive. There is an attempt made in the Constitution to make even the lower judiciary independent of any outside or extraneous influence. One of our articles makes it easy for the State Governments to introduce separation of Executive from Judicial functions and placing the magistracy which deals with criminal cases on similar footing as Civil Courts. I can only express the hope that this long overdue reform will soon be introduced in the States.

Our Constitution has devised certain independent agencies to deal with particular matters. Thus, it has provided for Public Service Commission both for the Union and for the States and placed such Commission on an independent footing so that they may discharge their duties without being influenced by the Executive. One of the things against which we have to guard is that there should be no room as far as it is humanly possible for jobbery, nepotism and favouritism. I think the provisions which we have introduced into our Constitution will be very helpful in this direction.

Another independent authority is the Comptroller and Auditor-General who will watch our finances and see to it that no part of the revenues of India or of any of the States is used for purposes and on items without due authority and whose duty it will be otherwise to keep our accounts in order. When we consider that our Governments will have to deal with hundreds of crores, it becomes clear how important and vital this Department will be. We have provided another important authority, i.e., the Election Commissioner whose function it will be to conduct and supervise the elections to the Legislatures and to take all other necessary action and connection with them. One of the dangers which we have to face arises out of any corruption which parties, candidates or the Government in power may practise. We have had no experience of democratic elections for a long time except during the last few years and now that we have got real power, the danger of corruption is not only imaginary. It is therefore as well that our Constitution guards against this danger and makes provision for an honest and straightforward election by the voters. In the case of the Legislature, the High Courts, the Public Services Commission, the Comptroller and Auditor-General and the Election Commissioner, the Staff which will assist them in their work has also been placed under their control and in most of these cases their appointment, promotion and discipline vest in the particular institution to which they belong thus giving additional safeguards about their independence.

The Constitution has given in two Schedules, namely Schedules V and VI, special provisions for administration and control of Scheduled Areas and Scheduled Tribes. In the case of the Tribes and Tribal Areas in States other than Assam, the Tribes will be able to influence the administration through the Tribes Advisory Council. In the case of the Tribes and Tribal Areas in Assam, they are given larger powers through their district Councils and Autonomous Regional Councils. There is, further provision for a Minister in the State Ministries to be in charge of the welfare of the Tribes and the Scheduled Castes and a Commission will also report about the way in which the areas are administered. It was necessary to make this provision on account of the backwardness of the Tribes which require protection and also because their own way of solving their own problems and carrying on their Tribal life. These provisions have given them considerable satisfaction as the provision for the welfare and protection of the Scheduled Castes has given satisfaction to them.

The Constitution has gone into great details regarding the distribution o power and functions between the Union and the States in all aspects of their administrative and other activities. It has been said by some that the powers given to the Centre are too many and too extensive and the States have been deprived of power which should really belong to them in their own fields. I do not wish to pass any judgment on this criticism and can only say that we cannot be too cautious about our future, particularly when we remember the history of this country extending over many centuries. But such powers as have been given to the Centre to act within the sphere of the States relate only to emergencies, whether political or financial and economic, and I do not anticipate that there will be any tendency on the part of the Centre to grab more power than is necessary for good administration of the country as a whole. In any case the Central Legislature consists of representatives from the

States and unless they are convinced of their over-riding necessity, they are not likely to consent to the use of any such powers by the Central executive as against the States whose people they represent. I do not attach much importance to the complaint that residuary powers have been vested in the Union. Powers have been very meticulously and elaborately defined and demarcated in the three lists of Schedule Seven, and the residue whatever it may be, is not likely to cover any large field, and, therefore, the vesting of such residuary powers does not mean any very serious derogation in fact from the power which ought to belong to the States.

One of the problems which the Constituent Assembly took considerable time in solving relates to the language for official purposes of the country. There is a natural desire that the we should have our own language, and in spite the difficulties on account of the multiplicity of languages prevalent in the country, we have been able to adopt Hindi which is the language that is understood by the largest number of people in the country as our official language. I look upon this as a decision of very great importance when we consider that in a small country like Switzerland they have no less than three official languages and in South Africa two official languages. It shows a spirit of accommodation and a determination to organize the country as one nation that those whose language is not Hindi have voluntarily accepted it as the official language. (Cheers). There is no question of imposition now. English during the period of British rule, Persian during the period of the Muslim Empire were Court and official languages. Although people have studies them and have acquired proficiency in them, nobody can claim that they were voluntarily adopted by the people of the country at large. Now for the first time in our history we have accepted one language which will be the language to be used all over the country for all official purposes, and let me hope that it will develop into a national language in which all will feel equal pride while each area will be not only free, but also encouraged to develop its own peculiar language in which its culture and its traditions are enshrined. The use of English during the period of transition was considered inevitable for practical reasons and no one need be despondent over this decision, which has been dictated purely by practical considerations. It is the duty of the country as a whole now and especially of those whose language is Hindi to so shape and develop it as to make it the language in which the composite culture of India can find its expression adequately and nobly.

Another important feature of our Constitution is that it enables amendments to be made without much difficulty. Even the constitutional amendments are not as difficult as in the case of some other countries, but many of the provisions in the Constitution are capable of being amended by the Parliament by ordinary acts and do not require the procedure laid down for constitutional amendments to be followed. There was a provision at one time which proposed that amendments should be made easy for the first five years after the Constitution comes into force, but such a provision has become unnecessary on account of the numerous exceptions which have been made in the Constitution itself for amendments without the procedure laid down for constitutional amendments. On the whole, therefore, we have been able to draft a Constitution which I trust will serve the country well.

There is a special provision in our Directive Principles to which I attach great importance. We have not provided for the good of our people only but have laid down in our directive principles that our State shall endeavour to promote material peace and security, maintain just and honourable relations between nations, foster respects for international law and treaty obligations and encourage settlement of international disputes by arbitration. In a world torn with conflicts, in a world which even after the devastation of two world wars is still depending on armaments to establish peace and goodwill, we are destined to play a great part, if we prove true to the teachings of the Father of the Nation and give effect to this directive principle in our Constitution. Would to God that he would give us the wisdom and the strength to pursuance this path in spite of the difficulties which beset us and the atmosphere which may well choke us. Let us have faith in ourselves and in the teachings of the Master whose portrait hangs over my head and we shall fulfil the hopes and prove true to the best

interests of not only our country but of the world at large.

I do not propose to deal with the criticism which relate mostly to the articles in the part dealing with Fundamental Rights by which absolute rights are curtailed and the articles dealing with Emergency Powers. Other Members have dealt with these objections at great length. All that I need state at this stage is that the present conditions of the country and tendencies which are apparent have necessitated these provisions which are also based on the experience of other countries which have had to enforce them through judicial decisions, even when they were not provided for in the Constitution.

There are only two regrets which I must share with the honourable Members I would have liked to have some qualifications laid down for members of the Legislatures. It is anomalous that we should insist upon high qualifications for those who administer or help in administering the law but none for those who made it except that they are elected. A law giver requires intellectual equipment but even more than that capacity to take a balanced view of things to act independently and above all to be true to those fundamental things of life – in one word – to have character *(Hear, hear).* It is not possible to devise any yardstick for measuring the moral qualities of a man and so long as that is not possible, our Constitution will remain defective. The other regret is that we have not been able to draw up our first Constitution of a free Bharat in an Indian language. The difficulties in both cases were practical and proved insurmountable. But that does not make the regret any the less poignant.

We have prepared a democratic Constitution. But successful working of democratic institutions requires in those who have to work them willingness to respect the view points of others, capacity for compromise and accommodation. Many things which cannot be written in a Constitution are done by conventions. Let me hope that we shall show those capacities and develop those conventions. The way in which we have been able to draw this Constitution without taking recourse to voting and to divisions in Lobbies strengthens that hope.

Whatever the Constitution may or may not provide, the welfare of the country will depend upon the way in which the country is administered. That will depend upon the men who administer it. It is a trite saying that a country can have only the Government it deserves. Our Constitution has provision in it which appear to some to be objectionable from one point or another. We must admit that the defects are inherent in the situation in the country and the people at large. If the people who are elected are capable and men of character and integrity, they would be able to make the best even of a defective Constitution. If they are lacking in these, the Constitution cannot help the country. After all, a Constitution like a machine is a lifeless thing. It acquires life because of the men who control it and operate it, and India needs today nothing more than a set of honest men who will have the interest of the country before them. There is a fissiparous tendency arising out of various elements in our life. We have communal differences, caste differences, language differences, provincial differences and so forth. It requires men of strong character, men of vision, men who will not sacrifice the interests of the country at large for the sake of smaller groups and areas and who will rise over the prejudices which are born of these differences. We can only hope that the country will throw up such men in abundance. I can say this from the experience of the struggle that we have had during the period of the freedom movement that new occasions throw up new men; not once but almost on every occasion when all leading men in the Congress were clapped into prison suddenly without having the time to leave instructions to others and even to make plans for carrying on their campaigns, people arose from amongst the masses who were able to continue and conduct the campaigns with intelligence, with initiative, with capacity for organization which nobody suspected they possessed. I have no doubt that when the country needs men of character, they will be coming up and the masses will throw them up. Let not those who have served in the past therefore rest on their oars, saying that they have done their part and now has come the time for them to enjoy the fruits of their labours. No such time comes to anyone who is really earnest about his work. In India

today I feel that the work that confronts us is even more difficult than the work which we had when we were engaged in the struggle. We did not have then any conflicting claims to reconcile, no loaves and fishes to distribute, no powers to share. We have all these now, and the temptations are really great. Would to God that we shall have the wisdom and the strength to rise above them, and to serve the country which we have succeeded in liberating.

Mahatma Gandhi laid stress on the purity of the methods which had to be pursued for attaining our ends. Let us not forget that this teaching has eternal value and was not intended only for the period of stress and struggle but has as much authority and value today as it ever had before. We have a tendency to blame others for everything that goes wrong and not to introspect and try to see if we have any share in it or not. It is very much easier to scan one's own actions and motives if one is inclined to do so than to appraise correctly the actions and motives of others. I shall only hope that all those whose good fortune it may be to work this Constitution in future will remember that it was a unique victory which we achieved by the unique method taught to us by the Father of the Nation, and it is up to us to preserve and protect the independence that we have won and to make it really bear fruit for the man in the street. Let us launch on this new enterprise of running our Independent Republic with confidence, with truth and non-violence and above all with heart within and God over head.

Before I close, I must express my thanks to all the Members of this august Assembly from whom I have received not only courtesy but, if I may say so, also their respect and affection. Sitting in the Chair and watching the proceedings from day to day. I have realised as nobody else could have, with what zeal and devotion the members of the Drafting Committee and especially its Chairman, Dr. Ambedkar in spite of his indifferent health, have worked. (Cheers). We could never make a decision which was or could be ever so right as when we put him on the Drafting Committee and made him its Chairman. He has not only justified his selection but has added luster to the work which he has done. In this connection, it would be invidious to make any distinction as among the other members of the Committee. I know they have all worked with the same zeal and devotion as its Chairman, and they deserve the thanks of the country.

I must convey, if you will permit me, my own thanks as well as the thanks of the house to our Constitutional Adviser, Shri B. N. Rau, who worked honorarily all the time that he was here, assisting the Assembly not only with his knowledge and erudition but also enabled the other Members to perform their duties with thoroughness and intelligence by supplying them with the material on which they could work. In this he was assisted by his band and research workers and other members of the staff who worked with zeal and devotion. Tribute has been paid justly to Shri S. N. Mukerjee who has proved of such invaluable help to the Drafting Committee.

Coming to the staff of the Secretariat of the Constituent Assembly I must first mention and thank the Secretary, Mr. H. V. R. Yengar, who organised the Secretariat as an efficient working body. Although latterly when the work began to proceed with more or less clock-work regularity, it was possible for us to relieve him of part of his duties to take up other work, but he has never lost touch with our Secretariat or with the work of the Constituent Assembly.

The members of the staff have worked with efficiency and with devotion under our Deputy Secretary Shri Jugal Kishore Khanna. It is not always possible to see their work which is done removed from the gaze of the Members of this Assembly but I am sure the tribute which Member after Members has paid to their efficiency and devotion to work is thoroughly deserved. Our Reports have done their work in a way which will give credit to them and which has helped in the preservation of a record of the proceedings of the Assembly which have been long and taxing. I must mention the translators as also the Translation Committee under the Chairmanship of Honourable Shir G. S. Gupta who have had a hard job in finding Hindi equivalents for English terms used in the Constitution. They

are just now engaged in helping a Committee of Linguistic Experts in evolving a vocabulary which will be acceptable to all other languages as equivalents to English words used in the Constitution and in law. The Watch and Ward officers, and the Police and last though not least the Marshall have all performed their duties to our satisfaction. (Cheers). I should not forget the peons and even the humbler people. They have all done their best. It is necessary for me to say all this because with the completion of the work of Constitution-framing, most of them who have been working on a temporary basis, will be out of employment unless they could be absorbed in other Departments and Ministries. I do hope that it will be possible to absorb them (hear, hear) as they have considerable experience and are willing and efficient set of workers. All deserve my thanks as I have received courtesy, co-operation and loyal service from all *(Prolonged Cheers.)*

It now remains to put the motion which was moved by Dr. Ambedkar, to the vote of the House. The question is :

"That the Constitution as settled by the Assembly be passed."

*The motion was adopted, (Prolonged Cheers).*

**Mr. President :** I have now formally to sign the Bill which has now become an Act, by way of its authentication so that it may get authority and come into force immediately.

**Dr. Raghuvira** (C. P. & Berar : General) : * [Will you sign in Hindi ?]

**Mr. President :** * [Why do you ask that question?]

Mr. President then authenticated the Constitution.

**Mr. President :** Before the House adjourns, there is one formal matter to be gone through, and that is to give me authority to call another session of the Assembly in January.

**Shri Satyanarayan Sinha** (Bihar : General) : Sir, I move :

"Resolved that the Constituent Assembly do adjourn till such date before the 26th of January 1950 as the President may fix."

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

"Resolved that the Constituent Assembly do adjourn till such date before the 26th of January, 1950 as the President may. "

The motion was adopted

**Mr. President :** Before we adjourn, I would like to go round and shake hands with all the Members as I did when you first elected me to this place.

**The Honourable Pandit Jawaharlal Nehru** (United Provinces : General) : We shall come there and shake hands one by one, sir.

(The honourable Members then shook hands with Mr. President one by one.)

**Mr. President :** The House is adjourned *sine die*.

The Assembly then adjourned until a date before the 26th of January 1950, to be fixed by the President.

---

*[Translation of Hindustani speech]*