

Monday, 21st November, 1949

Volume XI



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14-11-1949  
to  
26-11-1949

# CONSTITUENT ASSEMBLY DEBATES

## OFFICIAL REPORT

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THE CONSTITUENT ASSEMBLY OF INDIA

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*Marshal:*

SUBEDAR MAJOR HARBANS LAL JAIDKA.

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## CONSTITUENT ASSEMBLY OF INDIA

Monday, the 21st November 1949

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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.

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### DRAFT CONSTITUTION—(Contd.)

**Mr. President :** We shall now resume further discussion of the Constitution. Sardar Bhopinder Singh Man 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 that 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 Centre 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. The 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, Sri, that it has only been incorporated as a policy to be pursued by the different units and as the realities of the situation

[Sardar Bhopinder Singh Man]

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 police who went there, instead of destroying the jars, drank the whole of the liquor, and when 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 preceded 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 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 it 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 Services compatible with the efficiency of the administration and that there will be a special Officer at 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 par 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 par or will not be included in the Schedule in the Patiala State or any-where 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 dilutions have spoiled the grace of this concession too. Now the power has been given to the President to include all the depressed classes in that 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 every where in the whole of India, equal to their counterparts.

I might explain a situation, Sir. 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

[Kazi Syed Karimuddin]

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 party or by people of one creed, it is very difficult for the next generation to change it unless the two-third 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 a 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:

*“Tamasha ahle Karam dekhte 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 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 placed 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 here 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 centralisation 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 a 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 Parliamen-

[Kazi Syed Karimuddin]

tary 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 stabilised 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 cognisance 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 a 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 recognised 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. Decentralised economy based on village panchayats should have been distinctly mentioned as the fundamental principle and basis of the 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 civilisation 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 politic 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.

Geographical and economic forces have a natural tendency to find their equilibrium in State and in society. I am afraid this Constitution has not reflected that equilibrium but I know that federal constitutions all over the world have got the bias and leaning to expand the area they cover. That has been the case in America, with the U.S.S.R. and also with Australia. Only recently an eminent British liberal statesman Lord Samuel has expressed such a hope—that India will be the Centre of a bigger federation or confederation which will cover far wider areas. There are the economic and geographical forces that would tend to make the bigger area covered within this one State.

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 stabilised, 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.

[Shri Arun Chandra Guha]

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 is devolving some powers must be stingy in this revolution 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 develop 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, *i.e.*, 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 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 arrangement. 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 a 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 Kuomintang 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 may be 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 in 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 cannot 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 Preambles of the Constitution recognises 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 Weimar 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 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

[Shri Shankarrao Deo]

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 draftsmen 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. 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 of 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 decentralisation 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 nonviolent 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 initiative and creative energy of the common man. Sir Charles Metcalfe in Ms 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.

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I am afraid in this highly centralised Constitution of the 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 stabilised. But how often have the exponents of real politic and state craft 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 today 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 realisation 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: Muslim): Sir, It is said that sometimes silence is golden while speech is silvern. In my humble opinion this should have been one of those occasions when silence would have befitted 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 darad".*

which means even death *en masse* is a festivity in itself. Therefore I have joined this death squad.

I cannot 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 conform and remain within the four corners of that Objectives 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.

Sir, 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 scrutinised by the particular Ministerial department of 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 criticise 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 British masters of ours were not administering the country, but they were simply exploiting it. I often heard that the then Government was not doing any shasan but they were doing shasan. 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

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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 oftentimes 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 any 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 chagring 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 ties in the strength of its weakest link, Assam must be kept up to the standard of a civilized Government; her people must be kept happy and contented as otherwise there is a fear of Assam becoming the favourite 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 2½ crores out of a total income of 5½ 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 Premier of Assam had to warn the House that within two or three years the deficit of Assam will go up to 3 or four crores. Sir, I 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 any thing 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 Caesar what belongs to Caesar.

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 Khasi 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 saviours. 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 land. The land belongs to the people. This ancient sacred right of 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 consist of 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 left 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 be done at the third reading but I request those honourable Members who will 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. The 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,

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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 requirements 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 Aliah*

The endeavour 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 the Preamble, *i.e.*, try to do justice to all, and try to 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 Paradravyeshu Loshtawat, Aatmawat Sarva*

*Bhuteshu 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 for 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 been 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 judgment is the greatest custodian of that independence who deserves the unstinted gratitude of this House and of the country for the most magnificent work he did in bringing 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 country worked 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 created, 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 the untouchables will be found in the east. What of that ? We untouchables, at that time called Sudras, were not allowed to name our children according to our wishes. In Manu Smriti there is a sloka: "Mangalam Brahmanasya 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 allowed to name them like Jawaharlal Brahmadata and so on but we could use only names that are jugupsitam which means Nanda Janak and this was the law of 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 prosperity 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 crore of Hindu folks should be changed and unless their hearts are changed, I do not

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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 the 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 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 forever. 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 not 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 the 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 friend 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 upto 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 1/2 per cent. in upper class services and 16 1/2 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 bring 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.

[Shri H. J. Khandekar]

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 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 on. 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 H. 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 this 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. Sidhwa :** 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 :—इस परिषद् द्वारा निश्चित किए गए रूप में विधान पारित किया जाए। I know Hindi well but I cannot understand what पारित 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 that 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 somebody 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 that were not prepared to see face to face to each other in this period of 18 years but I am glad that he worked very hard 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 with in 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 this 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. V. 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 mere 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 questions outside the House beforehand, 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 Model 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 enquiry. 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 the 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 modelled 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 requisite. 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 persuade 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 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 jeopardising 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.

Centralisation 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,

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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 utilise it in the case of a real emergency. There is danger if Fundamental rights 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 it 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. I 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 Bengal : 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 sepoy 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 fulfilment and realisation 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 Charda Bose, Srinivasa Iyengar, Satyamurthi, Dr. Asnari and the martyrs like Kanyalal, Satyen Bose, Jatin Mukerjee, Jatin Das, Surjya Sen and many others who have fallen 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 fulfil 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 Manu 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. Ambedkar 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 all 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 or the movements of a young married couple. I am not against having a strong Centre in India. In the background of our history I know that we should have a strong Central Government. At one time every adventurer, who came from any quarter of the globe could easily find a fortune in India. Every reckless raider who came to India easily founded an empire here. 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, aid at least in some places in India. Even Congress volunteers who have gone at least once to the prison are thinking in terms of becoming a minister. Every Dick Tom, and Harry thinks he can become a minister either in the Centre or in the Provinces. So looking 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 manners and Customs. There are various cultural, religious, communal, racial and linguistic minorities in India with interests conflicting. This is therefore a clear case for a federation 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 powers 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 invoking the special provisions in articles 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

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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 that 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 thereof. 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 known 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. Sidhwa :** 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 Gautam** (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 Mohan Lal 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 a 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 cannot 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 Legislatures. 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 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

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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 Irish 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 endeavour 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.

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

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**Sardar Hukum 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 a 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 anybody. 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 stage. 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 he expresses himself. Such moral virtues are impossible of achievement particularly in a secular State. Further equality of status is an empty boast 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 the protection of these rights is also entrusted to the Supreme Court 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

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impairment can ordinarily be apprehended. Like other Constitutions, 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 at 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 judge and the possible trespasser 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 unexpressed spirit. 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

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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, this 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 assured the Sikhs that the "Congress will give them an 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 promises 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 rights 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 as announcing again and again that all minorities shall 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 and 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 to services would have disfigured the Constitution, we were told here; but a 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 splendour 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 able 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 the 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 respects 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 bound 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 thought 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

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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 cannot 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 stage, 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 at 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 a part 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 120-A 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 in 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 prosperity 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 Jaspal 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 postmortem examination as our 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.

[Shri Jaspat Roy Kapoor]

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 reverence to the departed patriots like Dadabhai Naoroji, Surendranath Banerji, Gokhale, Tilak, Motilal Nehru, Malayiyaji and others, and to many a martyr, known and unknown, who 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 of 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 for 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 the right of 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 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 unflinching 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 right, 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 irreconcilables 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 no 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 advice 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 on 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.”

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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 so vehemently at home and abroad, does not inspire it. It is just a 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 Sampurnanand 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 offence 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 say, :

“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 stage ? 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 a 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 us to proceed. I say this with full consciousness of the difference of opinion 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 take 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 Ms 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 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 Jaspal 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

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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 to it only in relation to the objections raised by Sri Sampurnanand and those of his way of thinking that our Constitution does not bear the impress of Gandhism.

Then, Sir, Sampurnanandji and some others 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 within 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 adopted. 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 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 chagrin, 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 in article 25(2) at the last 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 pointed 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 samividhan ki Jayaho, Bharat Mata ki Jayaho”.

**Shri Algu Rai 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 gave 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 our country has made some sacrifice or the other and as a result of these sacrifices and compromises we have now this Constitution.

When the British quitted this country they granted complete Independence to all the princely potates 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 to 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

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\* [ ] Translation of Hindustani speech.

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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 achievements 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 Ranichandra 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 inspite of the fact that the language is sweet people like Hanuman who are lovers of the 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 a reference to the great martyrs of the wars of our country in a document of such historic import. My feeling is, Sir, that history would 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 that we are giving this Constitution to ourselves. This appears to me to be arising out of a sense of pride and vanity. I submit, Sir, that we should not do anything in pride as the 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 shortcoming 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 this objective. Further, Sir, we have Prohibited the religious education being imparted in schools particularly in schools which are being ran 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 religious books would not be read I fail to see how proper citizenship would be developed in our country. The fact is, Sir, that if we banish 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, fine 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 weak 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

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basic needs of man in the chapter relating to fundamental rights. In our ancient polity it was the precept that the *raison d'être* 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 that 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 not felt it safe to put 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 of 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.

देश जाति हित नोवं के हम कंकड होवे ।  
आसुरी संयन्ति नारी के कत कंकण सोहे ।

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 coquettes.

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 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 comparatively 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 be none to take upon himself the responsibility about the people. Hence there, should be harmony between these

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two. There must need 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 if 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 could not commit to memory, but I would read it out, it is in Telugu :

मंदारन्मकांद-माधुर्यमना हेतु मधुयुग्म् पोअने मदनपुलेआ।  
निर्मल मंदाकिनी वायिकल अग रामज्य चैनन कुरजयुतेका।

अम्बुजोदर दिव्य पादारविण्द चिन्तनायुत भर्तायत्त मेरीति।  
नितरम्बु चेरनेत्सु विनुत गुणशील माठल वेइनेल?

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 Telegu verse are. These are all Hindi words. Compare these Telugu songs with these couplets of Tulsi :

मानस सलिल सुधा प्रतिपालो।  
जिर्यद की लवण पयोधि मरालो।  
नव रसाल वन विहरणशीला।  
सोइ कि कोकिल विपिन करीला॥

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,

वैष्णव जन तो तेणे कहिये,  
जिन पीड पराई जाणिरे।

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

[Shri Amiyo Kumar Ghosh]

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 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, problem 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 this 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 is 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 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 of 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 the distribution of Income-tax subsidy should be revised early and brought on 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 profit earned from the products of that province.

Now, Sir, coming to the articles dealing with 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 article 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 or 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, Sir, in this Constitution, we have not separated the Executive from the Judiciary. We have included that in the Directive Principles. I think the proper place for that was in this very Constitution. The demand of separation of Judiciary from the Executive was all along agitated by the Congress and people, but it is unfortunate that this important issue has been side-tracked by including it in the chapter of Directives.

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 win 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, there 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 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 Province may become precarious and the Province may not be able to march towards its progress.

[Shri Amiyo Kumar Ghosh]

In conclusion I must say that it is a momentous achievement and in spite of its defects and short short comings its colossal nature cannot be denied. I wish the document a happy sail.

With them words, I thank you, Sir, for giving me this opportunity to express my views in short.

**Mr. President :** The House stands adjourned to 10 o'clock tomorrow morning.

The Assembly then adjourned till Ten of the Clock on Tuesday, the 22nd November, 1949.

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