

Wednesday, 20th August, 1947

Volume V



14-8-1947
to
30-8-1947

CONSTITUENT ASSEMBLY DEBATES

OFFICIAL REPORT

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CONSTITUENT ASSEMBLY OF INDIA

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Marshal:

SUBEDAR MAJOR HARBANS RAI JAIDKA.

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CONSTITUENT ASSEMBLY OF INDIA

Wednesday, the 20th August 1947

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.

PRESENTATION OF CREDENTIALS AND SIGNING OF THE REGISTER

The following members presented their credentials and signed their names in the Register.

- (1) The Honourable Srijut Gopinath Bardoloi (Assam: General).
- (2) The Honourable Rev. J. J. M. Nichols-Roy (Assam: General).
- (3) Prof. Nibaran Chandra Laskar (Assam: General).
- (4) Shri A. B. Latthe (Kolhapur State).
- (5) Chaudhri Nihal Singh Taxak (Punjab States Group 3).

Srijut Rohini Kumar Chaudhury (Assam: General): There are members here who were absent on the 14th night and therefore did not take the oath on that day.

Mr. President: We will come to that.

Members will recollect that on the night of the 14th the Assembly passed a resolution requiring that the Members of the Assembly should take the pledge in the prescribed form. Those members who were present that night took the pledge but I take it that there were some absentees that night. Certainly there are some members who have joined the Assembly today. All such members who have not yet taken the pledge may do so now at this stage.

TAKING THE PLEDGE

Mr. President: Those who have not taken the pledge will kindly stand up in their places.

(Those who did not take the pledge before stood up in their seats.)

Mr. President: I will read the pledge and I will ask the Members to repeat the pledge as I read.

(The President then read the pledge in English and in Hindustani and the Members who had not already done so, took the pledge as follows.

“Now that the people of India, through suffering and sacrifice have secured freedom, I, _____, a member of the Constituent Assembly of India, do dedicate myself in all humility to the service of India and her people to the end that this ancient land attain her rightful and honoured place in the world and make her full and willing contribution to the promotion of world peace and the welfare of mankind.”)

INCIDENTS CONNECTED WITH THE FLAG HOISTING CEREMONY
IN CERTAIN PARTS OF INDIA

Mr. R. K. Sidhwa (C. P. & Berar: General): Before we begin with the proceedings of the day, I would like to draw your attention to a very important subject of urgent public importance and that is this. On the Independence day, it has been reported that at the Agra Fort lakhs and lakhs of people had collected to witness the Flag Hoisting Ceremony. It is further reported that at the instance of some British Command a British officer stated that he would not allow any troops to participate in the ceremony if the Union Jack is to be hauled down and the new flag is to be hoisted. All the people were very much disappointed, but one of the Members of the Indian troop hoisted our Indian Union Flag and pacified the audience. I would like to know from the Honourable the Leader of the House as to how far this is correct and if it is correct what steps he intends to take in this very important matter i.e., wherever the National Flag has been insulted by a British officer. I would also cite one more instance. It has also been reported that in the Indian Post Office, in the Hyderabad State our Flag was hoisted and the Hyderabad authorities pulled it down. I would like to know also from the Honourable the Leader of the House as to how far that is correct and if it is correct what steps he intends to take to protect and to preserve our National Flag which was hoisted on the property of the Government of India. Whatever the mighty Independent Nizam's Government may be—what steps is this Central Government going to take in this matter? We cannot tolerate any kind of insult to our National Flag by anybody. I would therefore request you kindly to request the Honourable the Leader of the House to make a statement.

Shri Balkrishna Sharma (United Provinces: General): Sir before you call upon the Leader of the House to explain the conduct of certain of the officials, I would also like to bring to your notice that about three or four days before the actual ceremony was to take place, I brought to the notice of the Honourable Sardar Baldev Singh, the Honourable Pandit Jawaharlal Nehru and the Honourable Sardar Vallabhbhai Patel two orders from two Military officers which were issued in Cawnpore; one was from Col. Hilman who is in charge of the C. O. D. at Cawnpore; and another was from another Military officer in charge of the Technical Branch, in which it was stated definitely that should orders be received to haul down the Union Jack and to replace it by any other flag then no ceremony will take place. Further, it was stated that if the Military personnel are invited by the Civil authorities to participate in any such functions, none of them shall do so and this order was at the instance of the U. P. Area Command. I do not know what that means; perhaps the U. P. Command which governs all the Military movements and the Military forces in the United Provinces. Now the Indian personnel of the C. O. D. and the technical staff approached us, the Congress Committee people in Cawnpore, and they brought to our notice these orders. I requested the Honourable the Prime Minister of India and also the Honourable the Prime Minister of the United Provinces to take note of it. I am further informed by my Honourable friend Shri Krishna Dutt Paliwal that in Agra also no flag was hoisted and only the Indian personnel tried to hoist the flag even in spite of these orders but I do not know whether

they succeeded or not. In Jhansi, Cawnpore and Agra, in all the military stations, at least in my province such orders were issued and I would naturally like to know whether these orders were brought to the notice of the Central Government.

Mr. President: May I point out that we have met here today for the purpose of proceeding with the framing of the Constitution, We are not yet sitting here as the Legislative Assembly of India, where questions like this and many other important questions could properly be raised. So I would request Members to reserve them till the time when we meet as the Legislative Assembly and not to raise them in the Constituent Assembly because here we are concerned only with the framing of the Constitution and not with the actual administration from day to day. Of course, I am not quite clear in my own mind as yet as to the distinction between the Legislative Assembly and the Constituent Assembly and where the line has to be drawn, but this meeting has been convened especially for the purpose of dealing with the constitution making aspect of it and so we are now carrying on that function.

Shri Balkrishna Sharma: While fully bound by your ruling, may I point out that it is the Constituent Assembly of India which has taken over the reins of the Government. It is we as Constituent Assembly who have taken over from the British Government the governance of our country and therefore I think, Sir, that we are entitled to raise such questions from time to time even in the Constituent Assembly, even though we may not be meeting as the Central Legislature of the Union of India.

Mr. President: The Leader of the House was not aware that questions like this would be raised at this stage and so he is not here just at the present moment.

An Honourable Member: He is here.

Mr. President: I am sorry. He was not in his place here. I used to see him in another part of the House. I do not know if he would like to say anything on these matters at this stage.

Seth Govindas (C. P. & Berar: General): *[Mr. President, before the Prime Minister says anything, I would like to bring to your notice an occurrence at Jubbulpore.

Jubbulpore is an important military centre. There was a military parade and the flag was also hoisted over all public buildings and other prominent private ones. The flag was hoisted over military buildings without any celebrations as were made on non-military public buildings. A report was current that orders had been received from the Central Government that the flag should be hoisted over military buildings without any celebrations, pomp or show. There were some offices in the military area where the employees were told that the flags could not be hoisted over their buildings.

In this connection, I would like to know if there were different orders for military and non-military offices or if the orders were the same, and that whatever was done in Jubbulpore was done by the military officers at their own discretion]*

[] English translation of Hindustani speech.

Mr. Hussain Imam (Bihar: Muslim): Mr. President, may I just intervene for a moment. The question that has been raised is of great importance, as to whether this Assembly is functioning only as the Constituent Assembly or also as the legislative authority. Up to the 14th, we were debarred from discussing anything which could be called as Legislative functions. But, since that midnight, having assumed the whole power of governance of India, it is right and proper that some opportunity should be given to the members of this House to move adjournment motions and to discuss matters of urgent public importance. I do not think that we should embark on the full scope of the legislative body, having one hour for questions and the rest for other legislative functions. That would be really taking away too much of the time from constitution making and delaying the work which is in hand. But the right to move an adjournment motion is a very important and fundamental right which is a safeguard for democracy which we must preserve, and very much like to have in these days.. I therefore suggest that the Honourable the President may adopt the rules of the Legislative Assembly regarding adjournment motions so that if and when necessary matters of urgent public importance may be ventilated before this House.

Pandit Lakshmi Kanta Maitra (West Bengal: General): Mr. President, Sir, the point raised by my honourable friends Mr. Sidhwa and Mr. Balkrishna Sharma cannot be lightly brushed aside: I quite appreciate the observations that have fallen from the Chair. It is indeed difficult to say just now whether we are functioning here in a dual capacity 'as members of the Indian Constituent Assembly and also as members of the Parliament of the Indian Dominion. Whatever it may be, the fact remains that while sitting as members of the Indian Constituent Assembly, there are bound to raise questions from time to time which are of such pressing importance and they cannot possibly be deferred for consideration to a time when we will assume the functions of the Dominion Parliament. As a matter of fact, we do not know even now when the time is going to come when we will be functioning as a purely Dominion Parliament and not as the Constituent Assembly. No rules have been framed and we have not been given any indication whether before we finish constitution making we can at all function as the Legislative Assembly or Dominion Parliament. Therefore, so long as we do not know when we shall be able to function as the legislative body, certainly opportunities ought to be afforded to us for ventilation of such important matters as have been brought before the House.

With regard to the merits of the matter, Sir, though it relates to purely executive function, the House will bear in mind that the Flag Hoisting ceremony, the adoption of the Indian National Flag, were made with unanimous approval on the floor of this House, and that the Flag Hoisting ceremony was a public ceremony made under the auspices of the Indian Dominion Government. Therefore the question of infringement or violation of such orders of the Indian Government as reported by my honourable friends Mr. Sidhwa and Mr. Balkrishna Sharma and as reported in the Press is certainly a matter which must be ventilated. Sir, though it may not be possible just now to raise an adjournment motion as, it is definitely barred by the rules of procedure of the Constituent Assembly, certainly some rules may be made or some convention created till the time we function as the legislative body, for the ventilation and discussion of such matters as have been brought before the House. I quite share your feeling, Sir, that we are still hazy and not definite and clear as to the exact line of demarcation, the line that has to be drawn between us as members of the Constituent Assembly and as members of the

Indian Dominion Parliament. But before such time, before that can be done by rules, at least it is necessary to create some convention for this period.

The Honourable the Premier of India may be requested to make a statement and explain the facts and also the nature of the action he contemplates to take. For the time being, if he makes a statement, we would be satisfied. We do not think that a full-fledged adjournment motion need be raised and debated. But, apart from that, we are definitely of opinion that on such an important matter, the honourable the Premier of India should make a statement which would satisfy us. That is all, I have to say on this important point.

Shri Mahavir Tyagi (United Provinces : General): On a point of order, Sir.

Mr. H. V. Kamath (C. P. Berar: General): Sir, will you be so good as to tell us when we shall assemble here purely and solely as the Dominion Legislature?

Shri Mahavir Tyagi: Sir, the point of order which I wish to raise is that we cannot work both as the Constituent Assembly and the Legislature of the country together. It will be very anomalous, Sir, because, in all matters of parliamentary routine, we may have to discuss Government policy and naturally when the Government policy is discussed, a Speaker is needed who is neutral and who is not a member of the Government. In the Constituent Assembly, we do not sit as Government, or officials or non-officials; but we sit all as individuals contributing, their best towards the making of the constitution and you preside over our deliberations. If we begin to discuss censure motions and adjournment motions as my honourable friend on the other side has just suggested, we shall have to sit separately in blocks or parties and so many difficulties will arise. We shall have to vote with our parties, and naturally we shall have to divide ourselves into so many disciplined parties. So, the regular routine will all be upset. My suggestion therefore is, if we have to perform both the functions simultaneously, we cannot do all that on the same day, on one fixed day or in one fixed place. We shall have to divide the time and have a timetable. We shall have to announce that on such and such a day we sit as the Constituent Assembly so that we can sit under your Presidentship and carry on business as we have been doing till now. Similarly if we sit as a Dominion Parliament, we should announce our intention, and sit in party blocks and remain loyal to our parties and support the party motions or oppose the opposite ones, while in this case, it is not necessary for us to support motions proposed by the Ministers or others. My submission, therefore, is that we cannot work in the same House under the same Presidentship both as the Constituent Assembly and also as the Parliament of the country.

Mr. President: Mr. Santhanam.

Pandit Hirday Nath Kunzru (United Provinces: General): Mr. President, an honourable member of this House has raised a point of order.

Shri K. Santhanam (Madras: General): I am speaking on the point of order.

Pandit Hirday Nath Kunzru: I submit that that point must be decided before any member is allowed to speak.

Shri K. Santhanam: I am speaking on the point of order. There are two issues on this point. What is the status of this Assembly? Having defined the status, it has to be determined as to how it should function.

[Shri K. Santhanam]

Now, it is argued that it has got a double status, one as the Constituent Assembly and the other as the legislature. My own view is that it has got only one status. This is the Constituent Assembly. According to the Indian Independence Act, it is stated that the powers of the legislature of the Dominion shall be exercisable in the first instance by the Constituent Assembly of the Dominion. It is this Assembly, one indivisible integral body which has to exercise the powers of the Dominion legislature. Therefore, there is no purpose, there is no meaning in dividing this House into two, consisting of the same members. I think it is illegal to say that this is a Constituent Assembly today and this is a legislature tomorrow. It is one body. For the sake of convenience, we may devote some time to one work and some to the other and we may, if necessary have two sets of rules. I do not think it is legitimate for anyone to raise the point that today this is not a legislature and therefore it cannot raise an issue and tomorrow it is only the legislature and therefore another issue cannot be raised. We must treat it as one body. A Committee may be set up to frame rules of procedure as to how to regulate both these functions. Therefore, I suggest that no premature decision or ruling should be given today as to the status of this body. It should be carefully considered by lawyers and we should not commit ourselves to anything which may lead to all kinds of difficulties.

Mr. Tajamul Husain (Bihar: Muslim): Now, Sir, we are here as members of the Constituent Assembly. No doubt we assumed powers as members of the Union Parliament on 15th August; but we to-day were summoned by you to attend the session of the Constituent Assembly and not of the Union Parliament. We, Sir, are governed here by the Rules of Procedure and Standing Orders which were framed in this House. There is no other rule under which we are governed, and we are bound by these Rules. To-day we are meeting as members of the Constituent Assembly and not as members of Parliament—because if we had been meeting as Parliament, all the members of Indian Government should have been present here to-day—now supposing, Sir, a very urgent and important matter connected with public education is taken up, you would require the presence of the Member in charge of Education, but he cannot be here as he is not a member of the Constituent Assembly. Therefore I submit that though the matter under discussion is undoubtedly very important and some serious action has to be taken by the Honourable the Prime Minister of India, we are absolutely powerless under our Rules to discuss this matter. Therefore my point of order is that we are meeting today as members of the Constituent Assembly and as such we are bound by our own Rules and we cannot discuss the matter which has been raised.

Shri R. V. Dhulekar (United Provinces: General): *[Mr. President, I do not agree with the point of order that has been raised. Since August 15, this Constituent Assembly has assumed full powers. It has no longer a dual aspect. Before August 15, this body was a Constituent Assembly and at that time, it could be said that it had no power of legislation or of making changes in the country's administrative functions. Since August 15, it has assumed full powers of administration including the power of framing the Constitution and we can perform those functions while sitting here at one place.

[] English translation of Hindustani speech.

Another question has been raised and it is that on August 15, it was said that the next session of the Constituent Assembly would begin on the 20th. I would like to add that all powers have been vested in the Constituent Assembly. There is nothing outside it when we are in session, we can do anything and at any time. It is a different thing that for our convenience we may hold discussions on constitution from ten to one. After that, from three to five we may discuss administrative matters. We have full authority for both and legally there is nothing to prevent us from doing so. I think that the persons who say that there are legal restrictions in our way, go against the law. They should study the Act of Independence and should know that the administration is in our hands. We can also adjourn and leave Delhi for the present and may be reached later after a month or two to function as a legislature. Therefore, the point of order that has been moved is not right. There is only one comprehensive aspect of this Assembly and it includes framing of the constitution as well as the carrying on of the administration.]*

Shri T. Prakasam (Madras : General): Sir, it is wrong to say that the status of this Sovereign body of the Constituent Assembly is one and indivisible. After 15th August this body became the Sovereign Body not only in regard to the framing of the Constitution but also with regard to doing the work necessary as the Sovereign Legislature. Now, Sir, I have got a certain matter to be placed before the Sovereign Legislature which is closely connected with the framing of the Constitution. According to me until those matters are settled in the Legislature, this constitution-making also cannot be proceeded with. Therefore this House must have a dual capacity and whenever it is necessary, this House can convert itself into a Sovereign Legislature to consider one or two important questions without wasting time relating to framing the Constitution itself and then again converting itself into a Constituent Assembly for framing the Constitution. That is the correct position and the constitutional position. Therefore it should not be considered as having an exclusive status, indivisible, and it should not continue framing the Constitution without caring for the other matters that may come here.

Mr. President: I think we have had enough discussion on this point. There are two questions which have actually been raised, one with regard to the status of the Assembly as it is today and the other regarding the incidents which have taken place on the 14th/15th. I would now ask the Leader of the House to make any statement which he wishes to make on both the points or any of the points.

The Honourable Pandit Jawaharlal Nehru (United Provinces : General): Mr. President, Sir, I am not quite sure which of these two questions I am supposed to take first. I am suffering under a disadvantage. I have been trying to follow what has been said in this House very closely; but roughly speaking I have heard about one-fourth of what has been said. I do not know whether the acoustics of this hall has changed or owing to our experiences of the last few days our voices have changed or something has happened. It is either a roar or whisper. I found it difficult to follow either the roar or the whisper.

If I may deal with the constitutional point that has been raised more or less as a layman than as an expert, it seems to me perfectly clear that this House is obviously a Sovereign body and can do just what it likes, admitting that the House does only things which it has itself decided to do. It can change its own decisions. It can change its own Rules

*[English translation of Hindustani Speech.

[The Honourable Pandit Jawaharlal Nehru].

but so long as the rules subsist, it follows its own rules. If it wants, it can change them. Therefore there is no doubt that this House has the right to carry on as a Legislative Assembly if it wants to from tomorrow or any time it likes but before doing so, it should come to that decision and frame its rules accordingly. I would therefore submit that the proper course for us to take is for the President to appoint a small committee which can report to us in two or three days time as to what rules we should have for this interim period. There is an obvious difficulty in our functioning as the Legislative Assembly as we are. For instance, questions may be asked and members of Government in charge of those portfolios will have to answer. Well Sir, you are yourself a Member of Government and if a question is asked in regard to the Department of Food or Agriculture, is the President supposed to reply or who is supposed to reply.

A difficulty arises. A number of Ministers are not members of this House. They may, I think, even under the existing rules attend the House and speak without voting, but all these things will have to be gone into and clarified before we can really function as a Legislative Assembly. There is no doubt that we can make any rules we like. We can ask the Ministers to come and function as members of the House if we so choose. Therefore I beg to suggest that the President do appoint a Committee to report to us, say, within 3 days as to how we should function during this intervening period. We are meeting now obviously as the Constituent Assembly, though we can meet otherwise also. It is clear that if this Constituent Assembly as such had no work to do, supposing we had finished our preliminary work of laying down the principles of the Union Constitution a fortnight or three weeks ago, we would not be meeting today. We would have met on the 14th night and 15th morning for that particular purpose and adjourned till September or October for the next session of the Constituent Assembly. We are meeting, therefore, because we had not finished our work a fortnight ago and we want to complete it in the next week or whatever time it may take, so that the real detailed Constitution may complete and then we may meet sometime in October, possibly, finally to pass that Constitution; so that at the present moment rather casually treating this as a Legislative Assembly will lead us into all manner of difficulties, but if the House so chooses *i.e.*, in regard to information being supplied by Members of Government or anything else, naturally the Members of Government will be happy to supply it. The point is that everything should be done in a methodical way. So I submit, Sir, that the best course would be for you to appoint a Committee to report in two or three days as to what procedure we should follow and if necessary we can change our rules to that end.

Now, in regard to the questions put by some of the members, some of them I could not follow at all. Seth Govind Das said something and except for the fact that he said something about Jubbulpore, I did not at all follow what happened in Jubbulpore. I tried to follow him, but I am sorry, due probably to my own hearing I could not. So also another Member whom I could not easily follow. But briefly, I would say this, that obviously the Government in common with the House attaches the very greatest importance to the fact that the national flag should be honoured and that any dishonour to the flag anywhere must be enquired into and necessary steps taken. Two or three instances that were brought to notice regarding something that happened at Agra Fort are being enquired into. I believe the U. P. Government

Shri Balkrishna Sharma: May I know if the Hon'ble the Leader of the House received my telegrams about these very incidents?

The Honourable Pandit Jawaharlal Nehru: I cannot say off-hand, because I have received 7,000 telegrams in the last four or five days and it is a little difficult immediately to say whether I received the particular telegrams. It is physically impossible for an individual or for a group of individuals to analyse them or even to read them quickly. We are doing it with all possible speed.

Now, we are enquiring from the U. P. Government regarding those incidents and I am sure our Defence Department is also enquiring and we shall take necessary steps.

As regards Jubbulpore, I know nothing. I shall be very happy if Seth Govind Das will supply me with the facts separately and we shall enquire into the matter and take the necessary steps.

An Honourable Member: What about Hyderabad?

The Honourable Pandit Jawaharlal Nehru: About Hyderabad I understand that our States Department immediately enquired into this and the Hyderabad Government categorically denied any insult to the National Flag and they said that they had allowed it to be flown everywhere and certainly to their knowledge any such thing did not take place.

Mr. President: I think the question about the status and functioning of the Assembly is an important one and we have to take into consideration the rules which we have framed for the conduct of our business here as also the adaptations of the Government of India Act which have been made and the Independence Act. Taking all these things into consideration, we have to find out whether we can function either compartmentally in two compartments or we should function as one body. These are questions which require consideration and I think the suggestion which has been made by the Leader of the House that a small Sub-Committee should be appointed for the purpose of going into them and for making suggestions in regard to the rules which would guide us, is a suggestion which should be acceptable to the House and I would like to know if the House would like to have that done.

Honourable Members: Yes.

Mr. President: Since the House agrees, I shall announce the names of the members of the Sub-Committee in the course of the day and we shall ask the Committee to make a report as soon as possible.

Now, we shall proceed with our function as Constituent Assembly for which we have met this morning. I shall ask Mr. Gopaldaswami Ayyangar to move his Resolution.

Shri Biswanath Das (Orissa: General): Arising out of this statement made by the Leader of the House, I rise to say just one thing, namely, regarding the terms of reference of the Committee which he has suggested. He was good enough to suggest that the reference to the Committee should be confined to matters of procedure. I feel that there are certain other questions which should also be referred to the Sub-Committee, namely, we have in this Constituent Assembly representatives of Moghalbandi (Provinces) as also of the States. Therefore, representative of both these function side by side. Now, Sir, if only the question of

[Shri Biswanath Das].

procedure is to be referred to this Committee, there are certain difficulties regarding the functioning of the States representatives as also their voting. I will just, illustrate this point. For instance, we have to pass the Budget. So far as is known, the States have only conceded three subjects; I don't know if more subjects have been conceded to the Federation. If that is so, it is welcome, but as far as newspaper information goes,—we have had nothing from our leaders—they have conceded only three subjects. In regard to legislation relating to other subjects have the a right to discuss and vote? Now what is going to be the position of the States representatives in regard to other subjects which are beyond the scope of these three subjects?

In these circumstances, I would suggest to you and also to the Honourable Leader of the House to expand the reference—the terms of reference of this committee, so that the committee could put forward recommendations not only regarding procedure but also regarding the functions and other allied matters so that we may have the whole picture before us.

Mr. President: I will keep that in mind in stating the terms reference of this committee.

Mr. H. V. Kamath: Sir, permit me to refer to a minor point. I would like to draw your attention to the fact that copies of neither your address on the 14th night nor the Governor General's on the 15th morning, nor of your reply thereto, were placed on the Members' tables, and they have not been supplied to us even to this day. Will you please take action in this matter?

Mr. President: Now, I think we shall proceed with the Report of the Union Powers Committee.

Shri Santanu Kumar Das (Orissa: General): Sir, May I know through you and from the Leader of the House what steps have been taken by the Pakistan Government against those who have insulted the National Flag there in Pakistan.

Mr. President: We shall now proceed with the Agenda. I think if there are any other questions, they may be considered at the proper time. Shri Gopaldaswami Ayyangar.

REPORT OF THE UNION POWERS COMMITTEE—*contd.*

Mr. N. Gopaldaswami Ayyangar (Madras: General): Sir, I beg to move—

That it be resolved that the Constituent Assembly do proceed to take into, consideration the Second Report* on the scope of Union Powers submitted by the Committee appointed in pursuance of the resolution of the Assembly of the 25th January, 1947.

Sir, copies of this Report have already been circulated to Hon'ble Members; but, in placing this Report before the House, I would like to say a few words, first as to how this Report has come to be presented to the House.

*Appendix A.

The House will remember that as long ago as the 25th January, 1947, this Committee was brought into being by a motion moved by Mr. Rajagopalachari whom we are all proud to find now as the Governor of one of the most important provinces of this Dominion. Well, in that resolution—

Maulana Hasrat Mohani (United Provinces: Moslem): Sir, on a point of order, I have given notice of an amendment that this Report may not be taken up for consideration.

Mr. President: Let the Resolution be moved first.

Mr. N. Gopaldaswami Ayyangar: Sir, at the time this Resolution was adopted, what we were attempting to do was to implement the scheme in the Cabinet Mission Plan. That Plan, as the House will remember, provided for a federation of Provinces and States and the assignment of a certain limited number of subjects, broadly described, to the Federation and for various other details as regards both the substance and the procedure which the leaders of the two great parties in the country had already accepted. Now, one of the important matters that had to be tackled by this House in connection with that plan was the scope of the subjects that were assigned to the Centre in that Plan. Those subjects were very broadly described, as I said. They consisted of Defence External Affairs and Communications, and the finance necessary for these subjects. Well, one of the items in that Plan which had been accepted was that constitutions had to be framed both for the Provinces and the Centre, the Federation, as also for any Groups, if the decision of the House was in favour of setting up such Groups. The constitutions for the provinces Groups were proposed to be made in the Sections into which this Assembly was to be divided after its preliminary meeting. Before the work of framing those constitutions was taken up it was considered necessary that some indication should be given as to the orbit,—if I may use the word—of the jurisdiction of the Centre, that is to say, the subjects which would be within the sphere of the Federation, so that the remaining subjects might be catered for in the Constitutions of the Provinces or of the Provinces and Groups, if Groups came to be decided on. It was for the purpose of implementing this object that it was decided that we should first undertake an investigation of the individual subjects which would fall within these four broad categories, and for that purpose we appointed a Committee to make this investigation and submit a report to the House. That Committee met, and on the 17th of April, I think, it made a report. That Report was presented to the House by me on the 28th April. In presenting it, I said I was not placing before the House any motion for the consideration of the Report because the conditions at that time were so fluid that we would only have wasted a considerable amount of the time of this House in considering that Report which was bound to become out-of-date within a few weeks. As a matter of fact, a very fateful political decision was impending at that time and we did not know what the nature of that decision was going to be, whether India was going to remain united or whether it was going to be divided and if so, what other details would have to be filled in. In those circumstances, I suggested that the House need not consider that first Report of this Committee at that time. I also pointed out that it would be necessary for the Committee to meet again and review the recommendations it had embodied in its first report in the light of political decisions that might be taken very soon after. As the House is aware, that decision was taken on the 3rd June and that decision started being implemented from almost that date; since then we have had the Indian Independence Act enacted by Parliament. Well, Sir, that Act has given us two Dominions in what was India, before the 15th of August.

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We are now a Dominion. We have walked into independence. I deliberately say 'walked into independence' because I do not think we went and seized it. It was there. We walked in and said we had taken our power, and we have now in working order a Constitution which is, if I may say so, a combination of the provisions of the Indian Independence Act and the provisions of the Government of India Act, 1935, as adapted under the provisions of the Indian Independence Act.

Sir, that is the present state of things. The Union Powers Committee met again after the 28th of April at a time when even the Indian Independence Bill had not been introduced in Parliament. We knew of course that such a Bill was going to be introduced, but we were not quite sure at the time we settled our second report what the provisions of that Act would finally look like. Well, we did make that report. We have since had this Independence Act. What we have now is a Dominion and a Dominion if I may describe it—possibly it has been described so in the adaptations of the Government of India Act—I am not sure of it because we are yet to be supplied with copies of the *Gazette Extraordinary* which is supposed to have been issued on the 14th night or the 15th morning: but I take it, Sir, that that adaptation describes this Dominion as a Union comprising those Provinces of what was British India as have not seconded into the new Dominion of Pakistan. It comprises also those Indian States which have acceded to the Dominion. When I said Provinces, I should have referred to two kinds of provinces that we have in this country, namely, the Governors Provinces and the Chief Commissioners, Provinces. In addition to that, there may be other areas which may be included in the Dominion. Thus we have really a Federal Union now in this country, and that Federal Union will have to be administered in accordance with the provisions of the Indian Independence Act and the Government of India Act as modified. Now, Sir, we, in this report of the Union Powers Committee, have nothing to do with the Federal Union which now exists. What we are attempting to establish is a Federation in the future, and, in considering what that Federation should be, we have got to take note of the essentials that any Federal Constitution has to provide for, and one of the essential principles of a Federal Constitution is that it must provide for a method of dividing sovereign powers so that the Government at the Centre and the Governments in the Units are each within a defined sphere, co-ordinate and independent. Perhaps I may quote for the information of the House the definition in orthodox terms of what a Federation should be as visualized by thinkers on political science, by people who have engaged themselves in the framing of Federal constitutions. Here, for instance, is a description which I take from the Report of the Royal Commission on the Australian Constitution in 1929. For this definition the person responsible was Sir Robert Garran, a name very well known in the history of Federal Constitutions. He describes Federation as "a form of government in which sovereignty or political power is divided between the central and local governments so that each of them, within its own sphere, is independent of the other". I call this, Sir, an orthodox definition because, if we look round the world and look at the Federal constitutions that are actually in being, I am almost sure that not one of them will be found to conform rigidly to the actual terms of this definition. The line between the Centre and the Units is not so definitely fixed as this definition would assume. There are relations between the Centre and the Units. There are cases where the Units have to depend upon the Centre. There are controlling powers vested in the Federation in emergencies, when the Federation could override the jurisdiction of the Units and take over

things into its own hands: so that this absolute independence of functioning, which is contemplated in the definition, has not been realised in practice. But there is one fact which stands out in the history of Federations, and that is this: it is necessary for us to demarcate the sphere within which the Centre on the one hand and the Units on the other could exercise sovereign powers, and that is really at the back of all the attempts that have been made in the various Federations to demarcate the subjects which should be assigned to the Centre and the subjects which should be assigned to the Units or retained by the Units, or retained by the Units, according to the view that is taken as to where residuary power should finally be lodged.

Now, Sir, with regard to our country, we are confronted with problems which have not confronted other Federations in history. We have decided to bring into a Federation areas which were under British sovereignty before the 15th of August, as also areas which were in theory independent but which were under the suzerainty of the British Crown. Now, to bring these two areas under one Federation confronts us with problems which the framers of Federal Constitutions elsewhere have not had to tackle; and there is this further fact. Provinces have to be provided for under a scheme of government which is not monarchical. Indian States have to come into the Federation and to remain there under a monarchical form of government. But I am one of those who think that the substance of democratic government is not affected by a difference such as the one I have referred to, whether it is a monarchical form of government or it is a republican form of government.

What we are all wedded to in this House, so far as I can gauge the opinion of this House, is a Government which is responsible to the Legislature. That responsible government you can achieve under a monarchical system, as well as under a republican system. That being so, in essence, we can easily get over the superficial difficulties that are posed by the existence of these two systems in the two areas of this country and develop a Federal Constitution which would bring about a harmonious co-ordination of governmental activities in these two sets of areas.

Well Sir, in framing our Constitution we have kept this constantly in view. On this Committee connected with Union Powers we have kept the same principle constantly in view.

Now let me draw the attention of the House to one or two more peculiarities in the work that we are called upon to do. There is a certain amount of recognition which has been accorded to the principle of our making a difference between what were British Indian Provinces in the past and the Indian States, as regards the quantum of jurisdiction which we shall assign to the Centre. It has been taken as conceded that the States have to cede jurisdiction, have to accede to the Federation; and while it is recognised that that accession should at least be in respect of a certain minimum number of subjects, accession with regard to the other Federal subjects has to be with their consent. I am glad to be able to say that the accredited Constitutional Advisers in Indian States have generally recognised, and also I think the representatives of the people of the Indian States have generally recognised the wisdom of agreeing, if possible, to a wider range of subjects to be assigned to the Centre than the subjects which could come within the four corners of

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Defence, External Affairs and Communications. But the only thing I would appeal to the House to do is to carry our persuasion of these Advisers to the point of their recognising that there is nothing in the Constitution that we shall be framing which could act as a discouragement to their implementing what I know they would be only too glad to implement if they were satisfied on the point I have mentioned.

Now, Sir, the fact that we have to make this distinction between the quantum of jurisdiction that is assigned to the Centre by the States on the one hand and to what were British Indian Provinces on the other, has materially affected the nature of the Report that this Committee has decided to present to this House. You will notice that there are three lists of subjects attached to the report and they are described as the Federal List, the Provincial List and the Concurrent List. The Federal List is the only one with which the States are immediately concerned.

Now, there is another point of distinction to which I should draw attention. When we were merely trying to implement the Cabinet Mission Plan, we accepted the proposal of the Cabinet Mission that subjects not assigned to the Centre would be deemed to be assigned to the Provinces, and, in the case of the States, the language used was "Subjects not ceded by the States to the Federation would be retained by them". Now, in substance, it more or less amounted to the same thing, *viz.*, having listed out Federal subjects, what remained, *viz.*, the residuary subjects, would be with the Provinces in the one case and with the States in the other.

Now, Sir, When this Committee met after its first report had been presented, we were relieved of the shackles which we had imposed on ourselves on account of the acceptance of the Cabinet Mission Plan and the Committee came to the conclusion that we should make the Centre in this country as strong as possible consistent with leaving a fairly wide range of subjects to the Provinces in which they would have the utmost freedom to order things as they liked. In accordance with this view, a decision was taken that we should make three exhaustive Lists, one of the Federal subjects, another of the Provincial subjects and the third of the Concurrent subjects and that, if there was any residue left at all, if in the future any subject cropped up which could not be accommodated in one of these three Lists, then that subject should be deemed to remain with the Centre so far as the Provinces are concerned.

This decision, however, is not one which the Committee has applied to the States. You will find a reference to this in the Report. What is said there is that these residuary subjects will remain with the States unless the States are willing to cede them to the Centre. Well, I do not know if those who represent the States in this House will take any decision of the kind which perhaps the Committee hoped for when it said so; but we have got to take things as they are.

There is another matter which it is important that we should recognise. Residuary subjects in the case of provinces are subjects which are not accommodated in any of the three long Lists that we have appended to the Report. Residuary subjects in the case of the States would really mean all subjects which are not included in the Federal List. I want to draw attention to this, because I know my Hon'ble friend Dr. Ambedkar would rather see that the States accede also on certain items which are included in the Concurrent List, if not the whole of that

list. There is a school of opinion in favour, of that. But, as things stand now, the report stands today, all the subjects included in the Provincial List, all the subjects included in the Concurrent List, and whatever subjects may not be included in the federal list are with the States. That is a distinction which I think it is necessary for the House to remember in considering this report. Sir, so far as this report is concerned, there is one matter to which I should like to draw attention if only for the purpose of avoiding possible apprehensions as to whether certain things are included in it or excluded from it. The first report gave a list of subjects under each of these four heads. It also made certain recommendations as regards the inclusion of certain other provisions in the Constitution which may not be included in the lists themselves, for instance the last sentence of paragraph 2 (a) of the first report which referred to our making some provision so far as defence matters were concerned similar to the provisions contained in sections 102 and 106 (a) of the Government of India Act. Then, Sir, there is the penultimate sub-paragraph of para 2 (d) in which in defence to the wishes of the representatives of States, it was decided by the Committee that the States should have a certain amount of time within which they could re-order their financial systems in such a way that they could be brought up to the standard of the rest of India and that provision is there and the second report does not cancel it.

Then, Sir, the second report itself draws attention to certain other matters, specific matters.....

Mr. H. V. Kamath: Mr. President, I submit that the loud speaker system is not behaving as well as it used to till the 15th.

Mr. President: It has caught the infection of being independent, we are going to have it checked up and put right.

Mr. N. Gopalaswami Ayyangar: Sir, what I wish to say is that though the motion is that the second report of this Committee be taken into consideration, I think, the House is entitled to take into consideration also those portions of the first report which are not in conflict with what is said in the second one. Sir, with regard to these lists themselves, any person who superficially glances through these lists might probably get the impression that they are too long, particularly the federal list which consist of 87 items. People have run away with the impression that this Committee has stolen a number of items from the provincial and concurrent lists and put them in the federal list and made it unduly long. I think if honourable members would scrutinise these lists and compare them with the lists in the Act of 1935 it would be difficult for them to find—perhaps with one or two stray exceptions any cases where we have encroached upon the sphere assigned to the provinces by that Act. There is also one other point that I wish to make so far as the federal list is concerned. We have cut up a number of items in the federal list into separate items and that is one reason why the number has increased so much. In other cases we have adopted certain items from other constitutions which we did not find in the Government of India Act, but none of are in the opinion of the Committee of such a character that they should necessarily go either in the provincial or concurrent list.

There is another matter in this connection to which perhaps, I may refer. One of the headaches of the Indian Independence Act, I mean the headaches caused in this country by the Indian Independence Act,

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was the manner in which practically it encouraged the cutting of the political connection between the Government of India and the Governments of the Indian States. If that Act, or rather if that Bill had become law in the form in which it was originally framed, perhaps the disconnection would "have been complete, but certain steps were taken in order to introduce into that Bill provisions which were intended to avert that calamity. But even so what was put into the Act as enacted by Parliament, was not half of what was demanded from here with the full support of the statesman who is now the Governor-General of the Dominion. What we got was only a partial recognition of the point of view that was urged from here, and that only tried to maintain certain economic connections that exist between the Centre and the Indian States. It left the continuance of the political connection very much in the air. In fact, legally speaking it cut off that connection, unless some steps were taken to revise that connection by some means or other, and I may here say that happily for this country, this revival of the connection has been brought about, and the result is that today we are in the Dominion of India under the Indian Independence Act in a much better position as regards this political connection than we were under the Act of 1935.

The overwhelming body of States coming within the geographical boundaries of the Indian Dominion have acceded to the Dominion. They have accepted the position that the Dominion can make laws in respect of the subjects on which they have acceded, a state of things which did not exist before the 15th of August. They have, most of them, I believe, sent representatives to the Constituent Assembly and this Constituent Assembly is going to function also as the Legislature of our Dominion, so that the political and the constitutional connection that exists today between the States and the Centre is much closer than it ever was during the last 150 years. I only say political and constitutional connection. I do not refer to the effectiveness of the control that was exercised over Indian States in the past. That may have been perhaps a little more efficient than may be possible under the existing state of things, but what I wish to draw particular attention to is that we have erected an organic political and constitutional structure which has commenced to function from the 15th of August. The credit for this, I think, should primarily go to the great awakening of public opinion in the States. It should next go, I think, to the well considered policy of inviting the accession of Indian States to the Dominion which was announced by Sardar Vallabhbhai Patel who presides over the States Department today. But above all I should say that the actual accession of practically the overwhelming bulk of Indian States, the credit for that should go to the statesmanship and the genius for what he himself has called open diplomacy with which Lord Mountbatten has roped them in. I say this advisedly, because I think that but for the energy and the consummate skill which he has employed in this matter, we might not have reached the result which we are so happy to see today.

Now, Sir, I was mentioning this in order to point out that there are some rather hazy opinions as to what this accession means. It is said that the States have acceded only on three subjects. It is true there are three subjects, described in very broad terms but the actual Instrument of Accession which they have signed has detailed the items which come under each of these three heads and you will find that they really come to somewhere about 18 or 20. If we cut them up as in the

list attached to the Union Powers Committee's Report, the number will probably be larger. The reason why I point out this particular fact is that representatives of States who are in this House are very substantially interested in the business which has got to be transacted here whether it is by way of constitution making or it is by way of legislation or control over central administration. They are vitally interested in this matter and I should like all of them to feel that there is absolutely no distinction between them and other representatives of India who are in this House. Now, Sir, having said that, I should finally refer to these three lists themselves the first question I dare say which will exercise the minds of many Honourable Members here would be whether after all, this kind of distinction as regards the lodgement of the residuary powers should continue. There are two ways of removing that distinction. One is perhaps to go back to the Cabinet Mission Plan—in view of the fact that we have exhaustively described the subjects in the three lists—and lodge the residuary powers in the case of the Provinces also in those Provinces. The second proposition is one which the States might consider. Very eminent statesmen connected with the administration of Indian States have contended that what they wanted was a strong Centre and that if the Centre was made strong their hesitations about coming into the Constituent Assembly and participating in its labour would disappear. Well, if that view is concurred in by their colleagues here as also by the peoples' representatives from the Indian States, it is quite up to them to consider the alternative of modifying the report of this Committee and agreeing to the lodgement of residuary powers in the Centre itself. Well, Sir, that will be one of the things which this House will have very seriously to consider. The report of the Committee is, I must emphasize however in favour of residuary powers being with the States in the case of the States and with the Centre in the case of the Provinces. Sir, I do not wish to take up more of the time of the House. I move.

Maulana Hasrat Mohani: *[Mr. President. Before this, a mistake was committed by Sardar Patel, and I think, now, my friend Sir N. Gopalaswami is committing a greater blunder. He is an eminent jurist. But I would beg you to consider as to what course you are adopting now. At that time I asked Sardar Patel that he had not till then decided any principle about the centre nor had it been decided as to what type of Constitution the Union would have, whether it would be a Union of the dominion, or a republic? If it is a republic then would it be socialist or nationalist? In short, you have not decided as to what shall be its shape. You have simply said that all the powers shall vest in the Centre, and the Centre shall probably assume all Powers. I say that there cannot be any greater blunder than this. It means that you consider that all the members here are fools. That is why I have raised this objection after full consideration. Replying to it, Pandit Nehru said that in the Resolution on objectives the word 'republic' was present. Then I kept quiet but I wish to know what you are dreaming of now. Pandit Nehru should know that our British Imperialist friends have already bound you, and they will now keep you in their dominion and for that they have created a new device. And in creating it France, Holland, England, America and the last in the queue, Chiang-Kai-Shek—the worst of men—have combined together. It is this: They have invented a sort of a Republican Dominion. They are

[] Portions of this speech were made in English and portions in Hindustani.

[Maulana Hasrat Mohani]

thrusting this Republican Dominion on Indonesia. Holland is thrusting this Republican Dominion on Indonesia. France is thrusting this Republic Dominion on Indo-China, Viet-Nam. You have been made fools. They are going to thrust the same kind of Republican Indian Dominion on you and I am sure that you will have no escape from it. You will have to remain a dominion forever. They are pastmasters in the art of jugglery of words and double dealing. They say one thing and mean quite another thing. Our Governor-General, Lord Mountbatten, has said that we have compelled all the Indian States to join the Indian Union. This appears a fine performance, that we have brought all the Indian States under our thumb. I say that you have not brought them under your control, rather you have gone under their control. You will naturally ask, how? It is like this: when you frame a Union Constitution, then what will happen? Your reply will be that till now it is only Indian dominion. No doubt you have got it and also along with that the right of changing the constitution. Now you have to think as to how the constitution shall be altered. Nothing can be passed unless three-fourths of the members agree to it. Those States, which shall now always be in the dominion, are almost one-third of the Union's strength. I ask you whether the representatives of the States, who have acceded to the Union, will also agree to change the Indian dominion into Socialist Republic? If that is so, you are deceiving yourselves. You are deceiving your own conscience if you think that you can get out of this wretched Dominion Status. You have got one-third of your members belonging to the States and you have proposed that for changing the constitution, you will require a majority of three-fourths of the members of the Constituent Assembly. Don't you see that it will become impossible for you to change your constitution. You have condemned yourself to remain within the British Empire, in the British Commonwealth as a Dominion. Therefore, I say you have been made fools. I do not know how these friends of mine of the Congress High Command who are my friends and co-workers, have come to accept this, Besides this Pandit Nehru has said that the Resolution on objectives has been passed and now no one has got the right to say anything. I say that what he calls republic is not a real republic. It is that contemptible thing which the British Imperialists call by other names. Britishers have created the same thing in Indonesia. It is not hidden from anyone and therefore you should not commit the mistake, which Indonesians have committed.]*

Mr. M.S. Aney (Deccan States) : On a point of order, Sir, can a member make a bi-lingual speech?

Mr. President: I suppose that it is for the convenience of other members that he is interpreting himself partly in the English language.

Maulana Hasrat Mohani: *[Thank you Sir. In this connection, I think it necessary to point out to you that the independence, which you have got, was already, christened as Dominion Status but they openly call it as an independent status. They never meant full independence. Who will be bigger fools than us, who knowing that we are being cheated, are celebrating our independence and are illuminating our houses? I can't understand this! As I am not given to oppose

[] Portions of this speech were made in Hindustani and portions in English.

the opinion of the majority, I kept quiet then, but now, I say that real independence has not come to us. I have got eminent jurists and wisemen as my friends here but it seems that the vision of all is befogged and they seem to be in a dream. I was saying that members of the Congress High Command are my friends and have been my co-workers. I came here to this Constituent Assembly through the Muslim League, generally for the purpose of cooperating with my old friends. But now I find that they do not want my co-operation and they are rejecting my co-operation. There is no alternative left for me but to oppose them tooth and nail, and I oppose them on the ground that I have just explained that they have been made fools by these British Imperialists.

Another proof of the fact that you have been befooled is that even such an enemy of Indian freedom as Mr. Churchill is, went out of his way and congratulated the Labour Government for having this thing passed. He said. "I do not mind whether this is only for a short time. It is quite sufficient for me that they have accepted for the time being to remain a Dominion." Mr. Churchill is clever enough you know that. I am very sorry and it is very surprising that people of such keen intellect as my friend Mr. Rajagopalachari, Dr. Radhakrishnan and Dr. Ambedkar do not see this trick and this deception.

You have stated that you have agreed to take in these Indian States and you have taken one-third of your members from the States. You are going to make a provision that to change your constitution, to change from a Dominion to a socialist Republic you will require a majority of three-fourths. This is obviously impossible. So long as these representatives of the States are part of your Assembly of your Parliament, you cannot get out of this wretched thing—Dominion and commonwealth. I wish to know, what has happened to you? I could understand your demand for a strong Centre till Pakistan was not separated you apprehended trouble from the Muslim majority provinces, but not now when Pakistan has been separated.]*

Mr. Mohammad Sharif (Mysore State) : May I request you to ask the gentleman to come to the point?

Maulana Hasrat Mohani: *[Yes, I am speaking what objections I had to offer to Pandit Jawaharlal Nehru's previous Union Constitution Scheme the same objection applies to this scheme also because these are identical. I maintain that the more natural and better thing would be to hand over all powers to the units, and then they may give all or these three subjects, viz. Defence, Foreign Affairs and Communications to the Centre, rather than handing over all powers to the Centre first which in its turn would delegate whatever powers it chooses to the unit. I don't believe in any Empire, Kingdom, Dominions or Commonwealth. We have had enough of these things. Now we will have none of them neither Emperor nor dictator nor Commonwealth nor Dominion. We will have our Union only of Socialist Republics, nothing less than that.

[] Portions of this speech were made in English and portions in Hindustani.

[Maulana Hasrat Mohani]

This is my general objection, but since you have included the States also, my objection becomes ten times stronger. What powers have you given to our provinces? To my mind, you have curtailed their rights and powers which they had got even before independence. You have not increased them even by an iota. Rather you have curtailed them. But this depends on your sweet will as you have got the majority. It is but natural that all the members here are compelled to be bound by the Congress decisions. In fact, there should be no question of the Congress Party or the Muslim League Party as you have forsaken communalism. Justice demands that every member here should be told that they can live as members of political parties and not as Hindus & Muslims.

What is the necessity for your having a strong Centre vesting all powers in the Centre only? What is the ground and what is your objective?

Sir, you see I have said all this as you have given no powers to the provinces, and I point out this to you, for, you treat us as if all of us were fools.

Therefore I ask my friend Mr. Gopaldaswami Ayyangar not to befool himself by saying that you want a strong Centre. I don't recognize that Centre. The only Centre that I will recognize will be that of our Union of Socialist Republics.]*

Mr. Tajamul Husain: I would like to know whether the Maulana wants a weak Centre or a strong Centre.

Mr. President: *[Maulana Sahib, you are at liberty to have your say on the motion you are moving *i.e.*, whether this resolution should be taken into consideration or not.]*

Maulana Hasrat Mohani: *[I say you could have entertained this suspicion till Pakistan had not been separated.]*

Mr. President: Order, order. Maulana, you are really straying beyond the scope of the discussion. You have moved a Resolution that the consideration of the Report be adjourned. Now, you are going into the merits of the Report itself apart from that, you have brought in many other matters which have no relevance to your Resolution.

Maulana Hasrat Mohani: †[I would like to say that you have roped in the States with the bait that they would continue to exercise all powers of the Centre as before, except Defence, Foreign Affairs and Communications. I strongly object to this. He (Mr. Gopaldaswami Ayyangar) thinks he is the only clever lawyer and every body else is a fool.]†

Mr. President: Order, order. Maulana, I think you had better confine yourself to your own motion.

Maulana Hasrat Mohani: †[If this right has been given to them (the States) then at least similar or more rights should be given to the Provinces otherwise this is all a fraud. Hence, unless you clarify the whole thing, it is all nonsense and needs no consideration.]†

†Portions of this speech were made in English and the rest in Hindustani.

*[]*English translation of Hindustani speech.

Mr. President: The effect of the proposition which is now before the House is that the consideration of the report which has been moved by Mr. Gopaldaswami Ayyangar be adjourned until a particular time which is mentioned in it. Members are now free to express themselves on that. I would ask members not to go into the merits of the Report itself at this stage because it is only a question of postponing the consideration of the Report.

Shri Balkrishna Sharma: For my own information, Sir, I would like to know whether it is possible for any member to speak for or against a particular motion unless he tries to bring out the salient features of the Report and to say that in view of our not having completed the Union Constitution we should not proceed with it. That is my difficulty.

Mr. President: I think it is possible for members to confine themselves to the motion before the House. If they want to bring any ancillary points from the Report for arguing their case, I would not object to that, but I would not like the merits of the Report to be discussed at this stage.

Diwan Chaman Lall (East Punjab : General) : On a point of order, Sir. The motion before us is the one by Mr. Gopaldaswami Ayyangar that the report be taken into consideration, to which an amendment has been moved by the Maulana. Are we to confine ourselves to the terms of the amendment or are we going to discuss the original motion by Mr. Gopaldaswami Ayyangar?

Mr. President: I am taking only the amendment into consideration at the present moment, so that, when the amendment has been disposed of, we can go into the Resolution. If we go into the merits now, the discussion may get desultory; therefore I want to concentrate on the amendment for adjourning the discussion.

Shri Mahavir Tyagi: On a point of order, Sir.

Mr. President: Point of Order on what ?

Shri Mahavir Tyagi: On the amendment which has been moved by Maulana Hasrat Mohani.

Mr. President: I have already given my ruling on that. The question under discussion is a motion of adjournment.

Shri Mahavir Tyagi: But, Sir, I rise to ask for your ruling on this question, namely that I feel that this amendment itself is out of order.

Mr. President: How ?

Shri Mahavir Tyagi: It is simply a negation of the original question before the House. Therefore, I submit that this amendment is out of order.

Mr. President : I don't think it is out of order, because it is a motion for adjourning the discussion of the original motion.

Mr. Himmat Singh K. Maheshwari (Sikkim and Cooch Behar : Group) Sir, I support the amendment, though for reasons somewhat different from those adduced by the revered Maulana Hasrat Mohani, but before I

[Mr. Himmat Singh K. Maheshwari]

proceed to express my views, I would like to share with the House a Persian couplet which has come to my mind as a result of hearing the speech of the venerable Maulana. The couplet runs as follows:—

With your permission, Sir, I shall translate this couplet.

“My beloved speaks Turkish. (In this case Hindustani interspersed with English, not Hindi interspersed with Urdu). It would be a good thing if his tongue had been within mine.”

I only plead guilty to being unable to speak the brilliant Turkish which he spoke.

Coming to the subject, the Report of July 1947 which is before the House is in my opinion, already out of date for two reasons. The first reason is that the Indian Independence Act was passed after the Report had been drawn up, and the second reason is that towards the end of July certain decisions were taken by the Government of India and the States which led to the accession of a large number of States and to the execution by them of Instruments of Accession and Standstill Agreements. The Report before the House, Sir, does not take into account fully the changes that have been brought about since it was first written. Even as regards the subjects to be dealt with in the Federal Legislative List, an obvious difference has to be observed between the Provinces and the States. The States have acceded in respect of three subjects only, while, as I understand it, the Provinces are willing to surrender to the Centre a number of other subjects for not only laying down the law or regulating the policy, but also for administration. The expenditure of the Centre on the three subjects in respect of which the Indian State acceded to the Dominion or are likely to accede to the Federation in the future, will cost, let us say, a certain amount. In addition the Centre will have to spend a large sum of money on other subjects for the benefit of the provinces alone. Therefore, Sir, the determination of the items of taxation which should be imposed in order to enable the Centre to meet its expenditure is a little premature. The States obviously are not to be made to pay for the expenditure on subjects in respect of which they do not get any benefit.

Shri Jaspal Roy Kapoor (United Provinces : General): Sir, I understand the Honourable Speaker is a member of the Union Powers Committee and as such is it open to him to object to the consideration of the Report of the Committee of which he is a member?

Mr. Himmat Singh K. Maheshwari: I am afraid I was not a member of that Committee.

Shri Jaspal Roy Kapoor: I am sorry.

Mr. Himmat Singh K. Maheshwari: The desire of this House, Sir, to create a strong Centre is a very legitimate desire; but I fear it is sometimes forgotten that a strong Centre does not necessarily mean a weak Province or a weak State. In any case the States have enjoyed a much larger measure of autonomy in the past than the Provinces have and this distinction will, I am afraid, have to be maintained whether we like it or

not. In para 3 of the Second Report now before us, it is stated that the application to States in general, of the Federal List of subjects in so far as it goes beyond the 16th May Statement may....

Mr. N. Gopaldaswami Ayyangar: May I rise to a point of order? I thought you decided, Sir, that the present discussion should be confined to the adjournment motion.

Mr. Himmat Singh K. Maheshwari: I am only drawing the attention of the House to a very small point. The application to the States in general of the Federal List of subjects in so far as it goes beyond the 16th May Statement should be with their consent. It follows from this that in their case, the residuary powers would vest with them unless they consent to their vesting them with the Centre. In the Federal Legislative List before us, List I in the Appendix, there are included a number of items which do not strictly follow from the three subjects in respect of which the States intend accede. The more logical course then, Sir, would be to split up the Federal Legislative List into two lists.

Mr. N. Gopaldaswami Ayyangar: Are we going into the merits Sir?

Mr. Himmat Singh K. Maheshwari: I am only stating the points, which will justify postponing consideration of the Report.

Mr. A. P. Pattani (Western India States): Sir, the constitution cannot be drawn up unless these powers are first decided upon. The motion asks that these powers may be considered after the constitution has been drawn up. I submit the constitution cannot be drawn up unless these powers are decided upon.

Mr. Himmat Singh K. Maheshwari: Since the Federal Legislative List is likely to undergo a drastic revision and overhauling into two sections, one applicable to the Union and the other applicable to the Provinces only, it would be only proper for this House to agree to a postponement of the consideration of this Report.

I venture to suggest, also Sir, that in order that the Report may be considered afresh in the context of the vital changes that have taken place during the last four weeks, a wider committee may be appointed by you, by the President, with a larger proportion of States, Representatives with a view to re-examine the Report and to submit a further report within as brief a time as possible.

We have at present one further difficulty in considering this Report. There is the original report of April 1947, and there is also the second Report of July 1947. Some portions of the April Report will hold good and some other portions will not. Members will find it very difficult to pick out the exact sentences which hold good in either Report. A comparison of the items given in the April and July Reports and those in the Federal Legislative List given in the Government of India Act, 1935, cost me six hours. I think, Sir, that the House will be handicapped very greatly in considering the Report at this stage.

With these few words I hope that the House will instead of attempting to rush through this important piece of work, agree to give more thought and more time so that the work we do may be of lasting benefit to the Provinces and the States.

Shri Gopikrishna Vijayavargiya (Gwalior State) : *[Mr. President under the prevalent conditions, we cannot afford to leave these matters undecided. The amendment of Maulana Hasrat Mohani which suggests postponement of these matters is improper. I think and I feel that the situation in the country is changing so fast that the work of constitution making should be concluded as soon as possible and we should take up the work of administration and planning and solve the problems of the people. The arguments advanced by Maulana Sahib are baseless. It is a surprising coincidence that the Maulana and a Prime Minister of an Indian State both demand postponement of the consideration of the Union Power Committee's Report on the ground that we need socialist republic. Both advance the same argument for its postponement. This is not the correct way to bring about socialism. The Socialist party can function even under this constitution. We desire to make our country United and great. For this, it is no argument that the Centre should be given no power and all power should vest with the provinces. So far as, I can follow the speech of Maulana Sahib, his contention is that no power should be given to the Centre and India should continue in fragments. It is necessary that India should be strong. Historically India has been divided for ages but at present it is imperatively necessary that we should have a strong Centre.

I come from a State and I insist that the Centre must be very strong. would appeal to the rulers, to their ministers and to the States representatives who are present here, that they all should make the Centre, very strong by conceding to it the maximum power so that India may become a very strong country. Therefore, the arguments advanced here or the postponement of the Report are wrong and postponement would be harmful to the country. We cannot afford delay. As Mr. Pattani has just now said, we cannot even outline the constitution unless the questions relating to the Union Powers are decided. Therefore, it is very necessary that we should proceed to take into consideration the matters elating to the Union Powers and not postpone them.]*

Mr. Naziruddin Ahmed (West Bengal : Muslim) : Sir, I desire to support this motion of adjournment but not to the extent proposed in the amendment itself or on the grounds on which it is supported. I wish to place before this House certain difficulties which confront Members who want to tackle the problem; and on that ground as well as on other grounds, I should ask the House to consider the suggestion that committee be appointed—with regard to the personnel of which I have nothing to say—to consolidate the two Reports, one dated the 28th April and the other which is under consideration, and then submit before the House a fresh Report, taking into account certain momentous constitutional changes which have taken place after the second report.

I do not desire to follow the alternate expressions of the learned Mover in Urdu and English, which seem to me akin to alternate currents in electricity. It has put some members to great disadvantage and certainly put some strain on the reporters, some of whom are experts in taking down only English speeches and others only Urdu speeches.

Sir, I submit that the report of the 28th April is entirely out of date but yet the Honourable Mover Mr. Ayyangar has said that those parts

[] English translation of Hindustani speech.

of the report which are not inconsistent with the report under consideration may also be considered. On behalf of the members who have been elected on the statement of June 3rd, I should say that the first report is not before us and the second report is also by the time largely out of date—as has been pointed out—on the ground that the Independence of India Act has come into being after its publication. A fresh report is thus clearly called for.

Then again another difficulty has crept in. We knew from newspaper reports that the States acceded with regard to three subjects—defence, external affairs and communications. But Mr. Ayyangar has pointed out that the actual Instruments of Accession really deal with subject under no less than 18 or 20 distinct heads.

Mr. Mahomed Sherrif: *[Mr. President, I listened attentively to the speech of Maulana Hasrat Mohani. He has adduced many reasons for the postponement of the resolution. I appreciate the sentiments which compelled Maulana Sahib to make his speech. Though I do not fully agree with the Socialist Republic about which he has spoken, to my mind the motion for the postponement of the resolution is indeed a good one. A perusal of the three lists attached to this report, pertaining to the Union Powers reveals that the Centre is to wield all powers as regards the States. You know that about a fortnight ago, the Viceroy had issued a statement saying that so far as the relations between the States and the Constituent Assembly are concerned, he does not want to interfere in the internal affairs of the States. But a perusal of the Union Powers' Committee's report makes painful reading; because the Centre, in addition to the three subjects mentioned above, wants to wield other powers as well. Our central Congress Party which is a very strong party, has announced that it would not like to interfere in the internal administration of a State; but the report before us is not so reassuring as it ought to have been. In this connection I want to state that the consideration of the report should be postponed for the time being. This has also been demanded by the Previous speaker. A Committee including the representatives of the States should be formed and this report should be presented before it for its consideration, and the decision reached by, should be placed before us for our reconsideration.]*

Mr. Naziruddin Ahmed: We are not, I believe, aware of the existence of any such documents I think that copies of those important documents should be supplied to us at once. It is very important in view of the fact that some subjects in the lists will deal with the States. In the absence of these important documents, we are not in a position to decide as to how far the Lists are applicable to the States.

Then again, it has been pointed out by a speaker this morning that a distinction should be drawn between the Lists applicable to the Provinces and those relating to the States. As the two are jumbled together, it is difficult to distinguish them and try to find out what amendments should be suggested.

There are also other difficulties. The Honourable Mover of the original motion has explained. I submit respectfully, in a very lucid speech, the whole subject in a masterly way. But the subject itself is extremely

[] English translation of Hindustani speech.

[Mr. Naziruddin Ahmed]

technical and involved. It therefore requires very careful consideration by the Members to enable them to fully appreciate the implications of the various lists and the subject under consideration. For all these reasons, I should submit that the consideration be postponed, not till Doomsday as has been suggested, but for sometime. I should suggest that the Honourable Mover of the original motion should agree to the appointment of a small committee to sit and consider the whole thing in the light of the changes and give us a consolidated Report making clear the distinction between the Lists applicable to the Provinces, to the States and to the Centre. I think this is a reasonable request. It is not meant to delay matters. We are as anxious to expedite matters as others and so I think that things should be facilitated by adopting the course which I suggest. With these few words I submit that a little time should be given to us and a more comprehensive Report should be made to enable us to easily follow the subject.

Mr. President: Diwan Chaman Lal will now speak.

Shri Algu Rai Shastri (United Provinces: General) : *[Mr. President, This amendment should be put to vote now. Much time has been devoted to it and no further discussion is necessary.]*

Mr. President: I have already called upon Diwan Chaman Lal to speak. After his speech I will apply the closure.

Diwan Chaman Lal: Sir, as I listened to the debate I was surprised to find that very able and intelligent leaders of our country were obviously under some; misapprehension in regard to the Motion that has been moved by Shri N. Gopaldaswami Ayyangar, It struck me that they have perhaps not even read the Report before moving the motion for adjournment of consideration.

The main proposition before the House is this; The Report has been presented to this house in two parts, one in the month of April and the other, in August, one, in other words, before the announcement of 3rd June and the other after that announcement. It has been moved that the two parts of this Report be taken into consideration.

Now, Maulana Hasrat Mohani raised the point that it should not be taken into consideration unless and until the final report of the Union Constitution Committee has been placed before the House. You must realise—it is a matter of pure and simple commonsense—that the final report of the Union Constitution Committee cannot be presented to this House unless you tell those concerned what powers the Union Constitution is going to have and unless and until you allocate the powers between the Provinces and the Centre and so on. Unless and until you are sure of your own ground as to what powers you are going to have and what powers the provinces are going to have and what the subjects in the Concurrent List are going to be you cannot present any final report. Therefore I submit that there is a logical fault in the very arguments used by Maulana Hasrat Mohani.

The other speaker who supported the motion for the adjournment of consideration of the Report is I believe a representative of the State of Cooch Behar. He is the Dewan of that State. He is a statesman who

[] English translation of Hindustani speech.

is supposed to have the destinies of the people of that State in his hand. He raised the extraordinary objection: You have given us one report; you have given us a second report. We are unable to understand the two reports. Therefore if a third report is given to us that would help us to understand the first two reports. (*Laughter*). I do submit that the proposition of Shri Gopaldaswami Ayyangar is a simple one. This House has agreed to have some sort of Federation and all that Shri Gopaldaswami Ayyangar asks us to decide is what powers this Federation is to have. You have the right at this stage to discuss the quality and the quantity of the powers you want. You can point out, as some have pointed out, that the Federal authority of the Union should be confined to the three subjects enumerated. The first report gives you details of the three subjects enumerated. The first report gives you details of the three subjects, the powers that will vest with the Centre, the Provinces, etc. The report goes on to say that, in their opinion, there are certain residuary powers which may also be handed over to the Union and that there are certain other powers, which did not arise under the terms of the May, 16 Plan, which may be taken possession of by the Centre. That is what the first report says. There is no ambiguity about it. The details also have been given.

The second report came after the statement of June 3 when the House decided that the Centre should be strong. This deals with the allocation of powers between the Centre and the Provinces and the three Lists are before us, the Federal List, the Provincial List, and the Concurrent List. Now, is there anything in these Lists to which anybody objects? This is the time for raising such objections, If you do not want certain powers to be allocated to the Centre by the States or by the Provinces this is the time to discuss the matter. I cannot see either reason or logic behind the demand for the postponement of this issue, I submit that this is merely a dilatory motion which cannot be supported by any reasonable argument, We should proceed to the discussion of the various subjects dealt with in the Report.

Mr. President: Closure has been moved. I will put the closure motion to the House. The Question is:

“That the question be now put.”

The motion was adopted.

Mr. N. Gopaldaswami Ayyangar: I owe the courtesy to the House to make a reply to the debate that, has taken place on this motion for adjournment. Otherwise I should have thought any elaborate reply, from me was unnecessary. I only wish to say that the speech made by Dewan Chaman Lal is a complete answer to the arguments advanced in favour of the motion for adjournment. I adopt the points that Dewan Chaman Lal made and I wish to say nothing more. I request you, Sir, to put this motion to the vote.

Mr. President: I will now put the motion for adjournment moved by Maulana Hasrat Mohani to the vote. It runs thus:

“That the Report of the Union Powers Committee be not taken into consideration before the revised and final report of the Union Constitution as well as of the modified Objectives Resolution, as suggested by Pandit Jawaharlal Nehru himself, are considered in the next Session of the Constituent Assembly.”

The motion was negatived.

Mr. President : Now, we shall take up the amendments of which I have received notice. The first amendment is by Mr. D. P. Khaitan No. 1 in List II.

Shri D. P. Khaitan (West Bengal: General) : Mr. President, Sir, in as much as in the motion moved by Shri Gopaldaswami Ayyangar only the second report was mentioned, I gave notice of an amendment.

Mr. Tajamul Husain: I rise on a point of order. The original motion moved by Mr. Gopaldaswami Ayyangar has not been debated. We have only discussed the motion for adjournment and it is lost. Now, we should take up the original motion.

Mr. President: In discussing the original motion, these amendments arise. Now, this is an amendment to the original motion moved by Mr. Gopaldaswami Ayyangar.

Mr. N. Gopaldaswami Ayyangar: Perhaps, it would be correct Parliamentary procedure to put the motion to take the report into consideration, to the vote, and, after that is carried, the amendments may be taken up one by one. I think the Honourable Member is correct.

Mr. President: Then I will Put the original motion that the report be taken into consideration to the vote. Does any member wish to speak on that motion?

Mr. Hussain Imam: Mr. President, I believe that we are taking a very important decision on this most important subject. It is necessary therefore, that we should consider calmly and quietly all the implications of this report. I am, Sir, speaking not on behalf of the Muslim League Party but as a citizen of India. I think that it is necessary that the approach of this Constituent Assembly should be different from that of Mr. Gopaldaswami Ayyangar. I feel that those who are rich should not be allowed to get richer and those who are poor should not be reduced to further poverty. I mean that those of us who have the good fortune or the bad fortune to live in Indian States, where they have no voice in the administration of the State where they have no say in the Legislative matters, should not be left worse off than they were formerly. The position today is that in what was formerly British India, you have legislatures, democracy and popular representatives to administer them. In the States you have none of these three. Yet in paragraph 3 it is stated that the Indian States will be subject to control only in so far as they care to cede to the Centre. Now, who are these people who will make this decision. The Rulers of the States have been given autonomy to rule as they like. I have great respect for some of our modern States. There are a few States which are administered better than British India, who in matters of social justice and social equality can give a lead to British India. There are certain States which are comparable in size to the smaller provinces and the Chief Commissioners' areas, but the majority of the five hundred odd States are called States because of the courtesy and pleasure of the Political Department of the old Government of India. In the first-place, Sir, I want that these rights and privileges which are being given to Indian States should not be handed over to the 562 States.' At the most there are two dozen or three dozen States which can economically speaking have even a semblance of provincial autonomy. Provincial autonomy we should give to some of the States but the vast majority of the State that exist in India must either join up with other States and form themselves into

units or they must be linked up with British India. It is wrong on our part to allow these autocratic Rulers to exercise more power than what the Bombay legislature can do or the C.P. Ministry can do. These are representatives of the people. Yet they cannot exercise those powers which are exercised by these autocratic Rulers of the States.

The Central Government has to defray the expenses for the defence of the country. What contribution are the Indian States going to make towards defence costs either on a per capita basis or an income basis? They say that the provinces are making no contribution. But these provinces pay federal taxes which the States want to realise for themselves. The rights of the Indian States to impose federal taxes must be taken away. This is my first and fundamental difference with this report. No one other than the Federal authority should impose federal taxes, whether it is British or Indian States. I would not except from, this sweeping remark even the most modern State of India, but I would concede this far that. I am prepared to allow the Indian States the same amount of powers which you have given under list II to the province. No excess over that should be allowed to any Indian State. The concurrent list should also apply equally to old British India and the Indian States both. British India does not exist today but we are inheriting all the evils thereof. The evils that were brought about by giving wide powers to nonentities should not be sanctified by the approval of this House. We shall have to amend para. 3 so as to bring under its scope the over-riding authority of the Centre to impose federal taxes on all Units.

I may also mention, Sir, one important factor in this connection. Stress has been laid in the Instrument of Accession that so far it goes beyond the Statement of May 16th, it should be with the consent of the States. The May 16th Statement is scrapped. It no longer exists. It was one of the points why there was the break-up, why the June 3rd Statement was made. For every other purpose you have scrapped the May 16th Statement; for the purpose of the Indian States alone you are keeping it alive. Groups have been scrapped, the division of the Central powers into Central and group has been scrapped. The number of units have been scrapped. Everything has been scrapped and as a Sovereign Body we are not bound by the 16th May Statement. It is wrong to take shelter behind the plea that the 16th May Statement provided this and that whatever you had provided has been erased by the functions of the midnight of the 14th. Now you have got no drawbacks. Even the Independence Act which has been passed by the British House of Commons is now before us and we can amend it. That right has been given to you. So, I claim, Sir, that it is wrong to take shelter behind the 16th May Statement. If the States are not prepared to come in, I think, then it is better that they should remain out and by economic pressures and other strong persuasive measures which the Central Government can apply we can bring them round. But what do we want them to do? We do not want in any way to usurp their powers. We want to make them what they really are units of a Federation. We have never heard of units exercising different powers, functions and taxation. It is something which will be quite approaching to the principles of democracy as well and it is as such that I do request my friends of the Constituent Assembly to consider this matter calmly and come to a decision not actuated by any malice or by any ill-will toward the Indian States. We must do it frankly and honestly and let the Indian States also be honest. Why should they claim a right which my friend Pandit Shukla does not claim for this C.P.? If he is content with that power why should Rewa and other States lying in the C. P. claim a higher right? It is only equity and justice. It means that there should be uniformity in these

[Mr. Hussain Imam]

two respects. The Indian States must not have any more power than the units either in taxation or legislation.

Mr. President : It seems there is no other speaker willing to speak. So I shall put the motion to vote. It is really five minutes to one.

An Honourable Member: Closure.

Another Honourable Member: No, Sir, it will be very unfair.

Mr. President: One speaker has spoken about it. Is it the wish of the House that there should be further discussion?

Many Honourable Members: Yes, Sir.

Mr. President: Any one who wishes to speak may do so for five minutes. There are still five minutes left.

Shri K. Santhanam: Mr. President, I do not want to go into any details of the distribution of powers as presented to us by the Union Powers Committee. I will have my own say on each item when it comes up for discussion, but there are certain general considerations which we have to keep in mind when we come to the discussions of these items. It is a great pity that our politics have been subject to violent oscillations during the last six months with the result that the minds of our own leaders also have had to go from one extreme to the other. In the Cabinet Mission Plan the idea was that the Units should be absolutely autonomous and even sovereign, and that they should surrender a small modicum of power to the Centre. Of course, there was the complication of the Group Constitution, and the whole thing was left vague but so far as the Central Government was concerned it was to have very limited powers. And some of our leaders were put on a Committee to define those powers and they tried their best to stretch these powers to their maximum. I doubt, if the Cabinet Mission's Scheme had come into operation, whether that stretching would have stood any real scrutiny. But the position was suddenly altered by the June 3rd plan and the resulting Independence Act. Now the position is we have got almost a unitary Centre which is trying to hand over certain powers to the Provinces and the whole plan of the Union Powers Committee is based on that procedure. They have tried to take the Government of India Act as their basis and considered what items can be transferred from the Provincial List to the concurrent list and Provincial list to the Federal list. I am afraid they have made a wrong approach to this problem. I too am anxious to have a strong Government for this country but my conception of strength of Centre is rather different from that embodied in the Union Powers Committee Report. I do not want that the Central Government should be made responsible for everything. The initial responsibility for the well-being of the people of the provinces should rest with the Provincial Governments. It is only in strictly all-India matters that the Central Government should have responsibility and should come into play. Therefore, the strength of a Centre consists not only in adequate powers in all-India subjects but freedom from responsibility for those subjects which are not germane to all-India but which really should be in the Provincial field. It is in this positive as well as negative delimitation of powers that a real federal system rests and I think the federal powers as defined by the Committee report err on the wrong side. It tries to burden the Centre with all kinds of powers which it ought not to have. Take for instance, 'vagrancy'. I cannot understand why 'vagrancy' has been taken away from the Provincial list and put in the concurrent list. Do you want all India to be bothered about, vagrants? There is almost an obsession that by adding all kinds of powers, to the Centre, we can make it strong. There

is another subject, Sir, called "economic planning" which is put in the concurrent list. Now, I know that planning is the most important preoccupation of the Central and Provincial Governments and that we must make some attempt to co-ordinate Central and Provincial policy, but is this the proper way to make it concurrent, so that the Centre can assume any power and can prevent any unit from planning in its own way even in the field of Provincial subjects, even in agriculture? Even in the matter of dairies, the Centre can pass a bill and take powers to itself in its own discretion. I say this should have been dealt with as a separate part of the Union Constitution, as to what powers of planning the Union Government should have and what powers of planning the Provincial Government should have and how these powers should be coordinated by consultation and consent, and not by simply saying that we have this all important Planning as one of the items in the concurrent list.

Then, take the financial distribution. They have put all taxation except land revenue and one or two other diminishing items, like excise on intoxicating liquors, in the federal list. The report says that some provision for assignment should be made. But unless together with the items, method of allocating the shares of the proceeds is given, the provinces will be beggars at the door of the Centre. I do not want any constitution in which the Unit has to the Centre and say "I cannot educate my people; I cannot give sanitation; give me a dole for the improvement of roads, for industries, for primary education." Let us rather wipe out the federal system and let us have a Unitary system. Today our financial position is that, even if you give all the powers of taxation to the Centre, the Centre will not have enough money. Even if you give all powers of taxation to the provinces, the provinces will not have enough funds. Because even the single item of primary education requires, according to the Sargent Committee Report all the finances of the Centre and the Provinces put together. Similarly, if you take Public Health, according to the Bhoré Committee Report, it requires 300 crores which is the total of the provincial and central taxation. If you take Defence, how much money can we not spend on a single item as Navy or Air Force or the Army? Today, we have not got enough money for any one of these items. We must therefore make an equitable distribution, by statute and not be left to an evasive machinery to be determined in the future. Let us start with an equitable distribution of the existing finances as they are, and then try develop the resources. If this distribution of powers is adopted without further scrutiny, without further careful adjustment, in three years' time, all the provinces will revolt against the Centre and the Central Ministry will be in a most unenviable position. We must frame a constitution in which the Centre can say, "This is not my business, you have an elected Governor on the adult franchise, you have your ministers, go to them. We have given them elastic sources of revenue". What is happening in the United States? Both the Centre and the States can levy all kinds of tax. They can levy Income Tax. There is nothing to prevent them except the popular will. There, the Ministers or the Governor can go to the people and say, "we have got powers of taxation; pay the taxes, and we will give you entertainments, circuses, and whatever you want." Instead of that, here, they will have to say, "we shall give you entertainment; let the Centre give us money." That will be an unenviable position; that will be a weak position for the Centre. I should like to warn the leaders who are piloting this report to be careful and not to add all kinds of subjects to the Centre.

[Shri K. Santhanam]

Take the case of industries. Now, Defence Industries is one central item. Another item is, any industries which the Federal Legislature may declare to be a federal industry. In the provincial list, is included any other industry which the federal legislature has not taken unto itself, either under this item or under the defence item, or under the preparation for defence. What will the provinces do? They will say, that it comes under preparation for defence or defence industries or any other industry which has been declared by the federal law to be federal industries, and that they have no responsibility to develop industries. They will say, "go to the Centre". Is this the way that we want to do things? No, Sir. If you want to say coal, steel and such industries will be allotted to the Centre and the other industries like cottage industries, medium industries and food industries, will be allotted to the provinces, that will be acceptable.

Always comes the argument, "after all, who are in the Centre? They are your representatives. Why do you expect them to do anything which you do not like". I think this is often a mistake. As a member of the Central Legislature, I have always wanted more money for the Centre. If you put me in the provincial legislature, I would want more money for the provinces. The spirit of the corporation is something irresistible. It overpowers us and overcomes us. Therefore, we should see that the Centre is not allowed to infringe in the region or power of the unit and that the unit is not allowed to infringe upon the power of the Centre. It is only by making things precise and clear, by making things determinable by courts of law that you can preserve the federal system intact. All progress will be blocked by putting all kinds of industries in the hands of the Centre, defence industries, and industries which may be declared federal by federal law.

At the time of passing the Government of India Act of 1935 and in the 1921 Act, the Parliament always said, "we have given special powers and powers of discretion, but we do not think they will ever be called into operation". But have we known any single power which was not exercised and exercised to the utmost extent? Section 93 was considered to be an extreme section. No body will suspend the constitution, it was said in the Parliament. But on the very first day, on a mere technical ground, the Governor simply signed an order, and took the Government into his own hands.

Mr. N. Gopaldaswami Ayyangar: May I ask the honourable member whether any large industries have been taken over by the Centre in the last few years?

Shri K. Santhanam: In the last few years, the Central Government has been in a State of paralysis. The Policy Committee Reports recommended the taking over of all and sundry industries into Central Control. Legislation could not be introduced. This state of paralysis was responsible for any industries not being taken over by the Centre. I say, unless some such paralysis comes over the New Government. I shall be surprised if it does not take over many industries. One may say textiles of Bombay may be taken over and it will be taken over. Another will say, milk is adulterated and let us take the dairies. There is no limit to the power. Even in the United States, the Federal Government is going on taking more and more power.

Therefore, I say, Sir, let us be careful; let us not give all the power to the Centre. Let the Units also have some work, some responsibilities and some resources. Unless we do this, our constitution will not be on sure foundations. The whole thing will break down. This is the warning which I wish to utter here.

Mr. President: There will be further discussion tomorrow about this.

ANNOUNCEMENT *re.* PERSONNEL OF COMMITTEE TO CONSIDER
THE INDEPENDENCE ACT, ADAPTATION RULES, ETC.

Mr. President: There will be further discussion tomorrow about this.

Before we adjourn, I desire to make an announcement. A committee consisting of Mr. Mavalankar, Mr. Hussain Imam, Shri Purushottamdas Tandon, Dr. Ambedkar, Mr. Alladi Krishnaswami Ayyar, Mr. Gopaldaswami Ayyangar and Mr. B. L. Mitter is appointed to consider the Indian Independence Act, the adaptations of the Government of India Act, 1935, the Rules and Standing Orders of the Legislative Assembly, the Rules and Standing Orders in force in the Constituent Assembly, etc. and report on the following matters:—

(1) What are the precise functions of the Constituent Assembly under the Indian Independence Act?

(2) Is it possible to distinguish between the business of the Constituent Assembly as a constitution-making body and its other business and can the Constituent Assembly set apart certain days or periods solely for the former?

(3) Should the members representing the Indian States in the Constituent Assembly be given the right to take part in proceedings which do not relate to constitution-making or to the subjects in respect of which they have acceded?

(4) What new Rules or Standing orders, if any, and what amendments if any in the existing Rules or Standing Orders should be made by the Constituent Assembly or its Presidents?

I think this covers the points which were discussed in the earlier part of the day. I am appointing this Committee and expect the Committee will give us their Report very soon.

Dr. P. S. Deshmukh: Sir, there is one point which I would like to suggest, and that is the examination of the permissibility or otherwise of the same members being a member of two legislatures. Hereafter, we are going to be.....

Mr. President: I think that this is covered by the Adaptations.

The House stands adjourned till 10 A.M. tomorrow.

The Assembly then adjourned till Ten of the clock on Thursday, the 21st August 1947.

CONFIDENTIAL*APPENDIX 'A'*

No. CA/23/Com./47

CONSTITUENT ASSEMBLY OF INDIA**REPORT OF THE UNION POWERS COMMITTEE**

FROM

PANDIT JAWAHARLAL NEHRU,
CHAIRMAN, UNION POWERS COMMITTEE

To

THE PRESIDENT,
CONSTITUENT ASSEMBLY OF INDIA

SIR,

On the 28th April 1947, the Hon'ble Sir N. Gopaldaswamy Ayyangar on behalf of our Committee, presented our first report to the Constituent Assembly. In doing so, he referred to the changes that were developing in the political situation and were likely to affect the nature and scope of the Committee's recommendations, and sought permission to submit a supplementary report at a later date. The House was pleased to grant us leave to do so.

2. Momentous changes have since occurred. Some parts of the country are seceding to form a separate State, and the plan put forward in the Statement of the 16th May on the basis of which the Committee was working is, in many essentials, no longer operative. In particular we are not now bound by the limitations on the scope of Union Powers. The first point accordingly that we considered was whether, in the changed circumstances, the scope of these powers should not be widened. We had no difficulty in coming to a conclusion on this point. The severe limitation on the scope of central authority in the Cabinet mission's plan was a compromise accepted by the Assembly much, we think, against its judgement of the administrative needs of the country, in order to accommodate the Muslim League. Now that partition is a settled fact, we are unanimously of the view that it would be injurious to the interests of the country to provide for a weak central authority which would be incapable of ensuring peace, of coordinating vital matters of common concern and of speaking effectively for the whole country in the international sphere. At the same time, we are quite clear in our minds that there are many matters in which authority must lie solely with the Units and that to frame a constitution on the basis of a unitary State would be a retrograde step, both politically and administratively. We have accordingly come to the conclusion—a conclusion which was also reached by the Union Constitution Committee—that the soundest framework for our constitution is a federation, with a strong Centre. In the matter of distributing powers between the Centre and the Units, we think that the most satisfactory arrangement is to draw up three exhaustive lists on the lines followed in the Government of India Act of 1935, *viz.*, the federal, the provincial and the concurrent. We have prepared three such lists accordingly and these are shown in the Appendix.

We think that residuary powers should remain with the Centre. In view however of the exhaustive nature of the three lists drawn up by us, the residuary subjects could only relate to matters which, while they may claim recognition in the future, are not at present indentinable and cannot therefore be included now in the lists.

3. It is necessary to indicate the position of Indian States in the scheme proposed by us. The States which have joined the Constituent Assembly have done so on the basis of the 16th May Statement. Some of them have expressed themselves as willing to cede wider powers to the Centre than contemplated in that Statement. But we consider it necessary to point out that the application to States in general of the federal list of subjects, in so far as it goes beyond the 16th May Statement, should be with their consent. It follows from this that in their case residuary powers would vest with them unless they consent to their vesting in the Centre.

4. To enable States and, if they so think fit, Provinces also, to cede wider powers to the Centre, we recommend that the constitution should empower the Federal Government to exercise authority within the Federation on matters referred to them by one or more Units, it being understood that the law would extend only to the Units by whom the matter is referred or which afterwards adopt the law. This follows the Australian model as set out in section 51 (xxxvii) of the Australian Constitution Act.

5. We have included in the federal list the item "the strength, organisation and control of the armed forces raised and employed in Indian States". Our intention in doing so is to maintain all the existing powers of co-ordination and control exercise over such forces.

6. We recommend to the Assembly the proposals contained in para 2-D of our previous report on the subject of federal taxation. It is quite clear, however, that the retention by the Federation of the proceeds of all the taxes specified by us would disturb, in some cases violently, the financial stability of the Units and we recommend therefore that provision should be made for an assignment, or a sharing, of the proceeds of some of these taxes on a basis to be determined by the Federation from time to time.

NEW DELHI;
July 5, 1947.

I have the honour to be,
Sir,
Your most obedient servant,
JAWAHARLAL NEHRU,
Chairman.

APPENDIX

LIST I—FEDERAL LEGISLATIVE LIST

1. The defence of the territories of the Federation and of every part thereof and generally all preparation for defence, as well as all such acts as may be conducive in times of war to its successful prosecution and after its termination to effective demobilisation.
2. Requisitioning of lands for defence purposes including training and manoeuvres.
3. Central Intelligence Bureau.
4. Preventive detention, in the territories of the Federation for reasons of State.
5. The raising, training, maintenance and control of Naval, Military and Air Forces and employment thereof for the defence of the territories of the Federation and for the execution of the laws of the Federation and its Units; the strength, Organisation and control of the armed forces raised and employed in Indian States.
6. Defence industries.
7. Naval, Military and Air Force works.
8. Local self-government in cantonment areas, the constitution and powers within such areas of cantonment authorities, the regulation of house accommodation in such areas and the delimitation of such areas.
9. Arms, firearms, ammunition and explosives.
10. Atomic energy, and mineral resources essential to its production.
11. Foreign Affairs; all matters which bring the Federation into relation with any foreign country.
12. Diplomatic, consular and trade representation.
13. United Nations Organisation.
14. Participation in international conferences, associations and other bodies and implementing of decisions made thereat.
15. War and Peace.
16. The entering into and implementing of treaties and agreements with foreign countries.
17. Trade and Commerce with foreign countries.
18. Foreign loans.
19. Citizenship, naturalization and aliens.
20. Extraditions.
21. Passports and visas.
22. Foreign jurisdiction.

23. Piracies, felonies committed on the high seas and offence committed in the air against the law of nations.
24. Admission into, and emigration and expulsion from, the territories of the Federation; pilgrimages to places beyond India.
25. Port quarantine; seamen's and marine hospitals, and hospitals connected with port quarantine.
26. Import and export across customs frontiers as defined by the Federal Government.
27. The institutions known on the 15th day of August, 1947, as the Imperial Library, the Indian Museum, the Imperial War Museum, the Victoria Memorial and any other institution declared by Federal law to be an institution of national importance.
28. The institutions known on the 15th day of August, 1947, as the Benares Hindu University and the Aligarh Muslim University.
29. Airways.
30. Highways and waterways declared by the Federal Government to be Federal highways and waterways.
31. Shipping and navigation on inland waterways, declared by the Federal Government to be Federal waterways, as regards mechanically propelled vessels, and the rule of the road on such waterways; carriage of passengers and goods on such waterways.
32. (a) Posts and telegraphs; provided that the rights existing in favour of any individual State Unit at the commencement of this Constitution shall be preserved to the Unit until they are modified or extinguished by agreement between the Federation and the Unit concerned or are acquired by the Federation, subject however, always to the power of the Federal Parliament to make laws for their regulation and control;
(b) Telephones, wireless, broadcasting, and other like forms of communication, whether owned by the Federation or not;
(c) Post Office Savings Bank.
33. Federal Railways; the regulation of all railways (other than minor railways) in respect of safety, maximum and minimum rates and fares, station and service terminal charges, interchange of traffic and the responsibility of railway administrations as carriers of goods and passengers; the regulation of minor railways in respect of safety and the responsibility of the administrations of such railways as carriers of good and passengers.
34. Maritime shipping and navigation, including shipping and navigation on tidal waters.
35. Admiralty jurisdiction.
36. Ports declared to be major ports by or under Federal Law or existing Indian Law including their delimitation.
37. Aircraft and air navigation : the provision of aerodromes, regulation and organisation of air traffic and of aerodromes.

38. Lighthouses, including lightships, beacons and other provision for the safety of shipping and aircraft.
39. Carriage of passengers and goods by sea or by air.
40. The Survey of India, the Geological, Botanical and Zoological Surveys of India, Federal Meteorological organisations.
41. Inter-Unit quarantine.
42. Federal Judiciary.
43. Acquisition of property for the purposes of the Federation.
44. Federal agencies and institutes for the following purposes, that is to say, for research, for professional or technical training, or for the promotion of special studies.
45. Census.
46. Offences against laws with respect to any of the matters in this list.
47. Enquiries, surveys and statistics for the purposes of the Federation.
48. Federal services and Federal Public Service Commission.
49. Industrial disputes concerning Federal employees.
50. Reserve Bank of India.
51. Property of the Federation and the revenue therefrom, but as regards property situated in a Unit subject always to legislation by the Unit, save in so far as Federal Law otherwise provides.
52. Public debt of the Federation.
53. Currency, foreign exchange, coinage and legal tender.
54. Powers to deal with grave economic emergencies in any part of the territories of the Federation affecting the Federation.
55. Insurance.
56. Corporations, that is to say, the incorporation, regulation and winding up of trading corporations, including banking, insurance and financial corporations, but not including corporations owned or controlled by a Federated State and carrying on business only within that State or co-operative societies, and of corporations, whether trading or not, with objects not confined to one Unit, but not including universities.
57. Banking.
58. Cheques, bills of exchange, promissory notes and other like instruments.
59. Patents, copyright, inventions, designs trademarks and merchandise marks.
60. Ancient and Historical Monuments: archaeological sites and remains.
61. Establishment of standards of weight and measure.

62. Opium, so far as regards cultivation and manufacture, or sale for export.
63. Petroleum and other liquids and substances declared by Federal Law to be dangerously inflammable, so far as regards possession, storage and transport.
64. Development of industries where development under Federal control is declared by Federal Law to be expedient in the public interest.
65. Regulation of labour and safety in mines and oilfields.
66. Regulation of mines and oilfields and mineral development to the extent to which such regulation and development under Federal control is declared by Federal Law to be expedient in the public Interest.
67. Extension of the powers and jurisdiction of members of a police force belonging to any part of a Governor's Province or Chief Commissioner's Province, to any area in another Governor's Province or Chief Commissioner's Province, but not so as to enable the police of one part to exercise powers and jurisdiction elsewhere without the consent of the Government of the Province or the Chief Commissioner, as the case may be; extension of the powers and jurisdiction of members of a police force belonging to any Unit to railway areas outside that Unit.
68. All Federal elections; and Election Commission to superintend, direct and control all Federal and Provincial elections.
69. The salaries of the Federal Ministers and of the Chairman and Vice-Chairman of the Council of States and of the Speaker and Deputy Speaker of the House of the People; the salaries, allowances and privileges of the members of the Federal Parliament.
70. The enforcement of attendance of persons for giving evidence or Producing documents before committees of the Federal Parliament.
71. Duties of customs including export duties.
72. Duties of excise on tobacco and other goods manufactured or produced in India except—
- (a) alcoholic liquors for human consumption;
 - (b) opium, Indian hemp and other narcotic drugs and narcotics; non-narcotic drugs;
 - (c) medicinal and toilet preparations containing alcohol, or any substance included In sub-paragraph (b) of this entry.
73. Corporation tax.
74. State lotteries.
75. Migration from one Unit to another.
76. Jurisdiction and powers of all courts, with respect to any of the matters in this list.
77. Taxes on income other than agricultural income.
78. Taxes on the capital value of the assets, exclusive of agricultural land, of individuals and companies; taxes on the capital of the companies.

79. Duties in respect of succession to property, other than agricultural land.

80. Estate duty in respect of property other than agricultural land.

81. The rates of stamp duty in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, transfer of shares, debentures, proxies and receipts.

82. Terminal taxes on goods or passengers, carried by railway or air; taxes on railway fares and freights.

83. The development of inter-Unit waterways for purposes of flood control, irrigation, navigation and hydro-electric power.

84. Inter-Unit trade and commerce.

85. Fishing and fisheries beyond territorial waters.

86. Federal manufacture and distribution of salt; regulation and control of manufacture and distribution of salt by other agencies.

Note.—A section should be incorporated in the constitution itself prohibiting the imposition of any duty or tax on salt.

87. Fees in respect of any of the matters in this list, but not including fees taken in any Court.

LIST II- PROVINCIAL LEGISLATIVE LIST

1. Public order (but not including the use of naval, military or air forces in aid of the evil power); the administration to justice; constitution and organisation of all courts, except the Supreme Court, and fees taken therein; preventive detention for reasons connected with the maintenance of public order; persons subjected to each detention.

2. Jurisdiction and powers of all courts except the Supreme Court, with respect to any of the matters in this list; procedure in Rent and Revenue Courts.

3. Police, including railway and village police.

4. Prisons, reformatories, Borstal Institutions and other institutions of a like nature, and persons detained therein; arrangements with other Units for the use of prisons and other institutions,

5. Public debt of the Province.

6. Provincial Public Services and Provincial Public Service Commissions.

7. Works, lands and buildings vested in or in the possession of the Province.

8. Compulsory acquisition of land except for the purpose of the Federation.

9. Libraries, museums and other similar institutions controlled or financed by the Province.

10. Elections to the provincial Legislature and of the Governors of the provinces subjected to the provisions of paragraph 68 of list I.

11. The salaries of the Provincial Ministers, of the speaker and Deputy Speaker of the Legislative Assembly, and if there is a Legislative Council, of the Chairman and Deputy Chairman, thereof; the salaries, allowances and privileges of the members of the Provincial Legislature; and the enforcement of attendance of persons for giving evidence or producing documents before Committees of the Provincial Legislature.

12. Local Government, that is to say, the Constitution and powers of municipal corporations, improvement trusts, district boards, mining settlement authorities and other local authorities for the purpose of local self-government or village administration.

13. Public health and sanitation hospitals and dispensaries; registration of births and deaths.

14. Pilgrimages, other than pilgrimages to places beyond India.

15. Burials, and burial and burning grounds.

16. Education including Universities other than those specified in paragraph 28 of List I.

17. Communications, that is to say roads, bridges, ferries, and other means of communication not specified in List I; minor railways subject to the provisions of List I with respect to such railways; municipal tram ways; ropeways; inland waterways and traffic thereon subject to the provisions of List I and List III with regard to such waterways; ports, subject to the provisions in List I with regard to major ports; vehicles other than mechanically propelled vehicles.

18. Water, that is to say, water supplies, irrigation and canals-drainage and embankments, water storage and water power.

19. Agriculture, including agricultural education and research, protection against pests and prevention of plant diseases; improvement of stock and prevention of animal diseases; veterinary training and practice; pounds and the prevention of cattle trespass.

20. Land, that is to say, rights in or over land, land tenures, including the relation of landlord and tenant, and the collection of rents; transfer, alienation and revolution of agricultural land; land improvement and agricultural loans; colonization; Courts of Wards: encumbered and attached estates, treasure trove.

21. Forests.

22. Regulation of mines and oilfields and mineral development subject to the provisions of List I with respect to regulation and development under Federal Control.

23. Fisheries.

24. Protection of wild birds and wild animals.

25. Gas and gasworks.

26. Trade and commerce within the Province; markets and fairs.

27. Money lending and money lenders.

28. Inns and innkeepers.

29. Production, supply and distribution of goods; development of industries, subject to the provisions in List I with respect to the development of certain industries under Federal control.

30. Adulteration of foodstuffs and other goods.

31. Weights and measures except establishment of standards.

32. Intoxicating liquors and narcotic drugs, that is to say, the production, manufacture, possession, transport, purchase and sale of intoxicating liquors, opium and other narcotic drugs, but subject, as respects opium, to the provisions of List I and, as respect poisons and dangerous drugs, to the provisions of List III.

33. Relief of the poor; unemployment.

34. The incorporation, regulation, and winding-up of corporations not being corporations specified in List I, or Universities; unincorporated trading literary, scientific, religious and other societies and associations, co-operative societies.

35. Charities and charitable institutions; charitable and religious endowments.

36. Theatres, dramatic performances and cinemas, but not including the sanction of cinematograph films for exhibition.

37. Betting and gambling.

38. Offences against laws with respect to any of the matters in this List.

39. Inquiries and statistics for the purpose of any of the matters in this List.

40. Land revenue, including the assessment and collection of revenue, the maintenance of land records, survey for revenue purposes and records of rights, and alienation of revenue.

41. Duties of excise on the following goods manufactured or produced in the Province and countervailing duties at the same or lower rates on similar goods manufactured or produced elsewhere in the territories of the Federation—

(a) alcoholic liquors for human consumption;

(b) opium, Indian hemp and other narcotic drugs and narcotics; non-narcotic drugs;

(c) medicinal and toilet preparations containing alcohol or any substance included in sub-paragraph (B) of this entry.

42. Taxes on agricultural Income.

43. Taxes on lands and buildings, hearths and windows.

44. Duties in respect of succession to agricultural land.

45. Estate duty in respect of agricultural land.

46. Taxes on mineral rights, subject to any limitations imposed by any Act of the Federal Parliament relating to mineral development.

47. Capitation taxes.
48. Taxes on professions, trades, callings and employments.
49. Taxes on animals and boats.
50. Taxes on the sale of goods and on advertisements.
51. Taxes on vehicles suitable for use on roads, whether mechanically propelled or not, including tramcars.
52. Taxes on the consumption or sale of electricity.
53. Cesses on the entry of goods into a local area for consumption, use or sale therein.
54. Taxes on luxuries, including taxes on entertainments, amusements, betting and gambling.
55. The rates of stamp duty in respect of documents other than those specified in the provisions of List I with regard to rates of stamp duty.
56. Dues on passengers and goods carried on inland water-ways.
57. Tolls.
58. Fees in respect of any of the matters in this List, but not including fees taken in any Court.

LIST III—CONCURRENT LEGISLATIVE LIST

1. Criminal Law, including all matters included in the Indian Penal Code at the date of commencement of this Constitution, but excluding offences against laws with respect to any of the matters specified in List I or List II and excluding the use of the naval, military and air forces in aid of the civil power.
2. Criminal Procedure, including all matters included in the Code of Criminal Procedure at the date of commencement of this Constitution.
3. Removal of prisoners and accused persons from one Unit to another Unit.
4. Civil Procedure, including the law of Limitation and all matters included in the Code of Civil Procedure at the date of commencement of this Constitution; the recovery in a Governor's Province or a Chief Commissioner's Province of claims in respect of taxes; and other public demands, including arrears of land revenue and sums recoverable as such, arising outside that Province.
5. Evidence and oaths; recognition of laws, public acts and records and judicial proceedings.
6. Marriage and divorce; infants and minors; adoption.
7. Wills, intestacy, and succession, save as regards agricultural land.
8. Transfer of property other than agricultural land; registration of deeds and documents.
9. Trusts and Trustees.

10. Contracts, including partnership, agency, contracts of carriage, and other special forms of contracts, but not including contracts relating to agricultural land.
11. Arbitration.
12. Bankruptcy and insolvency.
13. Administrators-general and official trustees.
14. Stamp duties other than duties or Fees collected by means of judicial stamps, but not including rates of Stamp duty.
15. Actionable wrongs, save in so far as included in laws with respect to any of the matters specified in List II.
16. Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this List.
17. Legal, medical and other professions.
18. Newspapers, books and printing presses.
19. Lunacy and mental deficiency, including places for the reception or treatment of lunatics and mental deficient.
20. Poisons and dangerous drugs.
21. Mechanically propelled vehicles.
22. Boilers.
23. Prevention of cruelty to animals.
24. Vagrancy; nomadic and migratory tribes.
25. Factories.
26. Welfare of labour; conditions of labour; provident funds; employers' liability and workmen's compensation; health insurance, including invalidity pensions; old age pensions.
27. Unemployment and social insurance.
28. Trade union; industrial and labour disputes.
29. The prevention of the extension from one unit to another of infectious or contagious diseases or pests affecting men, animals or plants.
30. Electricity.
31. Shipping and navigation on inland waterways as regards mechanically propelled vessels, and the rule of the road on such waterways, and the carriage of passengers and goods on inland waterways subject to the provisions of List I with respect to Federal waterways.
32. The sanctioning of cinematograph films for exhibition.
33. Persons subjected to preventive detention under Federal authority.
34. Economic and social planning.
35. Inquiries and statistics for the purpose of any of the matters in this List.
36. Fees in respect of any of the matters in this List, but not including fees taken in any Court.