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CONSTITUENT ASSEMBLY DEBATES

OFFICIAL REPORT

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CONSTITUENT ASSEMBLY OF INDIA

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CONSTITUENT ASSEMBLY OF INDIA

Wednesday, the 30th April 1947

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

Mr. President : We shall now proceed with further consideration of the Interim Report on the subject of Fundamental Rights. We have passed clause 6. We have held over clause 5. Before we go on, I desire to make the following announcement.

ELECTION TO STEERING COMMITTEE

Mr. President: For the two seats to be filled on the Steering Committee from among representatives of Indian States in accordance with the resolution of the House of the 28th April, only two nominations have been received, namely, those of Mr. P. Govinda Menon (Cochin) and Mr. C. S. Venkatachar (Jodhpur). I accordingly declare these two members duly elected to the Steering Committee. (*Cheers*).

INTERIM REPORT ON FUNDAMENTAL RIGHTS—*Contd.*

CLAUSE 5.—RIGHTS OF EQUALITY

Mr. President: Hon'ble Sardar Vallabhbhai Patel.

The Hon'ble Sardar Vallabhbhai Patel (Bombay: General): Yesterday we had held over clause 5*, because we wanted some time to consider it. We have given thought to the matter and now I proposed to move clause 5. We have made some changes, but they are only formal changes. Some portions are dropped and formal amendments for the changes will be moved. Clause 5 will now run as follows:

“There shall be equality of opportunity for all citizens in matters of public employment.”

The words “and in the exercise of carrying on of any occupation, trade, business or profession” have been taken over to some other clause at a later stage. We are dropping those words now. Mr. Munshi will move

*5. There shall be equality of opportunity for all citizens in matters of public employment and in the exercise of carrying on of any occupation, trade, business or profession.

Nothing herein contained shall prevent the State from making provision for reservations in favour of classes who, in the opinion of the State, are not adequately represented in the public service.

No citizen shall on grounds only of religion, race, caste, sex, descent, place of birth or any of them be ineligible for public office or be prohibited from acquiring, holding or disposing of property or exercising or carrying on any occupation, trade, business, or profession within the Union.

Nothing herein contained shall prevent a law being made prescribing that the incumbent of an office to manage, administer or superintend the affairs of a religious or denominational institution or the member of the Governing Body thereof shall be a member of that particular religion or denomination.”

[The Hon'ble Sardar Vallabhbhai Patel]

an amendment for that. Then we put the third sub-clause of the clause as follows :

"No citizen, shall on grounds, only of religion, race, caste, sex, descent, place of birth or any of them be ineligible for public office."

As regards the subsequent words of this sub-clause we have come to the conclusion that they are unnecessary here and they will be taken over to some other place. Therefore, this portion as I have read, remains and as regards that, formal amendments will be moved. Then comes the proviso which is sub-clause 2 of this clause. It runs as follows :

"Nothing herein contained shall prevent the State from making provision for reservations in favour of classes who, in the opinion of the State, are not adequately represented in the public services."

Then the last sub-clause remains:

"Nothing herein contained shall prevent a law being made prescribing that the incumbent of an office to manage, administer or superintend the affairs of a religious or denominational institution or the member of the Governing Body thereof shall be a member of that particular religion or denomination."

This is clause 5 as I move it, and if there are any amendments to be moved, we shall discuss them afterwards. I formally move.

Mr. President: I have got notice of a number of amendments to this clause. Some came to us day before yesterday and others reached us yesterday. I think there are ten or twelve amendments and I propose to take them one after another. Mr. Munshi's amendment will come first.

Mr. K. M. Munshi (Bombay: General): I move:

"1. In clause 5 paragraph 1 may be marked '(a)', and paragraph 3 may be marked '(b)'.

2. Paragraph 3 may be placed immediately after paragraph 1.

3. Delete from paragraph 1 the words 'and in the exercise of carrying on of any occupation, trade, business or profession', and from paragraph 3 the words 'or be prohibited from acquiring, holding or disposing of property or exercising or carrying on any occupation, trade, business, or profession within the Union'."

This amendment is intended to classify the two heads of rights under two different clauses. As the House will be pleased to see, clause 5 deals not only with public employment but also with occupation, trade, business or profession, and the right to acquire, hold and dispose of property. The same right occurs once again in clause 8 and proviso has been put in at the end of clause 8 permitting Government by law to restrict this freedom under certain circumstances. It was felt that these two clauses were overlapping, and for the purpose of having a proper logical division, clause 5 is now being only restricted to public employment, while freedom to carry on occupation, trade, business or profession and freedom to acquire, hold and dispose of property have been transferred to clause 8 (e). The result of all this change is that this clause will stand only with regard to public employment, and the right with regard to trade, occupation, etc., and with regard to property will come under clause 8 (e). Sir, I move.

Mr. B. Das (Orissa : General) : In paragraph (c) of clause 5 it is said :

"No citizen shall on grounds only of religion, race, caste, sex, descent, place of birth, or any of them be ineligible for public office or be prohibited from acquiring, holding or disposing of property or exercising or carrying on any occupation, trade, business, or profession within the Union."

I have got the experience of many Afghan Princes in India. These Afghan Princes were punished by the King of Afghanistan and sent to India as State Prisoners. There are still some prisoners in India, but some of these Princes cannot hold any office in India, and they cannot

carry on any business. In my public career, I have met some of these Afghan Princes, they have come and told me that they were having trouble and they could not get a job even under the old India Government, because the Britishers in league with the Afghan Government, did not allow them to function as free citizens at all. I want to know whether Indian-born Afghan Princes, most of whom are prohibited from going to Afghanistan and have got to live in India,—whether they will be allowed as Indian citizens to hold public office or will be eligible for the same. I want to know whether the draftsman of this clause has envisaged such a contingency.

Some Hon'ble Members: We have not followed what Mr. Das said, we could not hear him.

Mr. President: Mr. Das, the members have not followed what you said. Will you please come to the mike and explain?

Mr. B. Das: What I was saying was this. There are some Afghan Princes in India who are banished by the Afghan Government and in league with the British Government of India they are to remain in India under certain conditions. They are the sons and grandsons of Afghan Princes, but they are not allowed to get any job in British India. Will they be allowed to get jobs in India if the present interpretation of clause 3 of citizenship is accepted and they become citizens of India? Up to now there is a political ban on these people and they cannot hold any office in British India. I have met dozens of them. I would like to know what the intention of the draftsman is in this matter.

Mr. President : I will take up the amendments of which notice was given day before yesterday.

Mr. Rajagopalachariar has come up with an amendment which suggests the re-arrangements of the paragraphs.

The Hon'ble Sri C. Rajagopalachariar: (Madras: General): That amendment has been agreed to by Mr. Munshi.

(Amendment Nos. 23 to 28 of the Supplementary List I were not moved.)

Mr. Somnath Lahiri : (Bengal: General): My amendment (*i.e.*, No. 29 of the Supplementary List I) is on the same grounds as my amendment of yesterday, relating to political creed. So I do not want to labour the point further.

Mr. President: Amendment No. 30.

Mr. H. V. Kamath (C.P. & Berar: General): Sir, after what happened to my amendment yesterday, I do not wish to repeat that amendment today.

(Amendment Nos. 31 to 33 of the Supplementary List I were not moved.)

Mr. President: Shri Mahavir Tyagi.

Shri Mahavir Tyagi (United Provinces: General): *[Mr. President, Sir, my amendment reads as follows:

“That in clause No. 5, after the words, ‘There shall be equality of Opportunity for all citizens in matters of public employment and in the exercise or carrying on of any occupation, trade, business or profession’, the following proviso may be added after the first para.:

‘Provided that a Unit may frame rules where under in the matter of public employment it may give preference over others to such citizens as are *bona fide* or domiciled residents of its own territory.’”

Sir, I have only to submit that for those who are employed at present in the Government offices of different provinces, it is desirable that they

*[English translation of Hindustani speech begins.

[Shri Mahavir Tyagi]

should be residents of that province, so far as possible. I think, to establish self-government in the true sense of the word, it is most essential that in any part of the world, only the residents of that part should be government servants and officials. If there are open chances for the residents of one province to serve in another, it means that the residents of that province shall not be able to enjoy self-government. My real intention is that so far as possible, the administration of a province should be run by officers and employees who are residents of that province. The province and the unit, in which the staff is required, should employ mostly the descendants of the residents of that place. According to the form in which this rule is being framed there is no consideration of the domicile of the candidate, or his place of birth. There shall be freedom to serve anywhere. This may create troubles that in order to secure service the residents of one province will compete with the residents of another. By this the self-sufficiency of an autonomous unit will be destroyed. Now-a-days there are restrictions of domicile and residence in all provinces. In our U.P. in every advertisement of the Public Service Commission, a condition is laid down that only those who are domiciled in U.P. Rampur, Benaras or Tehri States can apply for the posts. If this condition is waived and no preference is given to birth-place, then there may be a danger that people of other parts of the province may compete and capture subordinate and higher posts. This will go against the real spirit of Swaraj. Perhaps the clause as moved by Sardar Vallabhbhai Patel may provide that the provincial Governments can give preference to their residents. If this is so, I will not move my amendment, but I would request Sardar Patel to put it on record in today's proceedings, that:—

“That there shall be no restrictions in giving preference to place of birth for recruitment to Government Service.”

It would mean that provincial Governments will be able to give preference to their residents over others. If, in the proceedings of this House, it is recorded that the right of allowing privileges to its domiciles will vest in every province and in matters of employment it shall be able to allow privileges to its residents over those of other provinces, then I need not move any amendment. I hope that this will be possible. I shall not have to move my amendment if the mover or any other member of this Committee admits that the freedom of the provinces in running their administration through their residents is maintained so far as possible.]*

Mr. R. K. Sidhwa (C. P. & Berar: General): Sir, which is the amendment he is dealing with ?

Mr. President: He is moving his amendment to clause 5, which is amendment No. 2 in the list circulated this morning (Supplementary List II).

Mr. President: Amendment No. 3 of the Supplementary List II by Mr. Munshi.

Mr. K. M. Munshi : That has been incorporated in the one that has been moved.

Mr. President: Rao Bahadur Chaudhri Suraj Mal.

Rao Bahadur Chaudhri Suraj Mal (Punjab: General) : *[Mr. President, with your permission, I wish to move the following amendment:

“That in clause 5, the following be added after the third paragraph:

‘Provision may be made by law to impose such reasonable restrictions as may be necessary in the interest of agriculture.’”

] *English translation of Hindustani speech ends.

*[English translation of Hindustani speech begins.

My object, in moving this amendment is that India is an agricultural country, where We have many proprietors who are commonly known as Bisvadars or petty zamindars. Their number is very large, and larger still in the Punjab. There are many petty zamindars or Bisvadars in Ambala and Jullundur Divisions. In our Punjab, restrictions of this sort exist even now. It appears from para. 5, that these restrictions may be excluded from the operation of law in future. Therefore, my object in moving this amendment is to give such powers to the Units, which in the interest of agriculture will enable them to protect the petty zamindars and Bisvadars from the big Landlords, Capitalists and wealthy people, who do not cultivate the land themselves. In my opinion, such restrictions are very essential for the benefit of the whole country. I hope that such powers will be given to the Units, which will enable them to protect their cultivators. Secondly, I want to point out, in particular, that the petty Zamindars or Bisvadars, who inhabit our area, belong particularly to martial classes and are in the army in large numbers even now. I think, and rightly so, that if they do not possess these lands, they will be reduced to the status of mere peasants. The spirit of self-respect is inherent in them. They can fight with courage and the name which they have earned, they will not be able to earn in future. May I point out to you that you may issue statements, publish messages in papers and deliver speeches; but this is the age of the sword. Only that man will rule, who has power in his hands. Therefore, it is necessary that the children of those who are in the army, should be treated well and should not be allowed to grow weak, because their services shall be required. Their support will be needed to enforce the Constitution, which is being framed for the future. Therefore, I submit that such restrictions should be imposed, which will debar wealthy people from acquiring the lands of the weak. I appeal to Sardar Vallabhbhai Patel, because he is a well wisher of the Zamindars. I hope that he will keep this in view and add some provision in the Constitution, in order to protect them from the operations of the existing laws. Once the peasantry is destroyed, it can not be recouped. As an English poet has said, once a peasant is destroyed, it is very difficult to rehabilitate him. With these words, I move this amendment.]* (Amendment No. 6 of the Supplementary List II was not moved.) Mr. President: *[There is another amendment in your name]*. Rao Bahadur Chaudhri Suraj Mal: *[Sir, the object of the second amendment is also the same. As I have already moved a similar amendment, the second one is unnecessary.]* Mr. President: *[Then you do not move it.]* The clause and the amendments have been placed before the House. They are now open for discussion. Those who wish to speak may do so. Sardar Prithvi Singh Azad (Punjab : General) : *[Mr. President, I stand to oppose the amendment moved by Rao Bahadur Suraj Mal. There is a black law in the Punjab, which is, known as Land Alienation Act. The purpose of this amendment is to preserve this law: It is highly detrimental to our depressed and other non-agricultural classes. It has allowed those who go under the name of Zamindars or label themselves as peasants to permanently enslave a large section of people in the Punjab. If this amendment of R. B. Chaudhri Suraj Mal is accepted, it would mean that those communities, which have been forced to live under the tyranny of Zamindars for centuries. and

] *English translation of Hindustani speech ends.

[*English translation of Hindustani speech.

which by the help of the black law of Land Alienation Act have been kept in the clutches of the Zamindars will not be able to recover for centuries. Hence in this age when we are formulating such a law that all, should be provided with the same facilities and opportunities, and every one should have equal rights, it is not proper that this black law should be maintained. Hence, on behalf of the depressed classes, I oppose Mr. Chaudhari's amendment in strong words and appeal to the House that this amendment should not be accepted in any form, for this amendment will amount to injustice and tyranny for the depressed and other non-agriculturist classes. If you now adopt this amendment, it means that you would be perpetuating that tyranny which we are present here to end. I oppose the amendment with these words.]*The Hon'ble Sardar Vallabhbhai Patel: Sir, almost all the amendments have been withdrawn and there is not much room for debate. I wish to give a reply to one or two points that have been raised by some of the members. Mr. B. Das has some doubts about the Afghan Princes who have, been deported from Afghanistan, and he wants to know whether they and their children will be eligible for office. I do not know that this, is going to create any difficulty for us. If the children of the Afghan Princes propose to stay here, it is quite possible they will get them-selves naturalised if they have been deported from their country. After all, the clause makes provision for eligibility, but it does not restrict the right of provinces to impose restrictions by legislation on the question of employment. It only says that no citizen can be declared ineligible for office on only the following grounds, that is, on the ground of race, religion, sex, descent, etc. Therefore, there is no reason to have any apprehension on that account. Now, Mr. Tyagi also raised a similar point though of a different type—that preference should be given to the residents of the province and provinces should have opportunity to give preference by legislation to the residents of the provinces. This does not deprive the province of its rights to legislate. This simply removes ineligibility of a citizen; that should be so, and therefore it is provided in the Fundamental Rights. So on that score also, there is no difficulty. Mr. Chaudhri Suraj Mal has raised a point in which he is afraid that persons having agricultural holdings may be affected. He has in his mind that the Punjab Land Alienation Act which is working, gives some protection to these persons and he thinks they will be deprived of their protection. Now, in this connection, I can only suggest for his satisfaction that there is an amendment to this clause moved by Mr. Munshi, which I proposed to accept, as I have explained in the beginning. This clause so far as it concerns the acquiring, holding or disposing of property is removed from there and is going to be taken over to another clause that follows, that is clause 8, but in that clause also the provision has been made that this can be done only on grounds of, I think, public interest. Therefore, in this clause even if the principle is there, it is to be restricted, but in this clause this principle is to be removed. In the other clause the principle is discussed and as the principle is restricted only to cases of public interest, I think there is no difficulty and his difficulty is also removed. I, therefore, think that this. clause 5, as amended, should be passed by the House.—

] *English translation of Hindustani speech ends.

Mr. President: Now I take Mr. Munshi's amendment. The clause as amended by Mr. Munshi will read like this:

(a) There shall be equality of opportunity for all citizens in matter of public employment.

(b) No citizen shall on grounds only of religion, race, caste, sex, descent, place of birth or any of them be ineligible for public office.

(c) Nothing herein contained shall prevent the State from making provision for reservations in favour of classes who, in the opinion of the State, are not adequately represented in the public services.

(d) Nothing herein contained shall prevent a law being made prescribing that the incumbent of an office to manage, administer or superintend the affairs of a religious or denominational institution or the member of the Governing Body thereof shall be a member of that particular religion or denomination."

The question is that the amendment of Mr. Munshi be adopted.

The motion was adopted.

Mr. President: There is only one amendment which has been moved and that amendment is by Rao Bahadur Chaudhri Suraj Mal. His amendment related to holding or disposing of property, etc., and that part of the clause has been deleted. So his amendment does not arise and no vote will be taken on that. Now the clause, as amended, will be put to the vote.

The clause, as amended, was adopted.

CLAUSE 7.—RIGHTS OF EQUALITY

The Hon'ble Sardar Vallabhbhai Patel: Now Sir, I beg to move clause 7. As it stands, it runs thus—

"No heritable title shall be conferred by the Union."

We have discussed this at length in the Committee and there was difference of opinion in the various committees in which this question was discussed and adopted. It was a very controversial matter. The matter was settled after a prolonged debate and we came to this formula. But the word 'heritable' became a matter of controversy and it was agreed after considerable discussion that that word should also be dropped, and there would be a formal amendment for that purpose. So what will remain will be—

"No title shall be conferred by the Union."

This is the general public opinion in the country. Outside also, in many free countries, it is disappearing. The title is often being abused for corrupting the public life of the country, and, therefore, it is better that it should be provided in the Fundamental Rights. I do not know if there will be any objection or any prolonged controversy over this matter. I move this clause.

Mr. President: There are several amendments to this clause, of five or six of which notice was given the day before yesterday and of one or two of which notice was given yesterday.

I think Mr. Masani's amendment is the most comprehensive one. I will ask him to move.

Mr. M. R. Masani (Bombay: General): Mr. President, the amendment of which I have given notice is an amendment to the amendment given notice of by Mr. Santhanam. It reads as follows:

"No title other than one denoting an office or profession shall be conferred by the Union.

No citizen of the Union shall accept any title from any foreign State.

No person holding any office of profit or trust under the State shall, without the consent of the Union Government, accept any present, emoluments, or office of any kind from any foreign State."

[Mr. M.R. Masani]

In sentence 1, paragraph 1, the words "other than, one denoting an office or profession" may be deleted, so that the clause would read "No title shall be conferred by the Union." In paragraph 3 "or title" should be added in the last line of the clause so as to read:

"No person holding any office of profit or trust under the State shall, without the consent of the Union Government, accept any present, emoluments, office or title of any kind from any foreign State."

That is, I understand, the consensus of opinion. If the House would permit this modification to be made, it will perhaps become a non-controversial amendment.

Mr. President: Mr. Masani has given notice of an amendment and he just wants the permission of the House to drop a few words in the amendment as he has suggested, so that his amendment would read like this :

"No title shall be conferred by the Union.

No citizen of the Union shall accept any title from any foreign State.

No person holding any office of profit or trust under the State shall, without the consent of the Union Government, accept any present, emoluments, office or title of any kind from any foreign State."

Mr. M. R. Masani: In commending this amendment to the House, I would point out that changes made in the present clause are in two directions. The first, which is an important one, is that the word "heritable" be dropped. This will mean that the Free Indian State will not confer any titles of any kind, whether heritable or otherwise, that is, for the life of the incumbent. It may be possible for the Union to honour some of its citizens who distinguish themselves in several walks of life like science and the arts, with other kinds of honours not amounting to titles; but the idea of a man putting something before or after his name as a reward for service rendered will not be possible in a Free India. I think, Sir, the House will support this principle, because it has been found not only in subject countries but even in so-called free countries, that titles become dangerous and a source of corruption both to those who bestow them and to those who accept them. Therefore relying on patriotism, self-respect and the motive of service, we shall do without titles of any kind.

The other modification is to distinguish between citizens of the Union and those holding office under the State. Citizens of the Union, in the clause as amended, will not be free to accept any title from any foreign State while persons holding any office of profit or trust under the State would be able to accept emoluments or presents from foreign Governments only when their own Government permits it. That, Sir, would permit diplomats and others who might be permitted by their own Government to accept tokens of respect or appreciation from foreign Governments, I take it, Sir, that the meaning of the amendments has been made clear and I do hope that in the interest of equality between human beings and of democracy, the change which drops the word "heritable" will be accepted as well as the other change which I have indicated.

Shri Sri Prakasa (United Provinces: General): I think, Sir, that my amendment is included in the amendment which was moved by Mr. Masani. There is now no need for my amendment to be moved at all. I am not moving it.

Mr. H. V. Kamath: In view of the change in the clause as indicated, I think there is no point in pursuing my amendment.

Shri K. Santhanam (Madras: General): My amendment has been included in Mr. Masani's amendment.

Mr. R. K. Sidhwa: In view of the amendment moved by Mr. Masani, I do not think any necessity arises for me to move my amendment. I have stated that with the exception of academic degrees, no titles of any kind shall be conferred by the Union. I am told academic degrees will not be considered as titles; these could be given by the Universities or institutions. In view of this, Sir, I do not desire to move my amendment.

Seth Govind Das (C. P. & Berar : General): *[Mr. President, the resolution that has been moved is clear regarding future titles. But nothing has been said about those who already possess titles. It is an accepted fact that most of the title-holders have been so honoured by the foreign Government which has been ruling this country for the last two hundred years. If we look into the history of other countries, we find that after the French and Russian revolutions, all the titles were withdrawn. So far this Government has also been doing the same. If any of its title-holder participated in any political activity, it withdrew his title. Although I am not proposing any amendment in the matter, I wish to ask Sardarji if he does not want to redeem the people from medals of slavery.

I want that even the titles held by people at present should be withdrawn. The present title-holders should live in free India just as other people live.]*

Shri Balkrishna Sharma (U.P.: General) : *[Mr. President, I oppose this sub-section which lays down that no title shall be conferred in free India. I consider this against the tradition of my country and against the psychology of its people.

We have time and again tried to honour the dignitaries of this country in so many ways. We call someone 'Acharya', and Mr. President, we call you 'Deshratna'. We call Mahatma Gandhi by the name of 'Mahatma'. I consider it improper to make a decision against honouring our leaders as this tendency is inherent in our minds, our hearts and our culture. Therefore I oppose it.

Mr. Masani and other friends have expressed a contrary view but there is a reason behind it. The present democratic feeling compelled them to say that there should be no titles in our country. But I think that if in our free India some persons of our country do such work as deserves respect, there is no reason why we should not honour such great men with national titles on behalf of our countrymen. In Russia itself where socialism was first experimented upon, it was felt necessary after some time that the country should honour its generals, its military leaders and its distinguished workers with titles and medals. Therefore, I urge that before passing this resolution this House should seriously consider this matter, and should realise that the resolution is against our psychology and against our tradition. Therefore it should be rejected.]*

Shri Sri Prakasa: Mr. President.....

(At this stage, the Speaker was asked by the President to come to the loud speaker).

[] English translation of Hindustani speech.

[Shri Sri Prakasa]

I think, Sir, the acoustics of this hall are perfect, if only members knew not only what to say but how to say it. Sir, my esteemed friend Pandit Balkrishna Sharma has gone off the rails completely. (*Hear, hear*). He says that it is against the tradition of our country to abolish all titles and that we are very fond of such titles. What he forgets is that we are not claiming it as a fundamental right that no one could be given a title or an honour unofficially. What we object to is the State having the power to grant titles. (*Hear, hear*). You cannot prevent a whole people from paying their spontaneous homage to their liberator by calling Gandhiji, Mahatma Gandhi. While the State refuses to recognize that title, while the State puts him to long terms of imprisonment, the people go on calling him Mahatma Gandhi and cursing the State that puts the great man in prison.

There is this difference between the two titles. The receiver of a spontaneous title from the people feels embarrassed at it. He asks the people not to call him Mahatma or Deshratna or such things, while the person who receives a title from the State is most anxious that he should be called what the State gives him the privilege to call himself. Sir, I was horrified at the last session when you yourself referred to a member from your Province as "Rai Bahadur Sahib". I felt that the parents of the poor dear had forgotten to give him a name, and he had to wait for long years for the State to step in to give him one and ensure his being called "Rai Bahadur" for ever. While one title embarrasses the receiver, the other title makes him feel vain and proper. I think it is necessary in the name of freedom to ask for freedom from the imposition of such titles from the State and freedom from having to curry favour with the authorities in order to get a distinction from them.

Sir, I should like to make it plain that this clause does not prohibit even the State from bestowing a proper honour. We are distinguishing between titles and honours. A title is something that hangs to one's name. I understand it is a British innovation. Other States also honour their citizens for good work but those citizens do not necessarily hang their titles to their names as people in Britain or British-governed parts of the world do. That is all that this clause seeks to do. If the State wants to honour a citizen, if a citizen has done particularly good work, then there are a thousand ways in which that State can honour the citizen. If the people want to honour a leader, then they can also honour him; but we want to abolish this corroding, corrupting practice which makes individuals go about currying favour with authority to get particular distinctions.

We all know that long lists are printed or used to be printed every six months saying so and so is to be so and so, and many anxious people used to scan these list with great anxiety to find if their names were included or not. We want to stop all that practice. It is well known the Government did honour certain very deserving persons. In fact, when Mahatma Gandhi's name was included in the Honours' List, it was definitely stated by one of the leading papers that the Honours' List itself was honoured—that lustre was shed on the Honours' List—by the inclusion of the honoured name of Mahatma Gandhi in it. Later on, Mahatma Gandhi found it necessary to throw away that title in disgust, but the title of Mahatma still adheres to his great name and he has not thrown that away. Pandit Balkrishna Sharma, myself and all of us can go on and will go on calling him by that dear name and no one can prevent

us from doing so. We must distinguish between the title as imposed on an individual by the State and the honour that the people give spontaneously to one of their great men. I hope, Sir, that it would be clear to all sections of the House that it is most essential that the system of bestowing titles by the State should disappear. I also hope, Sir, that, the amendment moved by Mr. Masani will commend itself to the unanimous acceptance of the House. (*Hear, hear*).

Shri R. V. Dhulekar (U.P.: General): *[Mr. President, it is painful to me that my friend Mr. Balkrishna Sharma should have made such criticisms against the tradition of Indian civilisation, which were never to be expected of him. In ancient days our State authorities considered the sages outside their jurisdiction. If Panditji (Balkrishnaji) has looked through our ancient books, he would know that the religious places of the Hindus were outside the jurisdiction of the State.

I beg to submit that such observations and particularly from such a gentleman are not desirable. At a time when India is going to be liberated, it is improper for us to say that we should continue the old slave mentality; it is utterly unbecoming of us to say that since we are doing this for the welfare of the world, we should be rewarded with honour in our life-time. I beg to tell the House that it has always been the tradition of sages in India that they considered God as their guide and with all sincerity and humility did their work. I believe India is the only country in the world where deeds are not actuated by selfish motives. Even religious devotees in India do not pray to God for any selfish purposes. I want to tell the House that Indians want this ancient way of life to be followed in the world. We want to tell the world that we Indians work for the welfare of the whole world and want nothing in return. What Panditji has said will prove that we want some return for the work we do for the benefit of the public. Therefore, I would say that it is not fair on his part to make such an observation. I support the amendment moved by Mr. Masani and appeal to the House to accept it.]*

Mr. H. V. Kamath: Mr. President, Sir, I rise to support my hon'ble friend, Seth Govind Das. The issue raised by him is to my mind an important one inasmuch as, while we are thinking about the future, we have given no consideration as to what we shall do about the titles that have already been conferred by the alien imperialist Government who have been all these years suppressing our freedom movement and who have been conferring titles on these people who have aided them in suppressing our freedom movement. This point is, to my mind, a vital one. I am very well aware that in this House we have got a few title-holders. I do not seek to cast any aspersions or any reflections upon them individually, but today let us remember that we are standing between two worlds, one dead, the other struggling to be born, and we are trying to usher in a FREE INDIA which will redress the balance of the old decrepit world. Our "Quit India" resolution is fast coming to a successful close, and while we are seeing that the British Government is going lock stock and barrel, we are eager, nay, anxious—that all associations, all connections with that foreign Government should also go with it. Therefore I support my hon'ble friend Seth Govind Das and submit that all titles conferred by the alien Government, by the foreign imperialist Government, shall be void at the time of the inauguration of the free Indian Union.

*[English translation of Hindustani speech begins.

] *English translation of Hindustani speech ends.

The Hon'ble Sardar Vallabhbhai Patel: Closure.

Shri Sri Prakasa: If Seth Govind Das's amendment is accepted, will the name of his palace at Jubbulpore also be changed ? (*Laughter.*)

Mr. President: We will settle that later. (*Laughter.*)

Mr. R. K. Sidhwa: On a point of order, Sir, may I ask whether we can give retrospective effect to this clause ?

Mr. President: That question does not arise as no amendment has been moved.

The Hon'ble Sardar Vallabhbhai Patel: Sir, I do not see any point in discussing this matter of giving retrospective effect by people who have no title to surrender. But in the first place, I will read the motion as it runs after the acceptance of some of the amendments that have been moved. The motion is:

"No title shall be conferred by the Union.

No citizen of the Union shall accept any title from any foreign State.

No person holding any office of profit or trust under the State shall, without the consent of the Union Government, accept any present, emoluments, office or title of any kind from any foreign State."

Now, this in effect becomes the motion, and if, it is passed by the House, instead of our discussing what happened in the past, it would work automatically and therefore we need not go into the discussion of past events or try to give retrospective effect. After all, many titles have been surrendered during the last year or two and the titles have lost their value. What we are legislating really is for the future and not for the past. But there are still some people who have got that attitude, that frame of mind; because of what happened in the past they still think of the past. It is unnecessary to dilate on this matter. It may show an attitude which may be resented by some and which may be interpreted as a sign of spiteful feeling. I do not think we should discuss this matter at all: after all, some of the people who have got titles may even carry them after their death. They have spent so much and have worked so hard for it. You do not know—you have no idea—how titles are got. Therefore we cannot put all of them on the same line. Let us leave them alone. Let us forget all about past titles. What we now want to do is to think about the future. One Hon'ble Member from Benares says: "I oppose this Resolution." Another Hon'ble Member from the same city says: "I am in favour of it." I do not understand this. What is this ? Who is going to prevent people from conferring a title or take away a title conferred by the people? They are not titles really. They are attributes of virtues, which people see in them. If Mahatma Gandhi is called "Mahatma Gandhi", it is not because people want to confer any title on him, but they see in him something divine, some virtues they see in him which they admire and respect and therefore the State has nothing to do with it. We are legislating, or trying to legislate, on what the State will do or what the State should do, not on what the people can or should do. There may be sections of people who want to give titles. For instance, which State will prevent the Muslims from conferring the title of "Qaid-e-Azam" on Mr. Jinnah ? It is an absurd idea. We should not think about it. People will do what they think proper to do. But these titles are conferred by the State. There may be party governments; there may be other governments. They should have no authority to give any inducements or to corrupt people in order to build up their party or to obtain or derive strength by unfair means. Therefore there is no need for discussion on this question and I move that the clause as amended—I accept the amendments—be passed.

Mr. President: I will read the amendment first:

“No title shall be conferred by the Union.

No citizen of the Union shall accept any title from any foreign State.

No person holding any office of profit or trust under the State shall, without the consent of the Union Government, accept any present, emoluments, office or title of any kind from any foreign State.”

I now put the amendment to vote.

The amendment was adopted.

Mr. President: This becomes now the amended clause. I put the amended clause to vote.

The clause, as amended, was adopted.

CLAUSE 8—RIGHTS OF FREEDOM.

Mr. President: Then we go on to Clause 8*.

The Hon’ble Sardar Vallabhbhai Patel: I move clause 8 which reads thus:

*8. There shall be liberty for the exercise of the following rights subject to public order and morality or to the existence of grave emergency declared to be such by the Government of the Union or the Unit concerned whereby the security of the Union or the Unit, as the case may be, is threatened:—

(a) the right of every citizen to freedom of speech and expression:”

I do not move the proviso to be found in the Report:

“(b) The right of the citizens to assemble peaceably and without arms:”

Here again I do not propose to move the proviso:

“(c) The right of citizens to form associations or unions:”

The proviso to this sub-clause also I am not moving:

“(d) The right of every citizen to move freely throughout the Union:”

(e) The right of every citizen to reside and settle in any part of the Union, to acquire property and to follow any occupation, trade, business or profession”;

Rights of freedom

*8. There shall be liberty for the exercise of the following rights subject to public order and morality or to the existence of grave emergency declared to be such by the Government of the Union or the Unit concerned whereby the security of the Union or the Unit, as the case may be, is threatened:—

(a) the right of every citizen to freedom of speech and expression:

Provision may be made by law to make the publication or utterance of seditious, obscene, blasphemous, slanderous, libellous or defamatory matter actionable or punishable.

(b) The right of the citizens to assemble peaceably and without arms:

Provision may be made by law to prevent or control meetings which are likely to cause a breach of the peace or are a danger or nuisance to the general public or to prevent or control meetings in the vicinity of any chamber of a Legislature.

(c) The right of citizens to form associations or unions:

Provision may be made by law to regulate and control in the public interest the exercise of the foregoing right provided that no such provision shall contain any political, religious or class discrimination.

(d) The right of every citizen to move freely throughout the Union:

(e) The right of every citizen to reside and settle in any part of the Union, to acquire property and to follow any occupation, trade, business or profession:

Provision may be made by law to impose such reasonable restrictions as may be necessary in the public interest including the protection of minority groups and tribes.

[The Hon'ble Sardar Vallabhbhai Patel]

To the proviso to this sub-clause, there is a small formal amendment to be made which I will move presently. It will be moved later. This proviso is on the lines of clause 5. It reads:

“Provision may be made by law to impose such reasonable restrictions as may be necessary in the public interest including the protection of minority groups and tribes.”

The word ‘reasonable’ may have to be omitted after discussion on an amendment that is expected to be moved.

I see that there are some amendments to this motion. When they are moved I shall give my reply.

Mr. President: I now call upon Shri Ajit Prasad Jain to move his amendment.

Shri Ajit Prasad Jain (U.P. : General) : Sir, I have given notice of an amendment to this clause, but I do not propose to move it. I would, however, request the Hon'ble Mover to make it clear that the declaration of an emergency should be done under authority derived from law. It is not now clear as to who will be the authority that is empowered to declare an emergency. I wish that the Legislature should have the right to declare an emergency and no other body. If the power to declare an emergency is placed in the hands of the executive, it may on occasion, work harshly. It is with this object that I sent up this amendment.

Mr. President: Do you or do you not move the amendment?

Shri Ajit Prasad Jain: I do not move the amendment, Sir.

Rai Bahadur Syamanandan Sahaya (Bihar : General) : Sir, before we proceed with the amendments I should like to make a submission. Actually we are considering the Report at present and the proposition moved was that the Report be taken into consideration. The Hon'ble Mover, in moving Clause 8, suggested dropping all the three provisos and, in fact, did not move their adoption at all. The proper thing to do, it seems to me, is to move for their omission by way of an amendment and not simply to say that they are not being moved. This forms part of our proceedings. If we simply omit the provisos in the manner suggested by the Hon'ble Mover, one may not know how and why they were omitted. I simply want to draw the attention of the Mover to this position.

The Hon'ble Sardar Vallabhbhai Patel : I have no objection to the course suggested. It may be taken that I have formally moved for the omission of the provisos to (a), (b) and (c).

Mr. Somnath Lahiri : Sir, as I have amendments to all the sub-clauses of clause 8, I request you to allow me to move all of them together. Some of them have become redundant now in view of the fact that the Hon'ble Mover has dropped the first three provisos.

Sir, my amendment to the proviso 8(a) to delete the word ‘seditious’ has become unnecessary, because the whole proviso is to be deleted.

My next amendment is to substitute for the whole of clause 8(b) the sentence “The right of the citizen to assemble”. Here also, except two or three words, the rest have already been proposed to be deleted.

My last amendment runs thus:

“After clause 8 the following new clauses be added and existing clause 9 be renumbered as clause 14, and consequential changes be made in the subsequent clauses:—

9. No person shall be detained in custody without trial.

10. (a) Liberty of the press shall be guaranteed subject to such restrictions as may be imposed by law in the interests of public order or morality.

(b) The Press shall not be subject to censorship and shall not be subsidised. No security shall be demanded for the keeping of a Press or the publication of any book or other printed matter.

11. The privacy of correspondence shall be inviolable and may be infringed only in cases provided by law.....”

Mr. Dharendra Nath Datta (Bengal : General) : The Hon'ble Member is suggesting new clauses. We are now dealing with clause 8. He may at best move his amendments to clause 8 and not move new clauses.

Mr. Somnath Lahiri: All these clauses have reference to the subjects' right to freedom and so on. I can move them now or later on. Both mean the same thing,

Mr. R. K. Sidhwa: I rise to a point of order. If Mr. Lahiri is allowed now to move all his amendments, similar opportunities may have to be given to other members also. I submit that the consideration of all these new clauses may be held over till we finish the main business. It will otherwise be doing an injustice to us.

Mr. Somnath Lahiri: Even if you ask me, Sir, not to move this amendment now, as soon as this is over you will have to ask me to move it. So it comes to the same thing.

Mr. K. M. Munshi: May I rise to a point of order ? Clause 8 has been moved. The House is considering a number of amendments to clause No. 8. Now, Mr. Lahiri wants to suggest certain additions. Really speaking, they are independent matters, and as such they require independent consideration. They have nothing to do with clause No. 8, and as such, they should be treated as independent motions. The House is now considering the Report and after the Report is finished, if there are any additional matters, they may be considered by the House. In the Report itself, it has been mentioned that several fundamental rights have not been brought before the House and that the Advisory Committee is considering them. The appropriate procedure would be for all these new matters to be sent to the Advisory Committee for its consideration. This is what clause 20 of the May 16 Statement contemplates.

Mr. Somnath Lahiri: I have already said that, since I have put up these amendments, I have to be called after clause 8 has been finished. The clauses that I have moved also refer to the same subject "Rights of Freedom". Therefore I am quite in order in asking to be allowed to speak now.

Sri K. Santhanam: Many of us have got similar clauses to be added. For the convenience of the House, I propose that all the new clauses be taken up later on after the Report has been considered.

Mr. Somnath Lahiri: If you give a ruling like that, Sir, I have no objection.

Mr. President: There are two view points placed before the House. Mr. Lahiri has a number of fresh proposals which are not exactly amendments, but which are new proposals which he wants to be added to the fundamental rights. There are other members who have got similar proposals to be brought into the fundamental rights. The question is whether they should be taken as independent resolutions at this stage or later on.

Mr. K. M. Munshi: Later on, Sir.

Mr. President: Those who would like these new clauses to be taken up at the end of the discussion with regard to fundamental rights will please say 'Aye'—those against will say 'No'.

The motion was adopted.

Shri Balkrishna Sharma (United Provinces: General): I submit this is a matter for your ruling, Sir, not a matter for voting, Sir.

Mr. Somnath Lahiri: I do not take part in the voting as a protest, Sir, because I think this is not a votable matter.

Mr. President: Your amendments now.

Mr. Somnath Lahiri: My amendments are Nos. 48, 49 and 52 of Supplementary List I.

No. 48—"That in clause 8 for the words 'security or the Union' the words 'defence of the Union' be substituted."

No. 49—"That in clause 8(a) the word 'seditious' be deleted."

No. 52—"That for the whole of clause 8(b) the following be substituted:—

'The right of the citizens to assemble'."

I am glad that the Mover of the Resolution has agreed to the deletion of some of the provisos of this clause. I am especially glad because the Congress Party members did not take the advice of Professor Ranga who thought that democracy and liberty are harmful to India, because democracy and liberty are supposed by him to have helped Nazis to power in Germany. Anybody who knows a little bit of history knows that Nazism was not the result of having too much of democracy. Nazism came into power in Germany because the rights and liberties that were given under the Weimar Constitution were challenged by force by the capitalist classes in Germany with the help of Hitler's Nazi gangsters, and the Social Democratic Party failed to rally the working classes of Germany to challenge that force with force. That was the main reason why Nazism came into power there, not because there was an extra amount of freedom.

I am very glad, Sir, that these provisos against which I fought—may be, very bitterly for which I express my regrets also—have been done away with. That is very good. That means that my amendment No. 49 will not be necessary and No. 52 also will not be necessary. Only 48 will be necessary. The clause reads:

"There shall be liberty for the exercise of the following rights subject to public order and morality or to the existence of grave emergency declared to be such by the Government of the Union or the Unit concerned whereby the security of the Union or the Unit....."

I want it to read, "defence of the Union" instead of "security of the Union". The word 'security' is a very vague term and may mean anything. In the past we have seen the Government taking advantage of the vagueness of this term. Defence of the Union is certainly a thing which should be guarded and for this special power may be needed. It is an important amendment. I have got nothing more to say.

Mr. R. K. Sidhwa : My amendment which is in relation to clause (c) on the agenda reads thus. Sub-clause (c) says:

"The right of citizens to form associations or unions;"

My amendment is to the following effect : Add at the end of the sub-clause the words :

"for the purpose of safeguarding and ameliorating economic condition and the status of workers and employees shall be guaranteed."

As this is considered a new clause, I reserve my right to move it at the appropriate time.

With regard to provisions to (a), (b) and (c) as the motion for deletion of the same stands in my name, with your permission, I would move that these provisos be deleted. My point is that when we are giving

the right to every citizen the freedom of speech, it is certainly desirable that we should not restrict this liberty by these provisos. I do not think that it is necessary, because the clause is otherwise self-explanatory. While we are prepared to give certain rights to every citizen the provisos make those rights nugatory. I therefore propose that they may be deleted.

As regards Mr. Lahiri's amendment regarding the substitution of "defence" instead of "security", I do not understand how defence could be secured without security in the country. Security is essential in the State and in the Union. Therefore security is very necessary and I do feel that the original wording, as it stands, should remain.

Shri Mahavir Tyagi: Sir, I am rather in a fix about my amendment. There is already an amendment before the House which seeks to remove all the three provisos that occur after sub-clauses (a), (b) and (c). If this amendment is carried my amendment would be redundant. But if the House thinks otherwise and remains the said provisos, then I should suggest that the words "or to prevent or control meetings in the vicinity of any Chamber of a Legislature" occurring at the end of the proviso to sub-clause (b) be deleted. Sir, I deem it a privilege of the people to hold meetings even immediately in the vicinity of any Chamber of a Legislature and thus make their legislators feel what their voters want them to do. In short, I beg to request you, Sir, to take into consideration my amendment only if the House decides not to delete the said provisos altogether.

The Hon'ble Rev. J. J. M. Nichols-Roy (Assam: General): Mr. President, Sir, the amendment which stands in my name has two parts, namely,—(1) that in the first line of the proviso to sub-clause (e) of clause 8, the word 'reasonable' be deleted; and (2) that after the word 'tribes' the words 'and tribal areas' be added. I want to move only the first part. I do not want to move the second part. So the proviso as I propose will read thus :

"Provision may be made by law to impose such restrictions as may be necessary in the public interest including the protection of minority groups and tribes."

The word "reasonable" will create a great deal of contention and confusion. If a State or a Unit will impose restrictions some one may go to the Supreme Court as provided in clause 2 and say they are not reasonable. So I consider that protection to be made by law for groups and tribes is not a proper and safe protection. At present there is a great deal of misapprehension in the minds of the people in the tribal areas and in the partially excluded areas of Assam that their coming in with India will partially bring them under the exploitation of the people of other parts of India and that the present protection which they have for their lands will be withdrawn. So many of them are afraid to be brought within the new Constitution of India. When we, the Sub-committee of the Advisory Committee were in the Lushai Hills, some of the Lushai people expressed an idea that it might be better for them to be connected with Burma instead of being connected with the Province of Assam. Though they are now in Assam, yet they are afraid that in the new Constitution all the protection which they have up to the present received from the British Government might be withdrawn. In order to remove this suspicion, it will be very necessary that an authoritative statement be made by the Member of the Interim Government, Pandit Jawahar Lal Nehru, who is in charge of these Tribal Areas, that the protection which the tribes in Assam now have

[The Hon'ble Rev. J. J. M. Nichols-Roy]

for their land will not be withdrawn. I shall indeed be very thankful for such a statement if it will be made in this House or somewhere else. I understand that this provision is purposely put in here in order to safeguard the land and other interests of minorities and tribal people. But this provision will be misunderstood and misinterpreted in some quarters especially on account of the privileges given by the main sub-clause (e) to every citizen in India—and therefore it will create a great deal of confusion in their minds. For that reason I do request again that such an authoritative statement be made by Pandit Jawahar Lal Nehru. This will greatly help the Sub-Committee who will visit these tribal areas, during their course of enquiry.

Prof. K. T. Shah (Bihar: General): I do not move my amendment (No. 18 of Supplementary List II) at this stage.

Mr. Jaipal Singh (Bihar: General): Mr. President, there was hardly an hour between our rising yesterday and the time fixed by you for submission of amendments. I have to apologise to the House for the wording of my amendment No. 19* of Supplementary List II, not being exactly as a draftsman would have put it.

The whole idea behind my amendment is to point out to the House that the Sub-Committees appointed to go round the Excluded and Partially Excluded Areas have not yet submitted their findings and their report has not yet gone to the bigger Advisory Committee. Here we have a clause with a provision which is vital to Adibasi millions and which should depend upon our knowledge of the recommendations of these two Sub-Committees, particularly the Sub-Committee which has to deal with the Tribal Areas of the North East, shall I say, the Bengal-Assam Group. Until we know what their recommendations are, it seems to me unwise, inexpedient and premature that we should be discussing a clause and its provisions at the present moment. I would like to suggest, Mr. President, if I may, that this clause be held over till the reports, particularly of the two Tribal Sub-Committees, are submitted. Then we would know what their recommendations were.

Mr. President, I have said on another occasion previously on the floor of this House that land is the bulwark of aboriginal life. Here we are dealing with a provision which is going to mean the life or death not only of the 34 Tribal areas which are now known as fully Excluded or Partially Excluded Areas, but of many more millions living outside these tracts. Take, for example, Bengal. There you have very nearly 20 lakhs of Adibasis who are in neither the Excluded nor the Partially Excluded Areas. Their problem also will have to be considered by these two Sub-Committees although technically they are supposed to deal only with those tracts that are called Excluded or Partially Excluded Areas. I have no desire at this interim stage to press my amendment. I only want to point out that we are trying to arrive at a decision, even though we may call it an interim decision,—I am told at the present moment all this will come under review,—we are simply multiplying our work, wasting time by trying to come to a decision on an issue that must depend on the recommendations about to be submitted by these two Sub-Committees. This is my humble submission. I am relieved to hear that the mover has no objection to the deletion of the word 'reasonable'. If

*That at the end of Clause 8, the following be inserted:—

“Existing laws for the special protection of Tribes shall continue and further provisions may be made by law to impose such restrictions as may be necessary in the public interest including the protection of Tribes and minorities.”

you read the wording of the amendment I have submitted it falls into two parts. First, I want an unequivocal assurance, either here or somewhere else, which will make it absolutely clear to the nearly 30 million tribal people in India,—this is according to the 1941 Census, and whether it is right or wrong, that is beside the point—a definite assurance that the protection that obtains for Adibasis under the existing laws shall continue. The clause, as it stands, has already created a very very serious fear in the minds of the tribal people. The two Sub-Committees will have to go again to Assam; they have still to go to areas like Chota Nagpur. I want to stress from the Adibasi point of view, that land is and must be the bulwark of aboriginal life. I think the Premier of Assam will bear me out when I say that it will be impossible for him and the Sub-Committees to go about Excluded and Partially Excluded Areas unless this assurance is given that this clause is in no way going to affect their present protection. The Honourable Member preceding me has, in a way, stressed that point. There is already much misunderstanding. I would rather that this clause stood over till the reports of the Sub-Committees were submitted. For example, wherever we have been, it has been urged upon us that for several years to come, the aboriginals' land must be inalienable. If I were to fight for that particular, shall we say, protection, most members would laugh. A friend of mine, only this morning when I was talking to him, said, "Do you want for eternity that aboriginal land should remain inalienable?" That is how some of the demands vital to Adibasis are ridiculed. We have been talking about equality. Equality sounds well; but I do demand discrimination when it comes to holdings of aboriginal land. That is why I urge that this particular clause be held over till the reports of the particular Sub-Committees which have to deal with the people whose rights will be affected are received before we come to any decision however temporary or interim it might be. I appeal to the Mover, Sardar Vallabhbhai Patel, that this clause and its provisos be held over. I have no desire at this stage to press my amendment.

Shri Khurshed Lal (United Provinces: General): In view of what has been said already I do not move my amendment (No. 20 of the Supplementary List II).

Dr. Suresh Chandra Banerjee (Bengal: General): In view of the decision taken just now, I shall move my amendment (No. 21 of the Supplementary List II) at the appropriate time.

Shri Khurshed Lal: I desire to reserve my right to move my amendment at a later stage. It was put in as an independent clause after clause 8. I wish to reserve my right of moving it after the Report has been considered.

Mr. K. M. Munshi: Mr. President, Sir, now that the other provisos to Clause 8 are gone, the only proviso that is left is the proviso to sub-clause (e); but before I refer to it, I should like to move my amendment with reference to sub-clause (e) :

"(1) That the following words be added in Clause 8(e):

'Hold or dispose of' between the words 'acquire' and 'property';

(2) Substitute the words "exercise or carry on" between "to" and 'any occupation'."

With these changes, the sub-clause will run as follows:—

"The right of every citizen to reside and settle in any part of the Union, to acquire, hold or dispose of property and to exercise or carry on any occupation, trade, business or profession."

[Mr. K. M. Munshi]

This is, all those portions which were omitted in clause 5 by reason of this amendment will be carried into this clause. Then I understand there is another amendment moved with regard to the deletion of the word "reasonable". My third amendment is to the same effect. With regard to the last sub-clause, there was a reference to an amendment that "tribal areas"; should be used there instead of "tribes". The word "tribes" has been used in the proviso for this reason that there may be tribes which may not be in tribal areas and it is necessary that the proviso should cover both, viz., tribes 'which are in tribal area as well as those outside it. There is no need of any apprehensions with regard to it. If I may mention, Sir, this proviso fully covers the doubts raised by my friend, Mr. Jaipal Singh. It does not say that all the existing rules would be abrogated. On the contrary, under clause 2 all the existing laws in force in the Union or any part thereof will continue unless they conflict or are inconsistent with the Fundamental Rights.

Dr. P. S. Deshmukh (C.P. & Berar: General): I rise to support the amendment which seeks to delete the word 'reasonable' from the proviso, I also support the suggestion made by my friend, Mr. Jaipal Singh regarding deferment of the whole of the clause for further consideration. I have, however, no objection to retaining the first portion of the sub-clause, that is to say, "the right of every citizen to reside and settle in any part of the Union". The other part of the sub-clause should, however, be held over. In supporting my friend, Mr. Jaipal Singh, in this particular matter, I have some very strong considerations in view. I would like to point out to you, Sir, and to the House that the whole of India and especially the masses of India expect the Indian Constitution to, have a definite socialistic bias. If this clause is retained in the form in which it is put down here, I am sure we will be strengthening the suspicion of the Indian masses that this Constituent Assembly is so inalienably wedded to the vested interests that they have no hope of any socialistic principles being embodied in the Indian Constitution. Here, Sir, we have a very curious provision indeed. I do wish to avoid the use of strong words, but it is strange that we should set out to protect the minority groups, in the matter of acquisition of property. I think it should be a matter of common knowledge that the vast majority of the population of India which consists of agriculturists and labourers has everywhere been exploited by small minority groups. This is so great an evil that the majority is crying for protection against them. In the Fundamental Rights before us we are trying to protect precisely those very minority groups against whom we want protection against whom the labouring classes and the peasants want protection. My submission to this House is that we must give this matter a little more consideration. Although Sardar Vallabhbhai Patel stated that the Interim-Report presented to the House was not haphazard. It was admitted that the Committee did not have time to consider properly every possible point of view. With that statement of the situation, Sir, and with all the things that have been mentioned in the forwarding letter of Sardar Patel it is clear that the Report contained many things which will lend themselves to further consideration. So far as this clause is concerned, it is the labour who requires protection, it is the agriculturists who require protection against unlimited acquisition of property. It is also worth investigating if this matter could not be left to the Provinces to legislate upon; I would certainly welcome this. In my opinion the Centre should not interfere because the effect of this would be that while you are not going to have socialism at the Centre, you will be preventing it from being introduced in the future Indian Provinces also.

Mr. Somnath Lahiri: Sir, I support the suggestion of Mr. Jaipal Singh regarding special protection to the tribal people. These people are down-trodden and backward and need special provisions for their protection. It is not even, as Prof. Shah seems to suggest, a question of socialistic bias, but even in a bourgeois democracy the tribal people should have the existing and future provisions for their protection to bring them up at least to a minimum level. That is why I support Mr. Jaipal Singh's suggestion.

Srijut Rohini Kumar Chaudhury (Assam: General): I oppose the amendment which was moved by my Honourable friend, Mr. Jaipal Singh. I consider that it would be extremely unwise to have that amendment accepted by the House.

Mr. Jadubans Sahay (Bihar: General): On a point of order, Sir. Is it a fact that Mr. Jaipal Singh has not pressed his amendment and that he has made certain general observations only ?

Mr. President : I think he did move an amendment.

Srijut Rohini Kumar Chaudhury: I want to refer to that. I support the main motion as amended by the Hon'ble Mr. Nichols-Roy, but I would like to make some alteration as regards the proposal which was made that special protection of existing laws should be maintained. There is a regulation called Chin-Hill Regulation. I wonder how many Honourable Members of this House know about it. That Chin-Hill Regulation entitles any political officer to evict from its precincts any one who may be considered undesirable. That regulation has now been withdrawn in some places, but it is still in force in most of the places in the Hills. I only desire to point out that such curtailment of liberties in towns and other places where people can be evicted should be looked into.

They were not intended *bona fide* to protect the tribal people, but were meant to isolate them from their brethren in the plans so that there could be greater exploitation by British people.

The Hon'ble Pandit Jawaharlal Nehru (United Provinces: General) Sir, I confess I am a little confused. I do not know where we stand after all this welter of amendments which have been moved and not moved and withdrawn and not withdrawn. I do not know how other Members stand in this matter, but there is utter confusion in my mind as to what is being discussed. As far as I can make out, the present position is this. The clause stands with the first three provisos omitted and with certain other minor changes. In regard to (e) the proviso remains with this difference that the word "reasonable" is sought to be removed, and certain other changes have also been sought to be made. So much has been said which has no reference to the clause. I do not know if I am correct in understanding the position as that. I am supporting the clause, 'that is to say, without those three earlier provisos, with the last proviso to clause (e) being retained and with the removal of the word "reasonable" from that proviso.

It seems to me that there is also confusion in regard to another matter. Honourable Members seem to forget that we are dealing with fundamental rights. We are not legislating at the moment in regard to any matter. Various things have been brought to our notice—very desirable things which should be done or should not be done, but they having nothing to do with fundamental rights in a constitution, we can consider them separately; we can lay them down even as a part of the Constitution, if you like—or much better, a law could be framed accordingly. There is this confusion, this overlapping, and hence I think a great deal of difficulty has been brought into the picture. A fundamental

[The Hon'ble Pandit Jawahar Lal Nehru]

right should be looked upon, not from the point of view of any particular difficulty of the moment, but as something that you want to make permanent in the Constitution. The other matter should be looked upon—however important it might be—not from this permanent and fundamental point of view, but from the more temporary point of view.

Now, Mr. Jaipal Singh moved an amendment which I gather he did not press. As far as I am concerned, I entirely agree with him, but I do not see what it has to do with fundamental right. I completely agree that the tribal areas and the tribal people should be protected in every possible way (*Hear; hear*), and the existing laws—I do not know what those laws are, but certainly the existing laws should continue and may be, should be, added to when the time comes. But thinking of this in terms of a fundamental right would be, I submit, entirely wrong. Mr. Nichols-Roy called upon me not once but several times to speak here and make clear my position apparently in some other capacity than I possess here. He referred to the Interim Government and to the External Affairs Department. Well, Sir, I need not remind the House that I am not here as a Member of the Interim Government or as a Member in charge of the External Affairs Department. I am here as representing the people of the United Provinces. But forgetting my representative capacity, I should like to say—and I am quite sure the House will agree with me, and, indeed, the House, in accepting the first Objectives Resolution, made this point clear even then,—that every care should be taken in protecting the tribal areas, those unfortunate brethren of ours who are backward through no fault of theirs, through the fault of social customs, and may be, ourselves or our forefathers or others; that it is our intention and it is our fixed desire to help them as much as possible; in as efficient a way as possible to protect them from possibly their rapacious neighbours occasionally and to make them advance. I can assure Mr. Nichols-Roy that in so far as I have any say in this matter in any Government or otherwise, I shall try to do that. I think, however, that it is not a question of my desire or someone else's desire. I think it is bound to be the policy of any Government of India because that is likely to be an accepted principle of Indian politics today and I do not think any Government even if it was not keen on this issue would very well go against it. So I submit, Sir, that people interested in tribal areas should rest assured completely because, if any person ceases to be vigilant in the defence of any right or freedom, that freedom or right is likely to be swept away. So I want them to be vigilant, but nevertheless, I want them to feel sure that they have the sympathy of the whole of India with them. (*Cheers*).

Mr. K. M. Munshi: May I in the interest of a little more accuracy suggest a change of wording? I find that there is a defective word used in the first Preamble:

“There shall be liberty for the exercise of the following rights subject to public order and morality or to the existence of grave emergency.”

I move this verbal change that instead of the words “to the existence of grave emergency”—that does not sound much sense—we use the words “except in grave emergency”.

The Hon'ble Sardar Vallabhbhai Patel: Now, Sir, I accept Mr. Munshi's verbal amendment in the first paragraph. I also accept that the word “reasonable” be dropped in the last proviso. So the clause is as I moved dropping the proviso to clause (a), proviso to clause (b) and proviso to clause (c) and in clause (e) there is an addition which Mr. Munshi has moved which I accept. Mr. Nichols-Roy said something about the tribal areas. Now, there remains another amendment by Mr. Lahiri about the word “security”. Mr. Lahiri has moved an amendment to substitute for

the words "security of the Union", the words "defence of the Union". I strongly oppose it. Mr. Lahiri has an acute mind. He knows that internal security is more necessary than security outside. However, he puts "defence" instead of "security", so that there will be defence outside and internally there may be chaos. The word 'security' was selected deliberately and it should not be replaced.

The Hon'ble Rev. Nichols-Roy, was concerned about the protection of minority groups and tribes and Mr. Jaipal Singh had some apprehensions about the tribal areas. Now, with regard to the word 'tribes', my own feeling is that it is not an appropriate word. The expression 'protection of tribal areas', similarly, is not a happy one. This expression will convey the meaning that we are now concerned with the protection of certain areas. That is, if some external trouble is expected or if some encroachment is going to be made there, 'the protection of tribal areas', will carry a different meaning.

Mr. Jaipal Singh has apprehensions that the present laws which afford protection and security to the tribal people will be removed. I do not see why there should be any such apprehension. We are not here legislating or doing anything by way of repealing the existing Acts. This clause relates to Fundamental Rights. It does not do away with the existing laws. Existing legislation is left untouched except in so far as it abrogates the fundamental rights for the protection of the Constitution. Therefore there is no reason to entertain any fear about it. But I would like to make one thing clear. Is it the intention of people to defend the cause of the tribals to keep the tribes permanently in their present state? I do not think it is in their interest to do so. I think that it should be our endeavour to bring the tribal people to the level of Mr. Jaipal Singh and not keep them as tribes, so that, 10 years hence, when the Fundamental Rights are reconsidered, the word 'tribes' may be removed altogether, when they would have come up to our level. It is not befitting India's civilization to provide for tribes. What is the meaning of tribes. What is it that the word means, and is it so? It means something and it is there because, for two hundred years, attempts have been made by foreign rulers to keep them in groups apart with their customs and other things in order that the foreigners' rule may be smooth. The rulers did not want that there should be any change. Thus it is that we still have the curse of untouchability, the curse of the tribes, the curse of vested interests and many other curses besides. We are endeavouring to give them all fundamental rights. It should be our endeavour to remove these curses. Therefore, ten years hence, when we reconsider the position, we hope to be in a position to replace the word. All the laws that have been given them protection are there. But have they protected them? It is not our desire to keep the tribes in their present condition. It is not the existing laws that are going to protect them. It is our own work, our own action and our own sincerity that will give them protection. Therefore I would appeal to Mr. Jaipal Singh not to entertain any apprehension. In free India there would be no occasion for fear haunting them as it has done during the last 200 years.

Mr. Jaipal Singh: On a point of order, Mr. President, may I say that I have no apprehensions of the kind regarding the tribal areas attributed to me by the Hon'ble Sardar Patel? He has, I am sorry to say, put his own interpretation on what I said. It may be true that the lot of the tribes might be improved hereafter. They may come to my level. But that does not mean that the policy we are pursuing should not be more protective and sympathetic. I know that we are going to reconsider it after ten years.

Mr. President: I shall now put the amendments first. As most of the amendments have been accepted by the Mover, I take it that the House assents to them. (*Voices:* 'Yes').

The amendment for the deletion of the provisos to 8(a), (b) and 8(c) was adopted.

The Assembly also accepted the amendment to substitute the words "except in" for the words "to the existence of" occurring in line 2 of clause 8.

Mr. President: I shall now put Mr. Lahiri's amendment to the House. The amendment seeks to substitute the words "defence of the Union" for the words "security of the Union" occurring in the first para. of clause 8. As amended, it will read:

"There shall be liberty for the exercise of the following rights subject to public order and morality or to the existence of grave emergency declared to be such by the Government of the Union or the Unit concerned whereby the defence of the Union or the Unit, as the case may be, is threatened."

The amendment was negatived.

Mr. President: Then I come to amendment to sub-clause (e). As amended it will read:

"The right of every citizen to reside and settle in any part of the Union. to acquire, hold or dispose of property add to exercise or carry on any occupation, trade, business or profession."

The amendment was adopted.

Mr. President: Then I come to the proviso to sub-clause (e). The amendment is to drop the word "reasonable".

The amendment was adopted.

Mr. President: I shall now put the whole clause. I suppose it is not necessary that it should be read out.

Clause 8, as amended, was adopted.

CLAUSE 9—RIGHTS OF FREEDOM

Mr. President: Then we come to Clause 9*.

Mr. K. M. Munshi: I move that for the words "the equal treatment of the laws" the words "equality before the law" be substituted.

The amendment was adopted.

Mr. President: As regards the proviso there is a formal amendment to drop it. Then there are some amendments of which notice has been given.

(Messrs. Diwakar, Mohanlal Saksena and Mahavir Tyagi did not move their amendments.)

Mr. President: Then I come to the amendment saying that the proviso be dropped.

Mr. K. M. Munshi: I move that the proviso be dropped.

The amendment was adopted.

Mr. President: I put Clause 9 as amended.

Clause 9, as amended, was adopted.

*9. No person shall be deprived of his life, or liberty, without due process of law, nor shall person be denied the equal treatment of the laws within the territories of the Union.

Provided that nothing herein contained shall detract from the powers of the Union Legislature in respect of foreigners.

Mr. President: Now, we shall take up the Report of the Order of Business Committee. We shall take up the discussion of the further clauses of the Fundamental Rights tomorrow. Now, Mr. Munshi will move his Resolution.

REPORT OF THE ORDER OF BUSINESS COMMITTEE

Mr. K. M. Munshi: Mr. President, Sir, I beg to move the following motion:

“Resolved that the Constituent Assembly do proceed to take into consideration the report of the committee appointed by the resolution of the Assembly of the 25th January, 1947, to recommend the order of the further business of the Assembly.”

In moving this motion I have a few remarks to make. The report is before the House and I need not trouble the House at this late hour by reading it. The Report, as has been explained, is an interim report. We were expected to make a final report of the order of business, but we found it impossible to make a final report, and are seeking the permission of the House to submit a final report at a subsequent stage. The reason is obvious to all the Members. The political conditions in this country are changing fast and these changes naturally have their repercussions on the programme of this Assembly. Therefore, the Committee found it impossible to submit a final report.

Two factors, as has been already referred to by you, Sir, and also by Panditji have come into the forefront during the last few weeks. The first is the overwhelming insecurity in two of the provinces of India—Bengal and the Punjab—and this brought to the forefront the question about the partition of those unfortunate provinces, already referred to by you in your preliminary remarks. This might entail certain changes in the programme of the Assembly and this was one of the factors which prevented us from submitting our final report. The second factor has been the unfortunate fact that the Muslim League has not seen its way to come into the Constituent Assembly even now, and there does not appear to be any prospect of an immediate change, though every concession has been made and every consideration shown and though even the largest party in the country has given an invitation to it. This requires certain changes of programme on the part of the Constituent Assembly.

The Constituent Assembly as well as the Congress have over and over again said that they do not desire to impose any constitution on unwilling parts of the country, and if any unwilling areas stay out, it is not desirable that the Constituent Assembly should wait for ever for them. Now certain changes in the programme of business have become necessary and therefore it was impossible to set out a programme right to the end. Of course, it does not mean, so far as I understand it, that the Constitution that this House will form will not take into account the whole of India. We do, hope to make the Constitution on the basis that a time might come when even the unwilling areas who are staying out, or who want to stay out, will, within a short distance of time, come into the Union of India. The Constitution that we propose to formulate must be such as to enable the prodigal sons to return and they will be welcomed whenever they choose to come in. In view of these factors the Committee wants time to submit our final report.

The second consideration which has weighed with the Committee in formulating its programme has been the statement that His Majesty's Government made in Parliament on 20th February, 1947. That puts a time-limit. The Committee has, therefore, submitted that the Constituent Assembly must finish its work of framing the Constitution by the 31st October at the latest. This time-limit is essential in order that our

[Mr. K. M. Munshi]

work should be expedited and that the work should be done with promptness. If the House approves of this Report, a resolution will be moved that two Committees may be appointed. These Committees will perform work of an exploratory nature, and will work side by side. One of them will deal with the main principles of the Union Constitution, and the other with the principles of a model Provincial Constitution. It is expected that these two Committees as well as the other Committees, except perhaps the one dealing with tribal areas, will be ready with their reports by the third week of June. The programme that is envisaged in the report therefore is that all these reports not only of the Minorities Committee, the Advisory Committee, but also of these two Committees, should be before the House in its June-July sessions in the shape of, if I may use a well-known expression, a White Paper. Then decisions will be taken on the broad outlines of the Constitution of the Union as well as of the Provinces.

According to the Rules of the Constituent Assembly, we have to circulate our preliminary decisions to the provinces in order that their respective legislatures may consider them and give the House the benefit of their opinions. That will take about a couple of months, and possibly the period between the middle of July and the middle of September will be taken up in Provincial legislatures considering those proposals. Then it is proposed that we should meet somewhere about the middle of September or end of September so that we can complete our task before the 31st October. In the interval, after the House has taken decisions with regard to the main outlines of the Constitution it is intended that the drafting of the Acts should begin side by side so that in the October Session we may have a full and complete draft of the Constitution placed before the House. This is the general sketch of the programme and I hope that it will meet with the approval of the House.

Mr. President : I suppose nothing is to be said about the report. There is nothing more to be done I believe.

Mr. K. M. Munshi: The report has to be adopted.

Mr. President: I put the report to the vote of the House.

Sri K. Santhanam: There is nothing to vote about. The report may be recorded.

The Hon'ble Sri C. Rajagopalachariar: It is a report of another body to us. We record it.

Mr. K. M. Munshi: I beg your pardon. What I moved was consideration by the House because we want the permission of the House to make a subsequent report at a later date. There must be a decision of the House. Therefore, I move formally, if necessary, the adoption of this Report by the House.

Sri K. Santhanam: That means we accept the whole Report. The Honourable Member can move a motion for the appointment of the Committees, but the Report may be recorded. We accept the proposal for the Committees, but about the actual contents of the report, we need not commit ourselves to any particular date or any particular paragraph.

Mr. H. V. Kamath: The motion is for consideration and not adoption. It only says, "proceed to take into consideration the report..." there is no question of adoption.

Mr. R. K. Sidhwa: This report is merely for the information of the House. But if we want a decision of the House, there is one thing to

which I would like to make a reference regarding the date. It is apparently stated that the work should be completed by the end of October. We all wish that it should be done by that date, but there are yet many factors to be taken into consideration. Under the Rules, the Constitution in the draft form has to go to the various provinces, and we do not know whether the Provinces will adhere to the dates we fix. I also wish that the work should be finished as scheduled but our experience has shown that the dates fixed have had to be changed frequently. It will not be proper to consider every time an extension of the date. I submit that we should respect the laws we make ourselves and the rules which we have made and stick to the date, but in view of the existing conditions it is better not to fix a date.

Mr. President: I take it that the Report is to be recorded. Is that the view of the House?

The Assembly agreed.

The Report was recorded.

Mr. President: There are one or two points in the Report which the House will have to consider. One is that the Committee wants permission to submit a subsequent report. I hope the House agrees.

The second is that the Committee recommends that two separate Committees be appointed one to report on the main principles of the Union Constitution and the other to report on the principle of a model Provincial Constitution.

Dr. B. Pattabhi Sitaramayya (Madras: General): That will come up, as a separate resolution.

Mr. President: Shall we take that up now?

Dr. B. Pattabhi Sitaramayya: It will be a fuller resolution because the strength of the Committees has to be mentioned.

Mr. President: Shall we take that up now ?

Mr. R. K. Sidhwa: The motion may be made tomorrow.

An Hon'ble Member: You may take it up now.

Mr. President: I am entirely in the hands of the House.

Some Hon'ble Members: You may take it up now.

Mr. K. M. Munshi: I move:

“This Assembly resolves that in accordance with the recommendations contained in the Report of the Order of Business Committee the following Committees be nominated by the President with instructions to report before the next Session of the Assembly:

1. A Committee consisting of not more than fifteen members to report on the main principles of the Union constitution, and
2. A Committee consisting of not more than twenty-five members to report on the main principles of a model provincial constitution.”

“That carries out the recommendation at page 2 of the Report.

Mr. President: The motion before the House is:

“This Assembly resolves that in accordance with the recommendation contained in the Report of the Order of Business Committee the following Committees be nominated by the President with instructions to report before the next session of the Assembly:

1. A Committee consisting of not more than fifteen members to report on the main principles of the Union constitution, and
2. A Committee consisting of not more than twenty-five members to report on the main principles of a model provincial constitution.”

Mr. C. M. Poonacha (Coorg): Mr. President, Sir, I have a suggestion to make in connection with the terms of reference of the proposed two Committees which we are going to constitute, one for determining the principles of the Union Constitution and the other to prepare a model Provincial constitution. Sir, we have now in India four Chief Commissioners' provinces which are centrally administered. When the future principles of our Union Constitution are going to be determined, it obviously means that the question whether the future Union Government should have under its authority such centrally administered areas or not will have to be incidentally examined. The Cabinet Mission Statement of May 16, 1946, has reserved only defence, foreign affairs and communications for the Union Government. On that basis, I think, the Union Government in future will have nothing to do with the details of administration of any province including the Chief Commissioners' provinces. That being the position, the Committee that we are going to set up naturally will have to go into that question and give its recommendations thereon. Therefore, while determining the principles of the future Union Constitution, this problem will certainly have to be dealt with.

Coming to the functions of the other Committee, *viz.*, that which would draft a model Provincial Constitution, I am of the opinion that the existence and functions of the present Chief Commissioners' provinces will have to be incidentally covered because, while determining the minimum area population and revenue, Judiciary, principles of taxation, representation, administration and such other matters, the case of these small administrations will naturally be affected. Thus, it is clear—and I take it to be so to everyone here,—that the scope of both these Committees will certainly include the problem of the Chief Commissioners' provinces. Therefore, Sir, I would like to suggest that a small sub-committee of three—one from the Union Constitution Committee and two from the Model Provincial Constitution Committee—be constituted to examine the case of the existing Chief Commissioners' provinces by visiting each Chief Commissioner's province and help the above committees: to formulate their report. Such a procedure will also help us to deal with these subjects quickly in our Sectional meetings. We have the Chief Commissioners' Provinces of Delhi, Ajmer-Merwara and Coorg in Section A and the Chief Commissioner's province of Baluchistan in Section B. A detailed examination and suitable recommendations thereon will not only be useful but will also help us to speed up our work in the Sections.

Speaking about my own stand, Sir, I have given an assurance at the time of my election to this Constituent Assembly, stating that before deciding about the future of Coorg one way or the other, the people of Coorg will be consulted. So, the visit of a committee to these areas will also give an occasion to contact public opinion in these provinces while making a study of the various aspects connected therewith.

With these remarks, Sir, I suggest that the question of the Chief Commissioners' provinces be specifically included under the terms of reference of these two Committees and for that purpose a small sub-committee of these two Committees, as explained already be constituted. Sir, I have done.

Dr. B. Pattabhi Sitaramayya: Sir, I welcome, the proposal to appoint these two Committees and I wish to bring to your notice that I have given notice of a proposition relating to the linguistic redistribution of

provinces. That will be discussed in due course. I do not know whether I shall be in order in referring to the proceedings of the Party, but the Party has been good enough to say that the subject would be referred to these two Committees. I think it is opportune now for us to say that these two Committees will not only go into these questions which have been associated with them but that it would also be competent for these Committees to go into the question of the redistribution of provinces on a linguistic basis.

Mr. President: Do you want to reply ? (To Mr. Munshi.)

Mr. K. M. Munshi: This does not require a reply.

Mr. President: There are two points which have been raised one—by Mr. Poonacha that these Committees should go into the Constitution of the Chief Commissioners' provinces and that there should be a sort of sub-committee of these two Committees to deal with the question of the Chief Commissioners' provinces. There is another suggestion by Dr. Pattabhi Sitaramayya that this Committee should be authorised to deal with the question of the creation of linguistic provinces. I take it that these two Committees when constituted will take into consideration all these and other matters so far as they arise and will make their recommendations in due course. It will be remembered that what is wanted is only a sort of model constitution for the provinces and a constitution for the Union. The model provincial constitution might apply equally to any number of linguistic provinces that might be created. The model constitution need not necessarily require linguistic provinces for that purpose. It is just possible this may fall within the purview of the other Committee which will deal with the general principles of the Union Constitution and that Committee may suggest ways and means for the creation of linguistic provinces. I take it that this Committee will take into consideration all these questions and the question of the Chief Commissioners' provinces will also naturally arise before them.

Prof. N. G. Ranga (Madras: General): Does that mean that, supposing these two Committees come to the conclusion that this question need not be discussed at all and that they need make no detailed suggestions, this House will not be able to have any say in the matter ?

Mr. President : Nothing of the sort. The Committees will make their recommendations. It is always open to the House to correct any errors and remove any defects in their recommendations.

Now this motion is put to the House.

The motion was adopted.

Mr. President: I think we shall disperse now and meet tomorrow morning at 9 o'clock.

The Assembly then adjourned till Nine of the Clock, on Thursday, the 1st May 1947.

APPENDIX

CONSTITUENT ASSEMBLY OF INDIA

Report of the Order of Business Committee

We, the undersigned, members of the Committee appointed by the Resolution of the Constituent Assembly dated the 25th January, 1947, to recommend the order of the further business of the Assembly, have the honour to submit this our report.

We met on the 5th March, and on the 21st, 23rd and 27th April, 1947. Pandit Jawaharlal Nehru was, by special invitation, present at all the meetings of the Committee except the one held on the 23rd.

The Statement of His Majesty's Government made in Parliament on the 20th February, 1947, has imported an element of urgency into the work and proceedings of the Assembly and, in our opinion, it is essential that the constitution should be prepared well before the end of this year. The task of arranging the order of business and of framing a time-table is, however, by no means easy. The political situation is developing with great rapidity, and the changes that are taking place inevitably affect the work of the Assembly. We are not, therefore, in a position at this stage to make final recommendations except in regard to the immediate future; and we request that we be permitted to submit a further report at a subsequent stage.

We understand that when the Assembly meets on the 28th April, it will have before it the reports of the following Committees:—

- (1) The States Committee appointed by the Constituent Assembly on 21st December, 1946.
- (2) The Union Powers Committee appointed by the Constituent Assembly on 25th January, 1947.
- (3) The Advisory Committee appointed by the Constituent Assembly on 24th January, 1947, but only on the subject of Fundamental Rights.

After the business connected with these reports has been disposed of by the Assembly, we recommend that two separate committees be appointed one to report on the main principles of the Union Constitution and the other to report on the principles of a model Provincial constitution. We consider that there are many advantages in having two committees, perhaps with an element of common membership, working side by side and considering the interrelated principles of the Union and the Provincial constitutions. The work of the committees will be of an exploratory nature to facilitate and expedite the work of the Union Assembly or the Sections thereof, as the case may be. After the committees have been set up, we recommend that the meeting be adjourned to a date to be fixed by the President at his discretion. We suggest this flexible arrangement partly in order that the Assembly may avoid difficulties likely to arise from the fixation of a date in advance and partly because experience has shown that committees are not always able to work up to a rigid time-table.

The Constitution Assembly should complete its work by the end of October this year. A meeting will be necessary at the end of June or the beginning of July to consider the reports of the various committees and thereafter the matter of going into Sections. A meeting of the Assembly to finalise the constitution should be held in September.

K. M. Munshi,
N. Gopaldaswami,
Biswanath Das.

New Delhi, the 27th April, 1947.