

Thursday, 28th August, 1947

Volume V



14-8-1947
to
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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

Thursday, the 28th August 1947

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

MEMBERS TAKING THE PLEDGE

The following Members took the pledge—

Professor N. G. Ranga.

Shri K. Kamaraja Nadar, M.L.A.

REPORT ON MINORITY RIGHTS

Mr. B. Das (Orissa : General) : Sir, on a point of order. Yesterday the House passed Clause 1 (a) which was moved by Mr. K. M. Munshi to define the Scheduled Castes as part of the Hindu Community. Sir, to that I moved an amendment.

Mr. President: I may tell you, Mr. Das, that we are not drafting the statute today. If there is anything which is not quite accurate in the description, the draftsman will put it right. So we need not worry about that. It is a purely technical matter.

Mr. B. Das: Schedule I does not exist from 15th August. It has been omitted in the Adaptation Act (The India Provisional Constitution) Order, 1947.

Mr. President: Even if it does not exist, I think the draftsman will understand what is meant.

Shri Gopikrishna Vijayavargiya (Gwalior State) : Sir, Members from Bengal feel that if right to contest additional seats to minorities is given in Western Bengal it will infringe the position there, and disturb the whole proportion. I request that question may be deferred for later consideration.

Maulana Hasrat Mohani (United Provinces: Muslim) : May I know how, at this time when members of the Congress High Command and members of the minorities talk of the Minorities' Report, they always mean by minority Muslims only ? I refuse to accept Muslims to be a minority. Now you say you have done away with this communalism. Are we not calling a minority to refer only to Muslims ?

Mr. President: I am afraid I have not followed what the Honourable Member is saying.

Maulana Hasrat Mohani: Sir, I did not take any part in the discussions about this Minority Report purposely. My idea was

Seth Govinddas (C. P. and Berar : General) : Sir, may I know what Item we are discussing?

Mr. President: There is no item under discussion; I thought the Maulana was raising a point of order. The Honourable Member should mention his point and then make his speech if necessary.

Maulana Hasrat Mohani : Sir, I have got a very fundamental objection to this Minority Report. How is it that when you talk of minorities you mean Muslims only and when you talk of reservation you refer to Muslims only?

Mr. President: I am afraid I cannot allow the Honourable Member to speak at random because there is nothing that we are discussing at this stage.

Maulana Hasrat Mohani: I am saying that, when we talk, of minorities how is it that Muslims only are referred to as a religious minority ? The Muslims refuse to be called a minority if parties are formed on political line.

Mr. President: I think the Honourable Member is discussing the merits of a matter which has already been discussed and passed.

Maulana Hasrat Mohani: That is what I wanted to say.

Mr. President: We were discussing Clause 4 of the Appendix yesterday and we will now take up the amendments.

Mr. Debi Prosad Khaitan (West Bengal : General) : Sir, in connection with this I have an amendment, No. 44, which is related to paragraph 4 of the Report which is also Clause 4 of the Appendix. If you allow me to move that at the proper time I shall be obliged. And if you wish me to move it now I am prepared to do it.

Mr. President: Yes, you can move it.

Shriyut Rohini Kumar Chaudhury (Assam : General) : Sir, according to the order paper we should discuss the fundamental rights first and then take up the consideration of any other matter.

Mr. President: We are discussing this first.

Mr. Debi Prosad Khaitan: Sir, I move:

“That with reference to paragraph 4 this Assembly recommends that owing to seats shall not have the right to contest unreserved seats.”

I have collected certain figures which go to show that the aggregate population of Scheduled Castes and Muslims constitute about half of the total population. If to the figures that I have added together for Burdwan Division, Presidency Division and Jalpaiguri and Darjeeling districts, the figures of Murshidabad, Nadia and Dinajpur which have come over to West Bengal be added, the total figures of scheduled castes and Muslim will be still more adverse to the rest of the population. Therefore it will be very unjust and unfair if the communities for whom reservations have been made are allowed to contest still more seats out of the unreserved ones. It may be remembered that the general population apart from the scheduled castes.....

Mr. H. J. Khandekar (C. P. and Berar: General) : Sir, on a point of order, we passed a clause yesterday to the effect that the Scheduled Castes

are a part and parcel of the Hindu community and not a minority. So the present amendment and the Mover's speech making the scheduled castes a minority is, I think, out of order.

Mr. Debi Prosad Khaitan: I submit, Sir, that what I am referring to is communities or a section of a community for whom reservations have been made. Whether they are called minorities or a section of the Hindus, the position is not disturbed at all. I am not referring to scheduled castes as a recognised minority but as that section of the Hindu community for which reservation is made. Therefore I submit that I am not at all out of order.

The position is that the general population after taking into account the scheduled castes and Muslims will be about half or just more than half. Further I intend to submit that the general population, after the scheduled castes and Muslims have got their reserved seats, would like to give some seats to Indian Christians, Buddhists who are a large number in Bengal, and other communities to which some of the seats should more properly go than those communities who have already got reservation. I submit that this matter requires further consideration at our hands. So I am moving this amendment and I believe Mr. Munshi will make a recommendation that just as the case of East Punjab has been reserved for further consideration the case of West Bengal in these circumstances should also be kept back for further consideration. I would be willing to accept that suggestion.

Sir, I move.

(Shri Mohanlal Saksena and Prof. Shibban Lal Saksena did not move their amendments.)

Mr. President: As this is the only amendment that is moved, the matter is now open for discussion.

Mr. K. M. Munshi (Bombay : General) : Mr. President, Sir, the amendment moved by my Honourable friend, Mr. Khaitan was moved only with a view to state that the case of West Bengal may be considered afresh. And I understand that the Honourable Mover of the Report is going to accept it in that form only. The reason for this is that the figures for the new West Bengal that were placed before the Mover of the Resolution were not accurate. At least there is some discussion as to whether the figures are accurate or inaccurate. If the figures are inaccurate then this question may require some kind of consideration later on. Then why precipitate a decision on the figures which are not correct? Therefore it is felt advisable to leave the case of West Bengal to be considered later on when all the figures have been properly collected. That is whole purpose of this amendment. It does not seek to make any change in the body of Clause 4 so far as the whole of India is concerned; except that as the case of East Punjab for consideration has been accepted, that of West Bengal also may be considered afresh.

Pandit Lakshmi Kanta Maitra (West Bengal: General) : Mr. President, Sir, I would like to say a few words in connection with the amendment which has been just moved. I want to tell this House and particularly my friends of the Scheduled Castes and other minorities that the object of this amendment is not to frustrate or to defeat the object which is embodied in the Minority Committee's Report. But the House should at the same time realise that the position of West Bengal and of East Punjab today is entirely different from that of the rest of

[Pandit Lakshmi Kanta Maitra]

India, as a result of the partition of the country, and particularly after the Radcliffe Award which in many respects varies from the national award. Most of the members from Bengal are not in a position to understand here and now what exactly has been the result and what West Bengal's population now consists of. If we compare the statements contained in the Radcliffe Award with what is stated here, we find considerable divergence in the matter of figures. Nobody knows exactly what is the population of West Bengal now under the Radcliffe Award. Therefore, instead of precipitating a decision just now, we may stay our hands for the present, so that when we are in full possession of the statistical data with regard to the newly formed provinces of West Bengal and East Punjab, we may be in a position to decide their case in a proper manner. The House has already accepted this suggestion in the case of East Punjab. We now submit that the House will bear with us, and that, the case of West Bengal also may be fully and carefully considered with all the available data that may be in our possession within a few days. I may tell the House that the Radcliffe Award is so illogical and arbitrary that in some cases the domestic households of persons have been in the Indian Union while their able lands are in Pakistan. So we are not in a position to know what area is meant when we simply see the word Pakistan or Indian Union mentioned. We do not know what portion is in Pakistan and what portion is in Hindustan, and what is the relative population in either part. What all these considerations in view, we have now come to the conclusion that for doing justice for all parties concerned the question of West Bengal should stand over for the present. This is all that is demanded in the present motion. There is no idea of going behind the principle that we have accepted. With these few words I support the amendment.

Mr. Naziruddin Ahmad (West Bengal: Muslim) : Mr. President, Sir, I do not here want to say anything on this delicate question that may raise any controversy. I only desire to draw the attention of the House to certain aspects of the matter, and I hope the Honourable the Mover of the Report will kindly consider them; but whatever the decision of this House may be, it will be loyally and cheerfully accepted.

Sir, the effect of this amendment would be that in West Bengal some minorities, excluding the Scheduled Castes who have now been treated as a separate class feel that they would lose the sentimental right or advantage of contesting the unreserved seats. The principal object, so far as I can see, in providing for the right of the minorities to contest unreserved seats seems to be to induce them to give up their privileges of reservation of seats, as quickly as possible. In fact, if there was no reservation, the position would be that they may get more seats in certain constituencies than otherwise but only if the majority community favours them. This is thus an inducement thrown out to the minorities to give up their claim for reservation. In fact, the Hindus being in a great majority in West Bengal, they would have had the choice of electing an additional member of the minority group to the unreserved seat. It would be entirely in their hands. So the amendment would seek to deprive the situation of that condition. I submit that it would be better to keep the original paragraph as it stands rather than to accept this amendment. But I make my submission with regard to this only to request Honourable Sardar Patel to consider the same.

With regard to the minorities, the Scheduled Castes as I pointed out a moment ago now form a different class altogether. Practically the only minority that remains and that will be affected by the amendment will

be the Muslim community. If the Hindus would cheerfully elect a Muslim to an additional seat, that would be entirely for them to say; and if they think that a particular Muslim for nationalistic reasons or for reasons of efficiency etc. if they think that they should elect him, that is their business. If they think that they would not elect an additional Muslim to an unreserved seat, they can always do so. But I think the right of the electorate should be left absolutely untouched and a legislative prohibition should not be introduced. It is on grounds of high policy that I speak and not on narrow grounds of getting or losing one or two seats. One or two seats would not matter. What matters is the sentimental gesture to the minorities. This is a situation which deserves very careful consideration from the point of view of long-range politics.

Shri Upendra Nath Barman (West Bengal: General) : Mr. President, Sir, I had no intention to oppose this motion, but I have to stand up today before this House because of some observations made by the Mover of the Resolution in the course of which he insinuated that after the Radcliffe Award and the partition of Bengal, West Bengal will have almost 50 per cent or exactly 50 per cent of population within the Scheduled Castes and Muslim communities, and therefore he wants to defer this matter and appoint a Committee. My submission is that this is a reflection upon the Scheduled Castes which we all have been trying for so long to shake off altogether. I submit that we, the Scheduled Castes have joined wholeheartedly in this constitution-making not only from outside but as members of the Congress, because we know that whatever may be our shortcomings during this period of our dependence whatever crimes we may have imbibed during our unfortunate period, there had been born men amongst us, specially of Bengal I can say like Vivekananda and Rabindranath Tagore who inspired in us the faith and hope of rejuvenation of India. Now, during the course of my taking part in this Constituent Assembly and the various Committees, I am confirmed in, my belief that after all the genius of India has not forsaken her in her hour of need. We have complete faith in the sagacity of the majority community for the time being I call them.

Sir, this independence has been won by the Congress with the help of those who had the keenest of vision, the highest of wisdom, the straightest of limb and the staunchest of spirit. We have full faith in their impartiality when they take the reins of office in their own hands, and we have full faith that they will amply discharge their duty of enlivening India, of lifting her to the standard of such a height that she might take her rightful place among the comity of nations. But at such a time, unfortunately one of my friends from Bengal speaks and speaks in such a way that it pains us. So I have the painful duty to remind him that this is not the way to gain faith. After all, Sir, what are you going to do? I have no objection to putting off this matter to a later date to consider the whole position of West Bengal. I have no doubt that this Assembly on whom rests so much responsibility will come to the same decision as we are going to adopt, perhaps according to the decision of the minority committee. But still some friends from Bengal think that their decision should be reconsidered I have no objection to that. After all, after this Radcliffe Award and the division of Bengal, the Muslims have got a minority; there can be absolutely no doubt about it. I do not worry for a moment about any seat outside the reserved quota because I know fully well that even in the reserved quota the minority will have to depend upon the majority votes, *i.e.*, the Caste Hindus. Our revered leaders have told us time and again that this blot within the Hindu community, the Scheduled Castes must go so that we can rise as a nation.

[Shri Upendra Nath Barman]

I fully endorse that view. But, my submission is that in the interim period, so long as this distinction remains the Scheduled Castes will depend upon the majority community. So if in any case outside the reserve quota, any Scheduled Caste member or a Muslim member so to speak, wants to contest a seat, he will have to depend upon the sympathy and faith of the bigger community. So from my point of view, I do not worry at all whether outside the reserve seats any seat be allowed to be contested by the Scheduled Castes, but as a matter of principle when you are going to accept the principle for the rest of the Provinces, do you mean to say that this august Assembly will make an exception in the case of Bengal or any particular province I think not. However, I leave it to the House to defer this matter or not.

The Honourable Sardar Vallabhbhai J. Patel (Bombay : General): Mr. President, Sir, there is only one amendment to Clause 4. The members of the minority community have reserved seats and those who have reserved seats will have right to contest unreserved seats as well. The amendment moved today by Mr. Khaitan, which has been amended by Mr. Munshi seeks that like the East Punjab the question of West Bengal be held over. There is no reason either for the Scheduled Caste people or other people to have any suspicion about it. When the East Punjab question will be examined, the West Bengal question will also be examined. Nothing will be done behind their back and nothing will be taken away without their consent or without their knowledge. It has still to be seen what the actual effect of the population and proportion will be. Therefore, when we have made the Schedule which we have passed for giving safeguards in connection with franchise and elections, we have fixed them on the basis of population and strength. If really the population is so much so far as any minority is concerned, that they need not have any such additional right to contest, if it is such as would affect the majorities seriously so as to reduce it to an ineffective majority, then it is a case for consideration. So if it only suggested, as is suggested in the amendment, that this question be held over and be considered along with the question of East Punjab, then there is no need for any apprehension. There need be no doubt about the sincerity of the people who have given these concessions, and in substance they will stand by it. Therefore, I have no hesitation in accepting the amendment and I move that Clause 4 may be accepted.

Mr. President: There is only one amendment, the effect of which is that the question of West Bengal may be held over for consideration at a later date. The Mover has accepted it. Do I take it that the House accepts that suggestion ?

Honourable Members: Yes.

Mr. President : Then, I put Clause 4, as amended, to vote.

Clause 4, as amended was adopted.

CLAUSE 5

The Honourable Sardar Vallabhbhai J. Patel: Clause 5—

“The minorities for whom representation has been reserved will be allotted seats on their population ratio, and there shall be no weightage for any community.”

I don't think that there need be any debate on this question now as it has been fully discussed in the Press and also in the Committee and I don't think there will be any body who will differ from it. Sir, I move this for the acceptance of the House.

Mr. President: There are two amendments to this (Messrs. Tajamul Husain and H. J. Khandekar did not move their amendments.) I put the clause to vote.

Clause 5 was adopted.

CLAUSE 6

The Honourable Sardar Vallabhbhai J. Patel: For the subsequent clauses also there will be no amendments I suppose Clause 6—

“No condition for a minimum number of votes of one’s own community. ‘There shall be no stipulation that a minority candidate standing for election for a reserved seat shall poll a minimum number of votes of his own community before he is declared elected.’ ”

This question has also been considered very often even in the past and it is another form of separate electorates being introduced and it has been considered and in view of the change in the situation there is no need for introducing any such thing. We have agreed no such reservation of percentage is necessary. Sir, I move the clause for the acceptance of the House.

(Messrs. Tajamul Husain and V. C. Kesava Rao did not move their amendments.)

K. T. M. Ahmed Ibrahim Sahib Bahadur (Madras: Muslim): Amendment No. 4 was given notice of by Mr. Pocker Saheb and myself and it refers to this clause.

Mr. President: I will take it up later. Mr. Nagappa.

Shri S. Nagappa (Madras: General) : Mr. Chairman, Sir, I want to bring to the notice of the House that in the case of Scheduled Classes before they are declared elected to the seats reserved for them, I would request that a certain percentage of the votes of that community the candidates must be able to poll. I know, Sir, that that gives a kind of prestige and leadership to the candidate who comes from that community. For instance today if we are elected to reserved seats, when there is agrarian trouble, when the Harijans and the agriculturists are at loggerheads and when we go and appeal to these people these Harijans they say “Get out man, you are the henchmen and show-boys of the caste Hindus. You have sold our community and you have come here on their behalf in order to cut our throats. We don’t accept you as our representative.” Sir, in order to avoid that what I suggested is that a certain percentage of the Harijans must elect the candidate so that he may be able to tell them that he has, the backing of some Harijans and he will have the prestige and voice as their representative. That prestige and voice he should have.

Mr. H. J. Khandekar: Is the Mover moving his amendment or is he making a speech? He must declare whether he is moving or not?

Mr. President: Are you moving the amendment or not ?

Shri S. Nagappa: Yes, I am moving the amendment.

The Honourable Mr. B. G. Kher (Bombay: General) : Yesterday the Honourable Member congratulated Sardar Patel for being firm and refusing to accept this. Now he is moving this amendment.

The Honourable Sardar Vallabhbhai J. Patel: He is moving it only to make a speech and then withdraw it. (*Laughter*).

Mr. President: Every member has a right to be inconsistent.

Shri S. Nagappa: Sir, I would explain how this does not amount to separate electorates.

Shri Mohan Lal Saksena (United Provinces: General): Let him move his amendment first, and then let him speak.

Mr. President: It makes no difference when he says he moves it. Mr. Nagappa you please read out the amendment.

Shri S. Nagappa: The amendment is as follows:—

“That the following be added at the end of para. 6:—

‘Provided that in the case of the Scheduled Castes the candidate before he is declared elected to the seat reserved for the Scheduled Castes, shall have secured not less than 35 per cent. of the votes polled by the Scheduled Castes in the election to the reserved seat.’”

Now Sir, I would explain to you how it does not work out to separate electorates.

Mr. K. M. Munshi: Does the Honourable the Mover of the amendment wish to move the amendment or is he going to withdraw it?

Mr. President: He has said he wants to move it.

Shri S. Nagappa: For instance there are four candidates that are seeking election to the reserved seats. Now let us take it there are 100 Scheduled Caste votes and let us assume all the 100 Scheduled Caste voters come and vote. A gets 36 and B gets 35, this comes to 71. Only 29 is there for the other. Now you need not take that man at all into consideration who has polled only 29 per cent. Now again you need not have two elections. You can distribute two coloured papers to the voters come and vote. A gets 36 and B gets 35, this comes to 71. Only placed for the Scheduled Caste candidate and if one gets more than 35 per cent, of the Scheduled Caste votes, or coloured votes, you need not take the other man into consideration at all.

Sir, even if he gets 36 per cent. but does not get the highest number of votes in the general election he should not be declared elected. As it is, if X gets 36 per cent. of the votes of the community and Y gets only 35 per cent., if the former does not get the majority of votes of the other communities at the election he is declared to be defeated and the latter though he gets only lesser number of votes of his own community, is declared elected; if he gets more votes than, X at the general elections, been declared elected. After all the election is completely in the hands of the general constituency or community. According to the Poona Pact you have allowed four candidates to be elected at the primary elections. This means that a man who gets 25 per cent. of the votes is declared elected to the panel where you have allowed cumulative voting. That is almost separate electorate I do not want separate electorates. I know the evils of separate electorates. I am for joint electorates. But, while seeing that joint electorates are there, let us not put the Harijan representatives in disfavour with their community who, as it is, call them show-boys of the general community. If a provision of the kind I am advocating is adopted, we can face the people of our community and tell them “Look here, we have been elected also by a majority of 35 per cent. of the members of our own community. We are not show-boys”.

By my amendment I am only seeking to reduce the panel from four to two and providing for the election of the, person who gets the majority of votes of the general community. I would request Members to think over it without prejudice.

I thank you, Sir, for giving me an opportunity to move my amendment.

K. T. M. Ahmed Ibrahim Sahib Bahadur: Mr. President, Sir, I move:

“That on a consideration of the Report of the Advisory Committee on minorities, fundamental rights, etc. on minority right this meeting of the Constituent Assembly resolves that in case the elections to the Central and Provincial Legislatures are to be held on the basis of joint electorates for all communities with reservation of seats for minorities, the election should be held on the following basis.”:—

I am not moving (a)—

“Out of the candidates who have secured at least 30 per cent. of the votes polled of their own community the candidates who secures the highest number of votes polled on the joint electoral roll shall be declared elected. In case there is no candidate, who has secured not less than 30 per cent. of the votes polled of his own community, then out of the two candidates who secures the highest number of votes of their own community, that candidate shall be declared elected who secures the highest number of votes of the total votes polled.”

Mr. President, this amendment is intended to secure the fulfilment in a satisfactory manner of the object of the reservation of seats accorded to the minorities by Clause 1. If a person is elected to the reserved seat by a constituency it will generally be presumed that that person represents the members of that community and that he would reflect the views and the opinions of that particular community in whose favour that seat has been reserved in that constituency. Now, Sir, for that person to represent in any adequate manner that particular community, he must command the confidence of that community. We want therefore that if he does not command the confidence of the majority of the community, he must have the confidence of at least 30 per cent. or even less of the voters of that community who went to the poll. This, you will concede, Sir, is a very reasonable request. It is a fundamental and vital right of every citizen in every form of democracy that his views and opinions must be given expression to on the floor of the Legislatures of the country. How can any citizen be confident that his views will be adequately represented on the floor of the House if the person sent to the legislature does not have the confidence of at least a fair proportion of the members of the community, if not the majority of that community? You will also remember, Sir, that a provision of this nature was, adopted by general agreement at the Third Unity Conference held at Allahabad in December 1932, *i.e.*, as a result of the agreement reached between all the communities and parties in this land.

My amendment is only an adaptation of the agreement which was arrived at on that occasion. I wish to Point out, Sir, that if there is no such provision, the person who is elected to the reserved seat cannot be expected to represent the views of the community in whose, favour that seat has been reserved. It would be imposing on a community a person who has been virtually elected by another community to represent the community which has been given the benefit of reservation, of seats, but has not been elected by it. Now it is too late in the day to contend that there are no minorities in this country and that there are no special interests of minorities to be safeguarded. The very appointment of the Advisory Committee no Fundamental Rights and on

[K.T.M. Ahmed Ibrahim Sahib Bahadur]

Minorities and the Minorities Sub-Committee presupposes the existence of minorities and their special interests. The Report also has proceeded on the assumption that there are certain interests of minorities to be protected. Therefore I say this House would not now take up the position that there are no minorities and there are no special interests to be provided for. Now, the issue as to how best to give protection to these minorities has to be considered. One of chief problems of modern democracy is how best to temper the rigours of the majority in order that the minorities may be protected from such rigours.

Now, Sir, in this age the divine right of kings has given place to the divine right of the majority, as has been put by a jurist. Our aim must be how best to temper the rigours of the majority in order that the minorities may have confidence in the majority, and in the constitution framed by the majority and may work out the constitution with all sincerity and honesty of purpose. We are assembled here as citizens of the State to frame a constitution in such a manner as to assure all sections of the population of their rights and to infuse confidence in the minds of all the sections of the population that their rights will be safeguarded. This amendment does not go any further than this, that in respect of the election of all representatives who are expected to reflect the views of a particular minority or community at least a fair proportion of the voters of that particular minority or community should have voted for the said representatives. This is a very legitimate request and by passing this amendment, Sir, we are not taking away the right of the majority to finally determine the representative of the constituency. Therefore, Sir, I appeal to this House to dispose of this question, in the words of the Honourable Mover "in an atmosphere of friendliness". As the Honourable Mover rightly said "we must leave behind us the legacy of bitterness" and we must look at this question devoid of all passion. I am anxious, Sir, that this matter should be considered in an atmosphere of extreme calm. Left to myself I would have wished that this Report on the Rights of Minorities was considered at a time when this country was free from all passion and the heat of the moment has subsided and died down, but unfortunately it has been taken up now. I appeal to you, following the appeal of the Honourable Mover, to consider this question in a dispassionate manner and not to import any heat. After all we request that the members of the minority community should be afforded the necessary facilities in order that the representatives elected in their name for the purpose of speaking on their behalf may have the confidence of a fair proportion of the voters. There is nothing anti-national in it and there is nothing fundamentally wrong. On the other hand it would be granting one of the fundamental and vital rights of every citizen in any form of democracy that he should have the right to have his views represented in the Parliament of the country by a person in whom he has got confidence and the members elected by the minority will after all be in a minority and the minority will not be able to dominate over the decisions of the majority in the legislature. The only purpose, is that the views and opinions of the minorities and the other communities may be reflected on the floor of the House in a proper manner by a person in whom those communities have got confidence at least to a limited extent. This is the purpose of this amendment and I do not know how it will infringe on the rights of the majority or how it will convert the majority community into a minority in any manner.

Well, Sir, for the successful working of any constitution, there must be confidence created in all sections of the population by the constitution framed. We desire that the independence that has been achieved—the new-born independence must be independence and freedom for all sections of the population and this can be achieved only if the constitution to be framed by this House secures the freedom and independence of all sections of the people and infuses confidence in the minds of the members of all sections. My amendment is a step in that direction, and I submit this is the surest way to foster harmony, good-will, cordiality and amity between the various sections and communities. The pre-requisite for the creation of harmony and cordiality between the various sections of the population is the creation of confidence in the minds of the various sections of the population and therefore it is that I appeal to this House to remember that after all we want only that the representatives may be elected by a fair proportion of voters of the particular communities. Well, Sir, I would like to point out that the system of proportional representation by a single transferable vote is an accepted method of election in all democracies and this very House has accepted the said method in respect of certain elections to be held in pursuance of this country was free from all passion and the neat of the moment has the constitution we are framing and this amendment is only an approach towards the system of proportional representation by single transferable vote and therefore, I hope, Sir, that this House, will accept this amendment. I am glad that the same feeling was also expressed by my Honourable friend Mr. Nagappa on behalf of the Scheduled Castes. You will see that we are not actuated by any malice or ill-will against anyone, but we only desire that there should be confidence in the minds of the minorities that their views are properly represented in the legislature by persons in whom they have confidence and in whose election they have a reasonably fair voice. I commend my amendment for the acceptance of the House.

Shrimati Dakshayani Velayudan (Madras: General) Mr. President I find that for the Motion four Members have given their names and first comes the name of the Honourable Dr. B. R. Ambedkar. I am surprised to find that a Member who came in as result of a joint electorate came forward to move this amendment whereas a member who, was all the while standing for separate electorates and for the so-called percentage is not to be seen in the House today. If there was any sincerity in moving this amendment we could have found the person who headed the list and I do not know why another member took up that responsibility. There may be some reason behind the scene. The Mover of the amendment, Mr. Nagappa, said when they come to the Assemblies as a result of joint electorates they may not be coming with the votes of the community and so they are not entitled to represent the community. If Mr. Nagappa thinks that he has come here as a result of such an election, the wisest and the best thing that he ought to do would be to withdraw his candidature or his membership from this Assembly and the Provincial Assemblies (*Hear, hear*). If anybody thinks that he is unfit to speak for the community when he comes on the vote of the community or the vote of the people in general, the best way to do service to the community is to disappear from the scene and not to take part in any political activities whatsoever and I think Dr. Ambedkar was wise enough to be absent on the occasion because he knew that this is not going to be carried in the Assembly today or on any day. As the Chairman of the, Minority Committee spoke yesterday these things were passed in the

[Shrimati Dakshayani Velayudan]

committee by majority of votes and, whatever reasons that he may bring forward here, it may not be carried out. So without wasting his time, he has gone for his work as he is engaged in Cabinet work. Somebody has come forward with an excuse that if this form of electorate exists, the real representatives of the people will not be able to come. If we analyse the demand for a percentage of the votes of the community, we will come to the conclusion that it is nothing but unadulterated separate electorates (*Hear, hear*). I must ask the Honourable Members who moved the amendment whether they are giving any meaning to the votes that will be cast by the members of other communities. In practice, we have to take into account only the votes that will be cast by the community. If a candidate gets 34 per cent. and another candidate gets 35 per cent. of the votes of his community, if the first candidate gets 200 votes from the general public and the next candidate gets 100 votes from the general public, and if we take into account the percentage of votes cast by the community, certainly the second candidate should be elected. Then it comes to this that there will be no meaning to the votes cast by other communities though it amounts to double the number of votes which the second candidate gets from the general people.

Then there is another reason for my opposing this amendment. Even if the Harijans are given this percentage of votes, and this kind of electorate system, the Harijans are not in a position to withstand the attractions that they will have to face at the time of elections. So many parties can set up candidates and they can purchase the Harijans and put up any candidate they desire, and any candidate can come up in the assembly and certainly he may not represent the community though he may get percentage of votes that is desired by this system. Along as the Scheduled Castes, or the Harijans, or by whatever name they may be called, are economic slaves of other people, there is no meaning demanding either separate electorates or joint electorates or any other kind of electorates with this kind of percentage. (*Cheers*). Personally speaking, I am not in favour of any kind of reservation in any place whatsoever. (*Hear, hear*). Unfortunately, we had to accept all these things because the British Imperialism has left some marks on us and we are always feeling afraid of one another. So, we cannot do away with separate electorates. This joint electorate and reservation of seats also is a kind of separate electorates. But we have to put up with that evil because we think that it is a necessary evil. I wanted to oppose this amendment because it will be standing in our way and because when the system is put into actual working it will be standing in the way of Harijans, getting a correct ideology. It is lack of correct ideology among Harijans that has led them to bring this sort of amendment here. If they think that they can better their lot by standing apart from the other communities, they are in the wrong. They can do better by joining with the majority community and not depending on the votes of their own community. I must assure the Mover of the amendment that the Harijans are not going to gain anything if you get this sort of electorate system. So I oppose this amendment and I hope that nobody in this House will support the amendment. (*Cheers.*)

(Many Honourable Members rose to speak.)

Mr. President: I have got requests from a very large number of Members to speak on this.

The Honourable Sardar Vallabhbhai J. Patel: Sir, I should like to say a few words before the debate is carried on. Mr. Nagappa was allowed to move the amendment on condition that he will withdraw it. There is no use in carrying on the debate. He only wanted to show to his community that he has not sold himself away. If you take it seriously and give importance to this business, then it would show that there is some substance in it. Why do you want to waste the time of the House on it ?

Mr. President : Is it necessary to carry on the debate about Mr. Nagappa's amendment?

Shri L. Krishnaswami Bharathi (Madras: General): That need not be taken seriously, Sir.

Many Honourable Members: Closure. closure.

Mr. President : No closure. There is the other amendment by Mr. Ibrahim.

(Kazi Syed Karimuddin rose to speak.)

Mr. President: Do you want to speak about it? We have dropped Mr. Nagappa's amendment at any rate.

Kazi Syed Karimuddin (C. P. & Berar : Muslim) : Sir, I support the amendment of Mr. Ibrahim, and I have to say a few words. I have heard with great patience the admirable speech of Pandit Pant and Sardar Pater's spirited defence of joint electorates. My submission is that I do not agree that it is only due to the separate electorates that the present situation is created. I do not want to minimise the various factors which have led to the present situation; but on behalf of the Muslim League Party, Sir, I submit that we are equally determined to eradicate this evil, from India and we will not leave any stone unturned in offering our hand of co-operation in this matter.

Mr. Ibrahim has moved an amendment, Sir, that there should be joint electorates with reservation of seats and that a member of a particular community should secure 33 per cent of the votes of his community. We cannot forget that there are misgivings. We cannot be blind to the present situation in the country. We all desire that it should not continue any more. But there are misgivings. There is mistrust and we have to move on very carefully and very calmly. This House has already decided on the abolition of separate electorates and we have to find out a formula that would satisfy the minorities. We must have the progress of the country in view also. The formula or amendment moved by Mr. Ibrahim lays down that there should be joint electorates. A candidate from a minority community will have to go with his cap in hand to beg the votes from other communities. Communalism will be gradually killed. Then he has to be a representative of his own community. For: which purpose have you given reservation of seats? Reservation of seats is given for this purpose that he should represent a particular community.

An Honourable Member: No, Sir.

Kazi Syed Karimuddin: He should have the sentiments of his community in view, he should have the aspirations of his community before him. If a minimum number of votes from his community is not fixed and if he is not able to secure that, my submission is that it will be the position of a client engaging a pleader who will be opposed to the interests of his client. Even a man of straw or even false convert will be able to defeat a genuine or real member of a community. Therefore, my submission is that in the interests of the provision of reservation of seats, it is necessary for a particular period that we should give this minimum

[Kazi Syed Karimuddin]

number of votes to a candidate of a particular community. I do not agree, Sir, that the mere introduction of joint electorates is a magic wand to do away with all these evils. The problem of the Schedule Castes is over and above this joint electorate for centuries. There are many other considerations which have contributed to the present position. I make an earnest appeal that as you have made a generous gesture of giving reservation of seats, you should also concede that for a particular period, the Muslim minority should be allowed to have a minimum number of votes from the community which will satisfy their political aspirations.

Mr. H. J. Khandekar: *[Mr. President, Sir, I stand to oppose the amendment which has been placed before you by my friend Mr. Nagappa. This amendment stands in the name of four Members. The first name is that of Dr. Ambedkar, and you all know that from the time of the Second Round Table Conference till the Minority Sub-Committee, of the Advisory Committee assembled, he relinquished the demand for joint electorates and continued the demand for separate electorates. On the question of this demand his message to all Harijans of his country, who belonged to his party, went to the extent that they were not even Hindus that they wished to have a colony separate from the Hindus, that they were not within the fold of Hindu religion, and it was for this reason that they desired separate electorates. This thing has been going on in the country for the last fifteen years with the result that a sort of discord has been created between Caste Hindus and Harijans of Dr. Ambedkar's party, and it has gone to the extent that Harijans of Ambedkar party do not wish to converse with Hindus. But I feel happy to state that when this matter relating to joint and separate electorates came up before the Minority Sub-Committee, Dr. Ambedkar did not press the claim further but withdrew it on the ground that he had no argument in support of the principle.

For the last 15 years, I have listened with interest to the speeches of Dr. Ambedkar and read them in newspapers too, but there was no argument in them in support of the demand for separate electorates. In this way, as the demand did not stand to reason, he did not press it but withdrew it. It is a great victory for us. Having withdrawn the demand, separate electorate was thought of by which the plea for percentage could be pressed. Speaking plainly it means that he desires separate electorates in a different form. I may explain to you the effects of separate electorates in this country. It was because of Lord Morley Minto that Muslims got separate electorates and the result was that our country was divided into two. The same separate electorates are being brought before us in the form of percentage. If this is accepted either for Harijans or for our Muslim brother, then it would mean the fulfilment of what my friend Mr. Jinnah has always said "Muslims of India and Muslims of Pakistan"—which means the preparation for Pakistan within India. Much suffering has been caused already. India has been divided into two. Brother Muslims have got what they wanted and was for their benefit. Having got that, they should be good enough not to try to create Pakistan within India and should not bring an amendment of this sort in this House.

It has come to my notice that our Muslim brothers, who in this country are about 3 crores, have got and are going to get on the report of the Advisory Committee all the facilities which they should get. Even

*[English translation of Hindustani speech begins.]

then they say that they should get percentage of votes in order to enable them to elect their representatives. Once again, my friend Mr. Nagappa too, who is an ally of Dr. Ambedkar and is dancing to his tune on some expectations, says the same thing, i.e., that it is in this way alone that our true representatives will be chosen. I want to ask these brothers, what is the meaning of a true representative ? I want to cite the example of this Assembly. If my friends are not true representatives of Harijans, if Kazis are not here as true representatives of Muslims then, what will happen to this Assembly ? If these honest Muslim brothers shout "Jinnah Zindabad", we shout "Bharat-Mata-ki-jai"; or other slogans and such sort of pin pricks continue, what will be the result ? I would like to ask Mr. Nagappa and Kazi Sahib, who will suffer then, the majority or the minority ? Any declaration of this sort is most improper and therefore I do not agree with the amendment of Mr. Nagappa.

The other thing which I have just pointed out is that this percentage of votes is through the medium of separate electorates. Even after the present amendment, a few more are coming before you (in support of the percentage of votes) which is in fact a child of separate electorates. It is improper to bring amendments of this kind within this House. It is merely wasting the time of the House. I wish to state that whatever has happened as a result of percentage of votes is before us. I am very to say that the result of separate electorates and the Poona Pact has been that in Nagpur and in Bombay, there is considerable agitation today against the Hindus and there are differences between one caste and another. The Poona Pact provided for primary election and cumulative voting which indirectly meant separate electorate. Do Dr. Ambedkar and Mr. Nagappa want to aggravate or eliminate this mutual conflict ? If they want to eliminate they should withdraw the amendment. If the tension between the caste Hindus and the Harijans is aggravated the latter would be the loser not the gainer. Because of this mentality of Dr. Ambedkar and Mr. Nagappa the Harijans will permanently remain Harijans and their position would gradually deteriorate. There are sub-castes within castes. There are several sub-castes among Harijans. In fact Harijans are not a part of any community but are spread throughout India in 132 sub-castes. If percentage of 35 is passed, the 3 per cent. "Chamars" who live in Nagpur will not come within the orbit of this election. If election is fought community-wise then "Mahars" who are 80 per cent. will get 35 per cent votes. Therefore "Chamars", "Bhangis" and the other sub-castes will not be able to return their representatives in elections because they are in minority among Harijans. In that case only the 'Mahars', to which section Dr. Ambedker and I belong and which has a predominating majority in Bombay and Nagpur, will capture all the seats of the Harijans in those provinces and other Harijans will get no seat at all.

Besides, I have to request Mr. Nagappa to withdraw the amendment. the reason being that contrary to his belief the percentage of votes is not in favour of Harijans. Harijans will not benefit by it, in fact it would be very bad (for them). Today we have achieved freedom for this country. We the inhabitants of this country have become its masters. Under these circumstances, if we do not take the majority community into confidence, and if the majority community does not take us to its confidence, then the government of this country cannot go on. For preserving peace in the country I have to request Mr. Nagappa to kindly withdraw the amendment.

Friends, only a few days back we the Hindus, the Muslims, the Sikhs, the Christians, the Parsis and the Harijans all acclaimed with one voice that we are one nation. We all gave our respectful salute to this tricolour.

[Mr. H.J. Khandekar]

It would be a pity, if today we put in this amendment which seeks separate electorates.]*

Shrimati Renuka Ray (West Bengal: General): Sir, I rise to oppose this last amendment. The report of the Advisory Committee shows very clearly that its authors have done their utmost to satisfy all elements in the country. In fact, Sir, if the report has erred it has erred in the direction of over-generosity to the so-called minorities. In order to allay suspicion and distrust and to come to an agreed solution it has given every consideration to those who are swayed by communal and religious considerations even to the sacrifice of national interests. After all Sir, it is not a question of minorities and majorities on a religious basis that we should consider in a democratic secular State. We have agreed to the reservation of seats just for the time being for the next ten years to allow those who cannot think of themselves in terms of "Indians" to adjust themselves over this period. I am surprised that the Mover of this amendment should have persisted today in bringing it forward. After the stirring appeal that was made by Sardar Patel and the very cogent and comprehensive arguments put forward by Pandit Pant to show that separate electorates are not only discordant and jarring to national interests but against the interests of the very communities for which they are intended, I thought he would not have pressed this amendment.

It is a back door method of bringing in separate electorates, which the House did not accept yesterday. Sir, we have stood aside helplessly while artificially this problem of religious differences—an echo of medieval times, has been fostered and nurtured and enhanced by the method of political devices such as separate electorates in order to serve the interests of our alien rulers. Today we see as a result our country divided and provinces like my own dismembered. We see that many who have made sacrifices, in the struggle for the freedom of India cannot be citizens of India today. We have learnt indeed a bitter lesson. We have submitted to all this so that at least in the rest of India that remains with us now we may go ahead in forming a democratic secular State without bringing in religion to cloud the issue. Religion is a personal matter. Religious differences might have been exploited as a political expedient by the British but there is no room for that in the India of today, Sir. the problem, that faces us is not a problem of minorities or of majorities on a religious basis. The problem that faces us is the problem of the vast majority in the country irrespective of religion, the majority who today are surrounded by ignorance and ill-health, hunger and want. It is they who are the backward sections of the, community and who are the majority at the same time. It is their problem that we have to take up. If we want to make the Objectives Resolution that this House has passed and the Fundamental Rights that have been laid down, a living reality it is this problem that we have got to tackle. We cannot allow any subtle devices by the back door such as restricted separate electorates to sidetrack us now from the main issue. We cannot expect those who are backward to function and participate as citizens with equal rights unless we take steps to make them conscious of their rights, By all means let us do all that we can help their development through every means In our power, and make such provision in the constitution. But a separatist tendency on the basis of religion is something that I do not think we

] *English translation of Hindustani speech ends.

can tolerate any longer. We have never stood nor do 'we stand today for Hindu domination; we do not want that Hindus as such as a religious community shall override any other interests. But 'We' do want that India's interests shall be paramount, that the interests of no special community shall stand in the way whether it is a majority or a minority religious community. Sir, I hope that this House will throw out this amendment and that we shall be able to go ahead until we are able to find a solution for the real problems that confront us, so that India can take her proper place in the comity of nations; so that in accordance with the cultural heritage which is ours, enriched by the variety of the cultures, that have found a home in this country, we will be enabled to play an effective part in the harmonious development of the world as a whole.

Mr. Naziruddin Ahmad: Sir, the amendment moved by Mr. Ibrahim has raised a little tempest in a teapot. I submit that it is better to look at it from a practical point of view. I admire the splendid idealism preached by the Honourable lady from West Bengal who spoke just now. I cannot aspire to be as eloquent and as persuasive as she can claim to be. But I think that though it is a good thing to be an idealist it is a useful thing to be a realist. I do not like the prevailing situation at all; I do not like that there should be any difference between the Hindus and the Muslims. I do not believe that the better classes have any differences in the higher walks of life. But after all our community consists of men who are not idealists; there are men who have a communal outlook. We find this exemplified in the elections. In municipal and other elections where joint electorate prevail, the voting, as is well known to those who have experience, has for long been carried on on communal lines. As I said before, I do not like this and no right thinking man likes it. But the situation should be looked at, as I said, from a practical point of view and with a due sense of proportion. What is the percentage of the majority community in India ? It is something like 75 and the percentage of Muslims would be about 25. In order to appreciate the enormous difference between the two I shall refer to a famous cartoon in a very well known paper here, where the attitude of the great Hindu community towards the Muslims in this House was depicted by the famous cartoonist Shankar.

He represents the great Hindu community as an elephant in a most affectionate mood and the elephant is holding in an affectionate embrace with his trunk the Muslim community—a weakling in the shape of our leader Chaudri Khaliqzaman. That gives to my mind, from a cartoonists' point of view, of course, the sense of proportion in which the Muslim stands to the Hindus. What is after all the effect of this prayer—I do not call it a demand—put forth through this amendment ? It is this that the Hindu community who can be collectively described as the elder brother has in a generous mood conceded for the period of ten years—I should consider that period quite sufficient—that they should get a reserved representation. It seems to me that it implies that the great Hindu community are willing for this period of ten years to listen to what difficulties and complaints, apart from the justice or otherwise of these complaints of the Muslim community. The only effect of allowing certain Muslim members to come through these 30 per cent. limit would be this, that 25 per cent. Muslims would come into the Legislature. What would the weakling younger brother represent to the elder brother the elephant ? What would be the nature of his prayer ? It will be an appeal.

No danger or harm can follow from this in the period of ten years if the elder brother listens to the grievances of the younger brother. These grievances and difficulties may be unreal or exaggerated, they may be due more to fear and suspicion rather than to any real reasons, but what would be the effect, I ask in all humility, what fearful consequences would arise out of these? If there is any reason in the prayer, then the elder brother, the affectionate elephant will accept it, if there is none he will reject it. That is all that will happen. I do not think the fearful consequences that are confidently predicted would at all follow from the acceptance of this amendment. I again submit, Sir, this is just a prayer on behalf of the younger brother to the elder brother in the shape of this vast august Assembly.

But I know that the result is a foregone conclusion. This amendment and the speeches in support of it reminds me of the argument of a lawyer before a judge, with the knowledge that the judgment has already been written and awaits delivery after his argument is over. We all know the result of the voting that is going to follow. But I hope that if we lose the amendment, the younger brother does not lose the affection of the elder brother.

Mr. President: I have received a number of slips, from Members who want to speak and I also see a number of Members standing, but....

Honourable Members: Closure.

Mr. President: I too think that we have had enough discussion now and would therefore put the motion for closure. The question is:

That the question be now put.

The motion was adopted.

Mr. President: The Honourable Mover may reply now.

The Honourable Sardar Vallabhbhai J. Patel: Sir, I am sorry to see that so much time has been taken on this amendment which I thought was going to be withdrawn and on which there would not be much debate. So far as the Scheduled Castes are concerned, I do not think very much has to be said on this amendment, because I got a representation from a large majority of the Scheduled Castes representatives in this House, except one or two or three, that they were all against this amendment (*Hear, Hear*), and Mr. Nagappa knew about it. But Mr. Nagappa wanted to move his amendment to fulfil a promise or undertaking or at least to show his community that he was not purchased by the majority community! Well, he has done his job, but other people took him seriously and took a lot of time.

So far as the amendment moved by the representative of the Muslim League is concerned, I find that I was mistaken in my impression and if I had believed this, I would certainly not have agreed to any reservation at all. (*Hear, Hear*). When I agreed to the reservation on the population basis, I thought that our friends of the Muslim League will see the reasonableness of our attitude and allow themselves to accommodate themselves to the changed conditions after the separation of the country. But I now find them adopting the same methods which were adopted when the separate electorates were first introduced in this country, and in spite of ample sweetness in the language used there is a full dose of poison in the method adopted. (*Hear, Hear*). Therefore,

I regret to say that if I lose the affection of the younger brother, I am prepared to lose it because the method he wants to adopt would bring about his death. I would rather lose his affection and keep him alive. If this amendment is lost, we will lose the affection of the younger brother, but I prefer the younger brother to live so that he may see the wisdom of the attitude of the elder brother and he may still learn to have affection for the elder brother.

Now, this formula has a history behind it and those who are in the Congress will be able to remember that history. In Congress history this is known as the Mohammad Ali Formula. Since the introduction of separate electorates in this land there were two parties amongst the Muslims. One was the Nationalist Muslims or the Congress Muslims and the other the Muslim League members, or the representatives of the Muslim League. There was considerable tension on this question and at one time there was a practical majority against this joint electorate. But a stage was reached when, as was pointed out by the Mover of this amendment in Allahabad a settlement was reached. Did we stand by that settlement? No, We now have got the division of the country. In order to prevent the separation of the country this formula was evolved by the nationalist Muslims, as a sort of half-way house, until the nation becomes one; we wished to drop it afterwards. But now the separation of the country is complete and you say, let us introduce, it again and have another separation. I do not understand this method of affection. Therefore, although I would not have liked to say anything on this motion, I think it is better that we know our minds perfectly each other, so that we can understand where we stand. If the process that was adopted, which resulted in the separation of the country, is to be repeated, then I say : Those who want that kind of thing have a place in Pakistan, not here (*Applause.*) Here, we are building a nation and we are laying the foundations of One Nation, and those who choose to divide again and sow the seeds of disruption will have no place, no quarter, here, and I must say that plainly enough. (*Hear, Hear.*) Now, if you think that reservation necessarily means this clause as you have suggested, I am prepared to withdraw the reservation for your own benefit. If you agree to that, I am prepared, and I am sure no one in this House will be against the withdrawal of the reservation if that is a satisfaction to you. (*Cheers.*) You cannot have it both ways. Therefore, my friends, you must change your attitude, adapt yourself to the changed conditions. And don't pretend to say "Oh, our affection is very great for you". We have seen your affection. Why talk of it? Let us forget the affection. Let us face the realities. Ask yourself whether you really want to stand here and cooperate with us or you want again to play disruptive tactics. Therefore when I appeal to you, I appeal to you to have a change in your heart, not a change in the tongue, because that won't pay here. Therefore, I still appeal to you : "Friends, reconsider your attitude and withdraw your amendment". Why go on saying "Oh, Muslims were not heard; Muslim amendment was not carried". If that is going to pay you, you are much mistaken, and I know how it cost me to protect the Muslim minorities here under the present condition and in the present atmosphere. Therefore, I suggest that you don't forget that the days in which the agitation of the type you carried on are closed and we begin a new chapter. Therefore, I once more appeal to you to forget the past. Forget what has happened. You have got what you wanted. You have got a separate State and remember, you are the people who were responsible for it, and not those who remain in Pakistan. You led the agitation. You got it. What is it that

you want now? I don't understand. In the majority Hindu provinces you, the minorities, you led the agitation. You got the partition and now again you tell me and ask me to say for the purpose of securing the affection of the younger brother that I must agree to the same thing again, to divide the country again in the divided part. For God's sake, understand that we have also got some sense. Let us understand the thing clearly. Therefore when I say we must forget the past, I say it sincerely. There will be no injustice done to you. There will be generosity towards you, but there must be reciprocity. If it is absent, then you take it from me that no soft words can conceal what is behind your words. Therefore, I plainly once more appeal to you strongly that let us forget and let us be one nation.

To the Scheduled Caste friends, I also appeal: "Let us forget what Dr. Ambedkar or his group have done. Let us forget what you did. You have very nearly escaped partition of the country again on your lines. You have seen the result of separate electorates in Bombay, that when the greatest benefactor of your community came to Bombay to stay in bhangi quarters it was your people who tried to stone his quarters. What was it? It was again the result of this poison, and therefore I resist this only because I feel that the vast majority of the Hindu population wish you well. Without them where will you be ? Therefore, secure their confidence and forget that you are a Scheduled Caste. I do not understand how Mr. Khandekar is a Scheduled Caste man. If he and I were to go outside India, nobody will find out whether he is a Scheduled Caste man or I am a Scheduled Caste man. There is no Scheduled Caste between us. So those representatives of the Scheduled Caste must know that the Scheduled Caste has to be effaced altogether from our society, and if it is to be effaced, those who have ceased to be untouchables and sit amongst us have to forget that they are untouchables or else if they carry this inferiority complex, they will not be able to serve their community. They will only be able to serve their community by feeling now that they are with us. They are no more Scheduled Castes and therefore they must change their manners and I appeal to them also to have no breach between them and the other group of Scheduled Castes. There are groups amongst themselves, but everyone tries according to his own light. We are now to begin again. So let us forget these sections and cross-sections and let us stand as one, and together.

Mr. President: I have first to put the amendment of Mr. Nagappa.

Shri S. Nagappa: I do not press my amendment. I withdraw it.

Mr. President: Does the House give him leave to withdraw his amendment ?

Honourable Members: Yes.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President: Then there remains Ahmed Ibrahim Sahib Bahadur's amendment,—

"That on a consideration of the Report of the Advisory Committee on minorities, fundamental rights, etc. on minority rights this meeting of the, Constituent Assembly resolves that in case the elections to the Central and Provincial Legislatures are to be held on the basis of joint electorates for all communities with reservation of seats for minorities, the election should be held on the following basis:—

‘Out of the candidates who have secured at least 30 per cent. of the votes polled of their own community, the candidate who secures the highest number of votes polled on the joint electoral roll shall be declared elected. In case there is no candidate, who has secured not less than 30 per cent. of the votes polled of his own community, then out of the two candidates who secures the highest number of votes of their own community, that candidate shall be declared elected who secures the highest number of votes of the total votes polled.’”

The amendment was negatived.

Mr. President: I now put the original clause 6.

Clause 6 was adopted.

CLAUSE 7

Mr. President: We shall now take up Clause 7.

The Honourable Sardar Vallabhbhai J. Patel: Sir, I beg to move:

“7 Method of voting.—These may be plural constituencies but cumulative voting shall not be permissible.”

There is an amendment that instead of putting this motion in a negative form as it now stands, it should be put in a positive form that “there shall be distributive voting”. That amendment will be moved formally and I propose to accept it. I suggest to the Honourable Members of this House, however, that we have to finish this Report before we rise today and therefore as this Report has been thoroughly discussed and main points have been passed, I hope on the amendments, if any, there will not be long speeches and we shall not waste time. I move the clause for the acceptance of the House.

Mr. President: There are two amendments, one by Mr. Kesava Rao and another by Mr. Mallick.

(Mr. Kesava Rao and Mr. M. B. Mallick did not move their amendments.)

Shri K. Santhanam (Madras : General) : Sir, I seek your permission to move only part (2) of my amendment. I don't want to move Part (1). My amendment is:

“That the voting shall be distributive, that is, each voter will have as many votes as there are members and he should give only one vote to a candidate.”

This amendment is necessary because I want to get the maximum advantage out of the joint electorates which we have adopted. Unless each candidate has to know every section of the electorates and is not able to confine himself to a particular section, the evil spirit of separate electorate will be retained. The result of my amendment will be, if there is a Scheduled Caste candidate he will not be able to say ‘I want to accumulate only the Scheduled Caste votes’ and a Christian candidate will not be able to say ‘I want to accumulate the Christian votes only’. Everyone will have to seek every vote from every section, and therefore without any further elaboration, I propose my amendment.

Mr. President: Does any one wish to say anything?

Shri D. H. Chandrasekharaiya (Mysore State) : President, Sir, the amendment standing in my name runs as follows:

“(i) That provision be made for conducting all elections on the system of proportional representation by single transferable vote.

(ii) That if the above system is not adopted, then the system of single nontransferable vote be provided for.”

In para. 12 of the Report corresponding to para. 7 of the Appendix it has been stated that the system of cumulative voting should not be permitted in the elections to the Central and Provincial Legislatures. But as already admitted by Sardar Patelji no definite suggestion has been put forward in the report about the actual method of voting to be adopted. To put over this lacuna an amendment has been moved by Shri K. Santhanam urging the adoption of what is called the compulsory distributive voting system in all elections, under the new Constitution. Sir, before speaking upon my own amendment, I should like to say a few words regarding the method that has been suggested. This method which is also, called the Block vote permits each voter to have as many votes as there are seats to be filled but he is compelled to give only one vote to a candidate. This is a system which is in vogue in some countries of the World, but its working has brought to light several drawbacks in it and therefore the opposition of political thinkers and statesmen is steadily increasing towards it as we see from their writings. Under this system it is only a majority party that will secure full success in elections. I shall take an instance to make my point clear. Supposing there is an electorate consisting of 100 votes, then a party that commands 51 votes will sweep the polls and any other party having even 49 votes will go to the wall. This system will thus make room only for the success of one party and a legislature formed with only one party can never be said to be national in character or representing all important interests and elements in the country. Modern democracy, as we all know, is generally a representative democracy which means that our legislatures should properly and fully reflect the public opinion of the country. Therefore the method that has been proposed is open to serious objections.

With a view to avoid the defects of this system is very necessary to adopt some form of proportional representation either the system of single transferable vote or the system of single non-transferable vote. I will not go into the details of these systems but both of them are scientific and elastic and give representation to majorities and minorities exactly in proportion to their voting strengths. When I say minorities I do not mean merely communal minorities. In fact I personally feel that the sooner this communalism goes out of politics the better it is for our country. But so long as communal minorities exist they will also take advantage of the system that I am proposing. The minorities that I have more particularly in view are these based on political considerations or economic ideologies or even territorial differences. I am inclined to think that this subject of method of voting should have more appropriately come in the report of the Union Constitution Committee than in the Report on the rights of Minorities, as it is a general subject relating to the form of representation in Legislatures. Whatever may be the nature of a minority, it ought to find a place in the Legislature adequately. This system is in vogue in several countries of the World. For instance in England some members of the British Parliament are chosen from certain Universities on the principle of proportional representation. In Northern Ireland members are chosen to both the House of Legislature only on the basis of this system. In South Africa the Senatorial elections are conducted in accordance with this system. In India we are familiar with this system in connection with some elections and I am told that the members of this House were elected from Provincial Legislatures in accordance with the principle of proportional representation by single transferable vote. Therefore a system which is fair and just to all, gives

representation to all majorities and minorities in proportion to the respective voting strengths and makes the legislature thoroughly representative of all national interests is certainly worth having. The only objection to it may perhaps be that it is a little complicated system. As we are now trying big experiments in democracy, I think that no difficulty should be considered as too great for us to solve. In our country 90 per cent of the population is illiterate, nevertheless elections are being held and political institutions are being run without any serious difficulties. Similarly I feel that the system of proportional representation can get on every well notwithstanding the illiteracy of the masses.

If for any reason the system of single transferable vote is considered to be unsuitable, then the other system of non-transferable vote which is simple enough may be tried. According to it, each voter is entitled to cast one vote whatever may be the number of seats to be filled. The result is that in a constituency consisting of 500 voters, only 500 votes will be polled and no more. This method is less complicated, more simple and well suited to the circumstances of our country. It will avoid all the drawbacks and defects associated with the block vote system. I do not want to take any more time of the House, in view of the suggestion made to shorten our speeches as much as possible. Therefore, in order to make our legislatures truly democratic and representative of all important elements and interests in the country, I commend my motion to the kind acceptance of the House.

Shri Ajit Prasad Jain (United Provinces : General) : *[Sir, the purport of most of the resolutions which have been moved during the last two or three days, is that some alteration be effected in the joint election (*i.e.*, the system of joint-electoralates which is before the House at the moment for consideration).

The meaning of the present resolution is also the same. In elections by means of a single transferable vote, small groups acquire the authority to send their elected representatives. Past experience has shown that whenever the system of proportional representation by single transferable vote was adopted, even a few individuals could send their representatives. Wherever Muslims or members of Scheduled Castes or other small minorities exist, they can have the authority, under this system, to elect their own representatives, by means of their own votes exclusively. On the contrary, the system of joint election is a democratic system. Its significance is to enable the largest possible number of persons to take part in the election of a candidate so that if some candidate be a Muslim then in his election both Hindus and Muslims may be able to participate, and if he be a Hindu then also, both Hindus and Muslims may be able to take part in it. But proportional representation is spoilt by the single transferable vote because there a few Hindus and Muslims can separately elect their representatives, thereby defeating the purpose of joint election.

The second part of this amendment is to the effect that a voter should have only one vote irrespective of the number of candidates. This also means that Muslims or members of scheduled castes are entitled to elect their own representatives. Therefore, the net result of both these amendments will be that although effort is being made to remove the defects of separate elections, they will reappear in a different form and the result of that will be that the minorities *i.e.*, Scheduled Castes

*[English translation of Hindustani speech begins.

[Shri Ajit Prasad Jain]

or Muslims or other minorities, will have an opportunity to their elections by appealing to communal sentiments of their people, and thus the decision to create a (proper) atmosphere by means of joint elections, will not materialise in the near future.

Therefore, I think that this amendment is one which will again create division and disturbances in the country, one which contains the fearful possibility of spreading factional and communal sentiment. I oppose this amendment which the Honourable member has just moved because I fear that it will create obstacles in our way and in the task before us.]*

The Honourable Sardar Vallabhbhai J. Patel: Now, I do not think I need say anything. The amendment which has been moved by Mr. Santhanam I propose to accept. The other amendment that has been moved does not suit our conditions, because we are now going to make an experiment of having elections by adult franchise which will bring on the rolls millions of ignorant voters. That being the case, the complicated system that has been suggested will be absolutely unsuited to us. Therefore I do not propose to accept it. I oppose it and move the adoption of the paragraph.

Mr. President: The amendment of Mr. Santhanam that has been accepted is this:

“That the voting shall be distributive, that is, each voter will have as many votes as there are members and he should give only one vote to a candidates.”

I take it, it is in substitution of....

Shri K. Santhanam: Of that latter part regarding cumulative voting.

Mr. President: The amended paragraph 7 is now to be voted upon.

The question is:

“There may be plural member constituencies, but the voting shall be distributive, that is, each voter will have as many votes as there are members and he should give only one vote to a candidate.”

The motion was adopted.

CLAUSE 8

The Honourable Sardar Vallabhbhai J. Patel: This item refers to representation in the Cabinets. I move—

“8. *No reservation for minorities.*—(a) There shall be no statutory reservation of seats for the minorities in Cabinets but a convention on the lines of paragraph VII of the Instrument of Instruction issued to Governors under the Government of India Act, 1935 shall be provided in a Schedule to the Constitution.

This was accepted unanimously in the Advisory Committee by all the minorities and the representatives of the majority communities. I hope the House will accept it: This is exactly a copy of the present provision in the Government of India Act, 1935.

(Messrs. Tajamul Husain, S. Nagappa and V. I. Muniswami Pillai did not move their amendments.

]* English translation of Hindustani speech ends.

Shri D. H. Chandrasekharaiya: Mr. President, Sir, the amendment which I wish to move runs as follows:—

“That para. VII of the Instrument of Instructions issued to the Governors of Provinces under the Government of India Act, 1935, and proposed to be followed now be amended so as to provide for representatives of acceding States being selected to the Council of Ministers among others.”

In connection with the communal minorities it is proposed to follow the convention expressed in para 7 of the Instrument of Instructions. As I said in another connection I have in view not merely the minorities of a communal or religious character but also based on other considerations.

Mr. K. M. Munshi: I rise to a point of order. This is a Minority Committee's report and we are only dealing with minorities and not States.

The Honourable Sardar Vallabhbhai J. Patel: The States are in a majority. There are 500 States and we are only one State!

Shri D. H. Chandrasekharaiya: Regarding the point of order may I say a word ? The report of the committee on minorities does not state what kinds of minorities are dealt with under it. It may refer to any kind of minority.

The Honourable Sardar Vallabhbhai J. Patel: You are in a majority.

Mr. President: Really you cannot bring the States as a minority. Minority ordinarily refers to communal minority or cultural minority or racial minority.

Shri D. H. Chandrasekharaiya: If this report refers only to communal minorities, then I have nothing more to say.

Mr. President: The whole thing is in reference to minorities and this you will find in the Schedule. Apart from the communal minorities referred to in the report, there is no question of other minorities.

Maulana Hasrat Mohani: You are thinking of your population ratio. This means that we are thinking in terms of communities and nations. Can't you refer to any political party ? Therefore, I raise the objection that the whole of this Minority Report is based on a very fundamentally wrong principle. It must refer to political parties and not to parties on the basis of religion. The whole thing is absurd. You are wasting your time and energy in passing all these amendments. I will raise this objection when you put this final report to the House. Sir, I say, the whole thing is absurd and is a huge humbug.

The Honourable Sardar Vallabhbhai J. Patel: There is no amendment to this clause and I have not followed Mr. Hasrat Mohani. Therefore I do not propose to reply.

Mr. M. S. Aney (Deccan States) : I would request you, Sir, to call upon the Honourable Member to withdraw the word 'humbug'. It is an insult to this House. It is quite unparliamentary.

Mr. President: Did you use the words 'huge humbug'?

Maulana Hasrat Mohani: Yes, I said it is a huge humbug.

Mr. President : You withdraw that. I will now put clause 8 to vote.

Clause 8 was adopted.

CLAUSE 9

The Honourable Sardar Vallabhbhai J. Patel:

“9. Due share to all minorities guaranteed—In the all-India and Provincial Services, the claims of all the minorities shall be kept in view in making appointments to these services consistently with the consideration of efficiency of administration.”

This clause is framed with a view to see that the minorities are properly represented in the Services but it will also see that the efficiency of the administration is not affected. Keeping that point in view the State will also see that the minorities have due representation. I move this proposition for the acceptance of the House.

(Mr. Tajamul Husain did not move his amendment.)

Shri Mahavir Tyagi (United Provinces: General): Sir, my amendment is very innocent and innocuous. I only beg to request the House to drop the word “guaranteed” in the beginning of the sentence. It would assure guarantee to all minorities.

Mr. N. Gopalaswami Ayyangar (Madras: General) : I rise to a point of order, Sir. This amendment relates only to the marginal note. We do not usually propose amendments to marginal notes.

The Honourable Sardar Vallabhbhai J. Patel: This amendment has nothing to do with the proposition.

Shri Mahavir Tyagi: The word is objectionable because in paragraph 14 of the Report it is said “a proposal was made to us that there should be a constitutional guarantee of representation in the public services of the minority communities in proportion to their population. We are not aware of any other constitution in which such a guarantee exists”. The word ‘guaranteed’ was objected to there and now it has somehow or other crept in here. It was better if we had removed this word from even the heading of this section.

Mr. President: It may be left out from the heading which will read there—“Due share to all minorities.”—That will be quite enough.

Shri Mahavir Tyagi: I will be satisfied if the word ‘guaranteed’ does not exist there.

The Honourable Sardar Vallabhbhai J. Patel: It does not exist for me.

Shri Mahavir Tyagi: I hope it will not exist for others too. I would rather not press my amendment.

(Messrs. P. Kakkan and Upendranath Burman did not move their amendments.)

Shri Chandrika Ram (Bihar: General) : I want to say a few words. I do not want to move, but while withdrawing the amendment that stands in my name, I wish to say a few words.

Mr. President: The question of withdrawing does not arise because your amendment has not been moved, but if you wish to say anything I do not mind, but be short.

Shri Chandrika Ram (Bihar: General): *[Sir, in the beginning when this matter was decided, there was a good deal of discussion in the Advisory Committee. We felt that we should be given reservation in provincial services. After discussing it amongst ourselves, some of our Honourable Members suggested that we might discuss it with the Sardar, in view of the note underneath the main item. Therefore we thought it proper that there should be some statutory provision in the provincial services. We do not require (any such provision) in the central, because in the central services our position is satisfactory even today. But so far as provinces are concerned our claims have been ignored. For example, we know that in the U.P. we number more than 25 per cent. but from news-papers and other reports we gather that the seats reserved for us are only 10 per cent. In the provincial services, we have been ignored, and we desire an assistance from Sardar Sahib, that just as he is advocating for the centre, similarly in the provinces as well, services be given on population basis, because spending money on education does not mean that we should be denied our due share in services. This is a very important matter. I do not insist on moving this amendment. But I desire an assurance from the Sardar who is the mover of this clause that there will be full protection and that what is contained in this clause will find a place somewhere in the constitution.

With these few words, I withdraw this amendment.]*

Mr. President: There is no amendment to this. There is only the question put by Mr. Chandrika Ram.

The Honourable Sardar Vallabhbhai J. Patel: Mr. Chandrika Ram only wants some sort of assurance. I can only give the assurance that if this Minorities Committee Report is passed, everything will be all right for the minorities.

Mr. President: I put clause 9 to vote.

Clause 9 was adopted.

CLAUSE 10

Mr. President: Now, we go to clause 10.

Honourable Sardar Vallabhbhai J. Patel: In this clause you will see that the Advisory Committee appointed a Sub-Committee for the consideration of certain concessions which were enjoyed by the Anglo-Indian community. The Committee, the members of which are mentioned here, made a unanimous† Report and I wish to draw your attention to the report of that Committee, and I shall move the recommendations of that Committee as the motion. You will see paragraph 2 has an introductory part giving the historical background of these concessions, and clause (1) is the real motion. The motion begins from clause (i)—

“(i) The present basis of recruitment of Anglo-Indians in the Railways, the posts and Telegraphs and the Customs, Departments shall continue unchanged for a period of two years after the coming into operation of the Federal constitution. After that at intervals of every two years, the reserved vacancies shall be reduced each time by 10 per cent. This shall not however bar the recruitment of Anglo-Indians in the categories over and above the prescribed quota of reserved appointments, if they are able to secure them on individual merit in open competition with other communities. It shall also in no way prejudice their recruitment on merit

*[] English translation of Hindustani speech.

† Appendix.

[The Honourable Sardar Vallabhbhai J. Patel]

to posts in these departments, or any other in which they have not been given a reserved quota.

(ii) After a period of ten years from the date of the coming into operation of the Federal constitution all such reservations shall cease.

(iii) In these services there shall be no reservation for any community after the lapse of ten years."

This is the first part of the motion. The other part refers to educational facilities. I shall move this first. I want to inform the House that this is a sort of an agreed proposition between the members of the Advisory Committee and the Anglo-Indian community. It has been unanimously accepted and I hope this agreement will be given effect to by this House.

Mr. President: Does any one wish to say anything about it ?

(No Member rose to speak.)

Mr. President: I shall put this to vote.

The motion was adopted.

The Honourable Sardar Vallabhbhai J. Patel: I move:

"Special educational facilities for Anglo-Indians.—There are at present about 500 Anglo-Indian Schools in India. The total Government grant to these schools is about Rs. 45 lakhs being approximately 24 per cent. of the expenditure incurred by the school. We feel that a sudden reduction in the grant will seriously dislocate the economy of these schools; and that it would only be fair to bring them gradually into line with other similar educational institutions after giving them sufficient time and opportunity to adjust themselves to the altered conditions now prevailing in the country. We also feel that in this way these institutions might become a valuable educational asset which would cater to the growing educational needs of the whole nation and not only to those of the Anglo-Indian community. We accordingly recommend that:

- (i) The present grants to Anglo-Indian education made by the Central and Provincial Governments should be continued unchanged for three years after the coming into operation of the Federal constitution.
- (ii) After the expiry of the first three years, the grants may be reduced by 10 per cent. and by a further 10 per cent. after the 6th year, and again by a further 10 per cent. after the ninth year. At the end of the period of 10 years, special concessions to Anglo-Indian schools shall cease.
- (iii) During this 10 years period, 40 per cent. of vacancies in all such State aided Anglo-Indian schools shall be made available to members of other communities.

The term 'Anglo-Indian' used in this Report has the meaning given to it in the Government of India Act, 1935."

This also is an agreed proposition accepted unanimously by the Advisory Committee and the Anglo-Indian representatives in the Advisory Committee. Therefore, I hope the House will give effect to this agreement.

Mr. President: Does anyone wish to say anything about this?

(No member rose to speak.)

Mr. President: Then, I shall put this to vote.

The motion was adopted.

CLAUSE 11

Mr. President: Clause 11.

The Honourable Sardar Vallabhbhai J. Patel: Clause 11.

“An officer shall be appointed by the President at the Centre and by the Governors in the Provinces to report to the Union and Provincial Legislatures respectively about the working of the safeguards provided for the minorities.”

This is only an administrative arrangement and I hope the House will accept this.

Mr. President: There are some amendments to this.

(Messrs. Mahavir Tyagi and Tajamul Husain did not move their amendments.)

Mr. President: There is no other amendment. Does anyone want to say anything about this?

(No member rose to speak.)

Mr. President: Then I shall put it to vote.

Clause 11 was adopted.

CLAUSE 12

Mr. President: We go to clause 12.

The Honourable Sardar Vallabhbhai J. Patel:

“12. Provision shall also be made for the setting up of a Statutory Commission to investigate into the conditions of socially and educationally backward classes, to study the difficulties under which they labour and to recommend to the Union or the Unit Government, as the case may be, the steps that may be taken to eliminate the difficulties and the financial grants that should be given and the conditions that should be prescribed, for such grants.”

This is also an administrative provision for the benefit of the oppressed and the backward classes. I hope the House will accept it.

Mr. President: There are some amendments to this.

(Messrs. Tajamul Husain, P. Kakkan, H. V. Pataskar and V. I. Muniswami Pillai did not move their amendments.)

Mr. President: There are no other amendments. I put clause 12 to vote.

Clause 12 was adopted.

The Honourable Sardar Vallabhbhai J. Patel: Sir, now all the items are over and the Report as amended by the amendments that have been passed and the resolutions that have been accepted, may be adopted.

Maulana Hasrat Mohani : Sir, I should like to have an opportunity to express my views on the whole report.

Mr. President: Now, we have considered each clause of the Appendix and the report of course will be treated as changed to the extent that it is changed by the resolution of the House.

Now the proposition is that the report be accepted. Is it necessary to put it?

Mr. K. M. Munshi: Sir, this is a report by the Advisory Committee to the Constituent Assembly, and not a draft report to be adopted by the Constituent Assembly itself. Therefore I submit this report cannot be amended so that something may be put into the mouth of the Advisory

[Mr. K.M. Munshi]

Committee. What has been done technically is that the report has been taken into consideration. The House, having decided to take the report into consideration, the decisions embodied in the report and which find a place in the Appendix, were considered. Those decisions were amended by the House. Therefore I submit, Sir, no decision need be taken on the report itself. It is a report of the Advisory Committee, and should remain as such. There have been certain amendments suggested to the report, but I submit they are out of place because the report can only be adopted by the Constituent Assembly if it is going to the world or going to a third party as the report of the Constituent Assembly. Therefore I submit, Sir, the decisions having been duly amended by the House, nothing need be done with regard to the report. That is my submission.

Pandit Lakshmi Kanta Maitra: What is there to show that the House has considered the report?

Mr. K. M. Munshi: Mr. Maitra says, "What is there to show that the House has considered the report?" A resolution was formally passed that the House do consider the report. Then it took the Appendix. The Appendix contained the operative decisions which find a place in the report. These have been either changed or accepted: but we cannot change the wordings of the Advisory Committee formulated in the report for the purpose of placing before the House. It has been placed here and there ended the matter.

Pandit Lakshmi Kanta Maitra: There should be something on record to say that the House has accepted the report with certain amendments, etc.

Mr. K. M. Munshi: The decisions have been accepted in part, have been amended in part, and the report has been before the House. My point of order is that there cannot be new paragraphs added to the report or anything subtracted from it because it is a report to the House, and decisions having been properly accepted or modified by this House, the report stands as it is.

This, Sir, is an important point of order. I want a ruling because in the past we have been talking that the report is to be either adopted or altered or some paragraphs added to it. It is a very erroneous procedure because you cannot alter the report of a Committee. This is not a sort of Appeal Court. This is only a report placed before the House for consideration.

Maulana Hasrat Mohani: I do not want either to add anything or subtract anything from the report itself. What I want to say is that whenever I stand up to make any observation, you, Sir, say that this is not the occasion. I say that this whole report should be put to the vote of the House, when I have a right to say what I want to say, while I oppose the whole thing.

Mr. President: Order, order, I am afraid you have missed that opportunity. When the proposition was moved that the report be taken into consideration, that was the right time when you could have expressed yourself. Probably you were not here.

Mr. R. K. Sidhwa (C. P. & Berar: General) : The point of order is that we have taken the vote of the House for the consideration of the report, and then clause by clause we discussed amendments, and it is always customary that after the clauses have been amended, the report which

was under consideration having been completed, should be put to the House as an amended report for acceptance. That is the usual procedure, Sir, and now it should be put that the report as amended clause by clause should be adopted. That is the proper parliamentary procedure.

Apart from this, there are resolutions given notice of in regard to draft paragraphs of the report. Those resolutions stand on a separate footing, though they may be taken up or withdrawn or the whole report may be accepted.

Mr. President: What is the particular item you have in mind at the present moment ?

Maulana Hasrat Mohani: I want to refer to the portion relating to the reservation of seats on communal lines, I say that the whole system is wrong. I want to refer to nothing else except that which refers to the reservation of seats and communal representation on communal lines. Will you allow me only a few minutes?

Mr. President: As I said earlier, you have missed the opportunity.

Dr. S. Radhakrishnan (United Provinces : General) : It is quite true that we are not accepting the report which has been sent to us by the Advisory Committee. We have amended certain of the clauses in the schedule and all those amended clauses represent our decisions. In stating the decisions which we have made, we might add one or two sentences by way of preamble "with a view to develop a homogeneous, secular, democratic State, the devices hitherto employed to keep minorities as separate entities within the State be dropped and loyalty to a single national State developed. While this should be our recognized aim, we do not wish to ignore altogether our recent past, so for a period of ten years the following recommendations are intended to secure adequate representation for the minorities. Before we put down the decisions, let us have some introductory sentences and make it clear that it is not our desire in this House to, have these minorities perpetuated. We must put an end to the disruptive elements in the State. What is our ideal ? It is our ideal to develop a homogeneous democratic State—that is why we have provided for fundamental rights, we allow no discrimination in public employment, we say, it is a secular State. If you make it an Islamic, Hindu or Christian State, it would cause apprehension to the followers of other creeds. So we must declare our objective—that it is our desire to set up here a homogeneous, democratic, secular State, and those devices which were hitherto employed to keep the different sections of society apart have to be scrapped, if we now provide for certain compromise measures, it is simply because we wish to reckon with the past. We have to effect a compromise between the ideal we have in view and the actual conditions which have come down to us. These concessions will operate only for a period of ten years.

My suggestion does not touch the specific recommendations we have made. It merely states by two sentences the central aims we have in view. Every State, Mr. President, works towards a particular kind of objective. Whether it is the Soviet State or the Nazi State or the American State. What is our objective ? Do we want to keep these minorities over all India as separate entities in the State ? Have we not suffered enough? Are not the tragic happenings of the Punjab directly traceable to the development of disruptive tendencies and deliberate indoctrination? These are not the acts of God but the acts of man. You will find

[Dr. S. Radhakrishnan]

that in the I.N.A. or in the Indian Army where we wished to develop loyalty to a single State we succeeded; where we wished to disrupt a State we have also succeeded. It is therefore time for us to put our foot down on all disruptive tendencies and take care to work for other aims and say that it is not our desire to maintain these minorities as minorities. The measures of compromise are transitional, and will be terminated at the end of the tenth year. So I move formally with the permission of the House that as a preliminary to the items in the schedule we insert the sentences I have mentioned.

Mr. S. M. Rizwan Allah (United Provinces : Muslim) : Sir, I think the first point raised by Mr. Munshi is not in order. Usually the procedure is that a report coming from any committee is considered by this House and then the House adopts it in the amended form as its own report, and then it goes to the drafting committee as such. Therefore the contention of Mr. Munshi that there is no need for adopting the report is *ultra vires* and does not hold good. In the second place what Prof. Radhakrishnan said is also out of order. He wants to lay down a new objective by means of introducing his resolution but that should have been done at the time the 'objectives' resolution was under consideration. It is a new matter which he wants to introduce and so that is also out of order.

Mr. Shankar Dattatraya Deo (Bombay : General) : Sir, we do not know what is exactly before us for consideration.

Mr. President: There are two points that have come up for consideration. The first was raised by Mr. Munshi that now that we have adopted the items in the Appendix it is not necessary for us to say anything about the report itself and it is not open to the House to put something in the mouth of the members of that committee which is not in their report. That is the point of order raised that we should not say anything about the report itself because we cannot say anything about it. And what our views are have also been expressed in the course of the decisions that we have arrived at.

Mr. Shankar Dattatraya Deo: Have you given your ruling on that?

Mr. President: I am explaining the position.

Shri K. Santhanam: Sir, I submit that only those things should be recorded which have to go into the draft and so I support Mr. Munshi's point of view. As for Dr. Radhakrishnan's point it is surely a good resolution but I do not see how it can go into the drafting at all. As a general exhortation it is all right but I do not think it will have any place in the Bill when it comes up. I think it is rather irrelevant.

Shri R. V. Dhulekar (United Provinces : General): Sir, the whole report is now before us and I submit that at this stage it is quite in order for Acharya Radhakrishnan to move that the object of this whole report is to do away with reservations of all kinds and also to do away with all disruptive forces within ten years so that after ten years we may become one homogeneous nation. So I submit that this is the proper place to bring in Acharya Radhakrishnan's suggestion and the point of order is not at all justified because there is no other place where it can come in. So I support this amendment.

Mr. President: I think we have had enough discussion on the point of order and I may now be permitted to give my ruling. I am inclined to

agree with the view that so far as this House is concerned it is only giving instructions at the present moment to the drafting committee to introduce certain clauses on certain items, and it is for the drafting committee now to take those instructions which are contained in the Appendix which we have just adopted. It is therefore not necessary to say anything more at this stage and it will be for the drafting committee to include what is contained in the Appendix as decisions of this House.

The Honourable Sardar Vallabhbhai J. Patel: Sir, for the information of the House I may mention that so far as the Advisory Committee's work is concerned, the things left over are, first, the part referring to the East Punjab and West Bengal and the other is the Tribal and Excluded Area Committee report which has now been received by the Advisory Committee, but it will take time for its consideration. The third thing is that the last time when we met in the Constituent Assembly we accepted certain fundamental rights and the remaining part of that report has still to be submitted. These proposals will be considered and the final report of the Committee will come before the House when the House meets next. For the present the Advisory Committee's report has been finished. I thank the House for the cooperation it has given and for finishing the work in the scheduled time.

Mr. President: What about the fundamental rights? Shall we take it up now ?

The Honourable Sardar Vallabhbhai J. Patel: If the House chooses to take it up I have no objection.

Mr. President: As there is no time now we will take up our normal business tomorrow at 10 o'clock; but I wish to state that this afternoon we are meeting for a short time and for a special purpose, namely, the unveiling of the portrait of Mahatma Gandhi which has been presented to this House. I therefore propose that we should meet at 3 o'clock for that purpose.

The Assembly then adjourned for lunch till three of the Clock.

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

PRESENTATION AND UNVEILING OF THE PORTRAIT OF MAHATMA GANDHI

Mr. President: Mr. Pattani.

Mr. A. P. Pattani (Western India States) : It is my happy privilege to place the following motion before the House—

“Resolved that the Constituent Assembly of India do accept the portrait of Mahatma Gandhi by Sir Oswald Birley, bequeathed to the nation by Sir Prabha ‘Shankar Pattani.’”

It is not possible to express in words the happiness I feel today, standing in this Constituent Assembly of my country, to discharge a trust and fulfil the wishes of my late father.

The portrait that is to be unveiled presently, was painted by the great portrait painter, Sir Oswald Birley, in England during the Second Round Table Conference, and my father purchased it. I may inform the House

[Mr. A. P. Pattani]

that Sir Oswald had painted that portrait for himself and he agreed to part with it because my father wanted it and it was for India. When it arrived in India, however, it was put away carefully in its original packing. We were not allowed to see it and neither the family nor friends in England could obtain from him information as to what he intended to do with it. But some time after the Act of 1935 was passed, he told me very privately that he intended to present it to the nation when the new Government under that Act was inaugurated. Time passed, and there was no hope of that Act, coming into operation. My father, passed away in February 1938, almost within ten minutes of the time when he had planned to fly from Bhavnagar, on the 16th February, to Haripura to meet Mahatmaji. That programme and that meeting were subsequently cancelled by other circumstances. But before his death he had told me two or three times to bear in mind this portrait and his wishes regarding the same.

As I submitted, Sir, the Act of 1935 did not materialise. But when the new Government was to be established under the Act of 1947, I spoke of the message of my father—which I shall mention presently—and of the portrait, to our Prime Minister Pandit Jawaharlal Nehru. That, in brief, Sir, is the history of this occasion.

I would like to take this opportunity to say a few words about Mahatmaji. I do so with reverence and great diffidence, for I am conscious that anything I say about Mahatmaji would be like attempting to measure the mountain of Kailas with a foot-rule, or as it is said in our *Shastras* trying to, describe the beauty and grandeur of the Himalayas in pen and ink. And yet I myself and some other Honourable Members of this House may be permitted to take a little pride that we belong to Kathiawar, that land of Sri Krishna, Sudama, Narsi Mehta, Dayananda Saraswati and Mahatma Gandhi. If we take pride in this fact, we should also try and follow their examples, especially the example of Mahatmaji, whom we have lived with and seen for he has been, and is, a friend of the Princes and the people. He belongs himself really to no community. He has no country. He has no home. The world is his home, and mankind the community to which he belongs. Seeking truth and serving God, he cut across all distinctions and loved all who were honest, upright, and God fearing, and it was this high plane of the spirit that attracted my father and made him a humble follower of the Mahatma. It was Bapu himself who told me that their “sambandh”—the English language has no word like ‘samband’—began when my father first wrote to him when he was in South Africa. This was, I believe, in the last century.

The great fact of modern life, and in fact of world history, is that the Mahatma discovered at the root of all trouble both in India and in England was the influence of foreign rule in this country. Having made this discovery, he set himself to solve it; and by leading an unarmed revolt, he brought India to freedom. It is for us all to make a success of this achievement, so that the fruit that he has given us may nourish everybody and lead us to a better life.

In conclusion, it was my father’s wish that the picture should be delivered to the nation in his own words; these were:—

“It is a portrait of the saint who laboured more than anyone else for peace and who preached non-violence which is ultimately the only right way in human affairs.” (*Applause*).

That, Sir, is the message I am to deliver, and there (pointed to where the portrait was installed) is the portrait. I have done my duty. I request that the portrait be unveiled.

(The President then unveiled the portrait.)

Mr. President: Honourable Members, I am sure I am expressing the sense of gratefulness of all the members of this House to Mr. Pattani for the present which he has made to this House. (*Applause*). It was a happy inspiration of the late Sir Prabha Shankar Pattani to have preserved this beautiful portrait for so many years to be handed over to the nation on the auspicious occasion when India has got her freedom, and it is a happy moment for all of us that we have lived to see this portrait unveiled in this House on this occasion. It would be presumptuous on my part particularly because I happen to be one of those fortunate many who have had the fortune and privilege to serve under Mahatma Gandhi for so many years (*Cheers*), to say anything about the work which he has accomplished. He came to us at a time when the country was looking for something which would help it out of difficulty. We had experienced a great sense of frustration which comes after attempts made which have failed. The country had made many attempts to become free it was looking for something that would give it the necessary impetus and, above all, the kind of weapon which will enable it to win its freedom. Mahatma Gandhi aroused that spirit and gave that weapon in the hands of the people, and although we may not have come up to his expectations, we have at least succeeded under his guidance and his inspiration in winning the freedom for which we have all been longing for so many years.

It is not only in the field of politics, but there is hardly any field in life of a human being which has not been in some way or other touched and brightened by Mahatma Gandhi. (*Applause*). Whether we go to a village slum, to a city slum or whether we go to a big palace of a rich millionaire or a big Maharaja, there is hardly any place where his influence has not been felt, and felt very well indeed. That influence has permeated our life to an extent which probably we do not ourselves quite appreciate and fully realise, and the greatness of the Mahatma lies in this, that as time passes, as ages pass, the influence which he has exercised not only on our lives but on the current of world history will be more and more appreciated and more and more realised. Such men are not often or easily born. They come once in a way in the History of the World to turn its course, to change its current and here is Mahatma Gandhi whom it is our privilege and our good fortune to serve under today, who has turned the current of history of mankind and who has in his own life-time seen how the work which he has started has borne fruit and is bearing more and more precious fruit everyday. The miracles which he has wrought in our life are so many that it would be impossible for any of us to recount them all in a short speech. We all know how he has made heroes out of clay, how he has moulded men of ordinary calibre into men of great capacity of great culture and of great achievements. He has not only done that he has created in the Nation as a whole apart from mere individuals, a longing for freedom and also, in a way by his work fulfilled that longing. So it is that we stand here today to pay homage to him. This picture which has been presented to us will be in

[Mr. President]

this House reminding every member who sits on these benches of the great part which he had played in our history and the World's history at a most critical and momentous time. It will remind members of the great duty which they owe to this country. It will remind all of us of the great heritage which he represents and which we all of us have got from our forefathers and above I all, it will remind us how the freedom that we have won has to be utilized for the good of all. Let us hope that this picture will serve that purpose and we shall prove worthy of the great Mahatma who had led us to this goal. (*Loud Cheers.*)

On behalf of the House I formally accept this portrait. I hope you will all agree to this.

Shri H. V. Kamath (C. P. & Berar: General) : Mr. President, may I Sir, in all humility, venture to suggest that it will be eminently in the fitness of things if alongside this magnificent portrait of Mahatma Gandhi, the father of Indian struggle, the Hall of this Assembly were adorned with a portrait of Lokamanya Bal Gangadhar Tilak, the father of Indian unrest and also that of Netaji Subhas Chandra Bose, the father of Indian Revolution. That, Sir, will be a thoroughly adequate and pictorially symbolic representation of the three distinct, the three well-marked stages of our struggle for political emancipation. I have no doubt, Sir, that this Assembly will accept such portraits with joy and gratitude. Will you, Sir, be good enough to permit the presentation of such portraits on subsequent occasions?

Mr. President: The House Will now adjourn to 10 o'clock to-morrow.

The Assembly then adjourned till Friday, the 29th August 1947, at 10 A.M.

APPENDIX

No. CA/98/Cons/47.

CONSTITUENT ASSEMBLY OF INDIA

From

Shri G. V. MAVALANKAR,
Chairman,

Committee on the Functions of the Constituent
Assembly under the Indian Independence Act.

TO

The PRESIDENT,
Constituent Assembly of India.

SIR,

On behalf of the members of the Committee appointed by you on the 21st of August 1947 to consider and report on certain matters connected with the future working of the Constituent Assembly, I beg to submit this report.

1. *Preliminary:*

2. At our first meeting on Friday the 22nd, I was elected Chairman. The Committee met also on the 23rd and the 25th.

3. Our terms of reference are:

- (1) What are the precise functions of the Constituent Assembly under the Indian Independence Act?
- (2) Is it possible to distinguish between the business of the Constituent Assembly as a Constitution-making body and its other business and can the Constituent Assembly set apart certain days or periods solely for the former?
- (3) Should the members representing the Indian States in the Constituent Assembly be given the right to take part in proceedings which do not relate to Constitution-making or to the subjects in respect of which they have acceded?
- (4) What new Rules or Standing Orders, if any, and what amendments, if any, in the existing Rules or Standing Orders should be made by the Constituent Assembly or its President?

We proceed to state our views on these terms in the order mentioned.

II. *First term of reference:*

4. The business to be transacted by the Constituent Assembly falls

under two categories:

- (a) To continue and complete the work of Constitution-making which commenced on the 9th December, 1946, and
- (b) To function as the Dominion Legislature until a Legislature under the new Constitution comes into being.

III. *Second term of reference:*

5. It is not only possible but necessary for the proper functioning of the Constituent Assembly in its two capacities that its business as a Constitution-making body should be clearly distinguished from its normal business as the Dominion Legislature. We consider that for the purpose of avoiding complications and confusion, different days, or separate sittings on the same day, should be set apart for the two kinds of business.

IV. *Third term of reference:*

6. We agree that, as implied in the wording of this term of reference, the members of the Assembly representing the Indian States are entitled to take part in the proceedings of the Assembly on all days set apart for the business of Constitution-making. They further have the right on days set apart for the functioning of the Assembly as the Dominion Legislature to participate in business relating to subjects in respect of which the States have acceded to the Dominion. Though it is competent for the Constituent Assembly to deny or limit their participation in business relating to subjects in respect of which the States have not acceded, we would recommend that no ban or restriction be placed by rule on their participation in such business also.

V. *Fourth term of reference:*

7. So far as Constitution-making is concerned, the existing Rules of Procedure and Standing Orders made by the Constituent Assembly and its President are adequate and only such amendments need be made therein from time to time as may be considered necessary in the light of experience. As regards the functioning of the Constituent Assembly as the Dominion Legislature, under section 8 (2) of the Indian Independence Act, the relevant provisions of the Government of India Act as adapted and the Rules and Standing Orders of the Indian Legislative Assembly have generally to be followed. It will however, be necessary to make modifications and adaptations in these Rules and Standing Orders in respect of matters common to both the classes of business, to be transacted by the Assembly. We have not been able, within the time at our disposal, to attempt a detailed examination of these Rules and Standing Orders with a view to make suggestions as regards the modifications, adaptations and additions that may be necessary. We would suggest that necessary modifications, adaptations and additions be made under the orders of the President.

8. We desire to refer to three matters of importance which, besides being relevant to the main issue remitted to us for consideration, have a bearing on the question of the need for the making by the Constituent Assembly or its President of new Rules or Standing Orders and the amendment of existing Rules or Standing Orders.

9. The Provisions for the election of a Speaker in Section 22 of the Government of India Act 1935 have been omitted. This read together

with the other modifications carried out in that Act show that the President of the Constituent Assembly is the person to preside over it when functioning as the Dominion Legislature also, unless other provision is made in the Rules of Procedure of the Constituent Assembly itself for the election of an officer for the purpose of presiding over the Assembly when transacting ordinary legislative business. It has to be remembered that though transacting two kinds of business, the Assembly is one and can have only one President who is the supreme head of it both on its deliberative side and on its administrative side. We would, however, point out that it would be constitutionally inappropriate for the person presiding over the Constituent Assembly when functioning as the Dominion Legislature being also a Minister of the Dominion Government. It is obviously desirable that steps should be taken for avoiding this anomaly. We would suggest that for this purpose the following alternatives might be considered:

- (a) The President of the Constituent Assembly should be a person whose whole time is given to the work of the Assembly both when engaged on Constitution-making and when transacting business of the Dominion Legislature.
- (b) If the President of the Constituent Assembly is a Minister, provision may be made in the Rules of the Constituent Assembly for the election of an officer to preside over the deliberations of the Assembly when functioning as the Dominion Legislature.

10. Under the Government of India Act as adapted, the power of summoning and proroguing the Dominion Legislature vests in the Governor-General. We consider that, consistently with the powers which of right belong to the Constituent Assembly and with the Rules already made by it and with a view to secure proper co-ordination of the work of the Assembly in its two spheres, this power of summoning that Assembly for functioning as the Dominion Legislature and proroguing it should also vest only in the President. A new Rule to this effect may be added to the Constituent Assembly Rules of Procedure and a further adaptation of the relevant section of the Government of India Act may be made to bring it into conformity with this new Rule.

11. At present five members of the Dominion Government have no seats in the Constituent Assembly. These Ministers have the right to participate in the business of the Constituent Assembly when functioning as the Dominion Legislature, though they will not have the right to vote. They will, however, not have the right even to participate in the work of the Constituent Assembly when it transacts business connected with Constitution-making. We, however, recommend that such Ministers may by a suitable addition to the Rules of the Constituent Assembly be given the right to attend and participate in its work of Constitution-making, though until they become members of the Constituent Assembly they will not have any right to vote.

Yours sincerely,

G. V. MAVALANKAR,
Chairman.

NEW DELHI,
DATED THE 25TH AUGUST 1947.