

Thursday, 17th November, 1949

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CONSTITUENT ASSEMBLY DEBATES

OFFICIAL REPORT

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THE CONSTITUENT ASSEMBLY OF INDIA

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CONSTITUENT ASSEMBLY OF INDIA

Thursday, the 17th November 1949

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

DRAFT CONSTITUTION—(Contd.) (Third Reading)

Mr. President : We shall now take up the third reading of the Constitution. Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar (Bombay : General) : Mr. President, Sir, I move

“ That the Constitution as settled by the Assembly be passed.”

(Cheers)

Shri Mahavir Tyagi (United Provinces : General) : Congratulations.

Shri H. V. Kamath (C. P. & Berar : General) : Let Dr. Ambedkar kindly speak.

The Honourable Dr. B. R. Ambedkar : I propose to speak at the end. It is not the usual thing to speak now.

The Honourable Shri N. V. Gadgil (Bombay : General) : This question be now put. (Laughter).

Shri Mahavir Tyagi : What is the opinion of Dr. Ambedkar about this Constitution we are passing ?

Mr. President : I think we must now proceed with the business. Dr. Ambedkar has moved that the Constitution as settled by the Assembly be passed. The Motion is now open for discussion. Yesterday we were discussing the time that we would take for this Third Reading and I requested Members to give me names. Till yesterday evening I had received 71 names of Members who want to speak, and some additional names have come this morning; but even as it is, it seems to me that if we take about twenty minutes each and if we sit three days this week and five days next week, we shall have twenty-four hours, and twenty minutes for each speaker will give seventy-two speakers. So far as the time is concerned, I think we can very well manage within this time giving opportunities to every speaker who has expressed a desire to speak. So, it is not necessary to sit longer.

Shri H. V. Kamath : Let us sit for four hours.

Mr. President : At this rate we shall not require to sit, four hours.

Shri H. V. Kamath : If we sit four hours, we will be able to finish the session by next Thursday instead of Friday. If we finish earlier, we will have a longer interval before the session of the Legislature.

Dr. P. S. Deshmukh (C. P. & Berar : General) : Some honourable Members may come here later and give their names hereafter.

Mr. President : They may come. We have got some other work also to attend to. Today and tomorrow at any rate or till the end of this week, we sit only for three hours, and if necessary and if we find that sufficient progress is not made, we may have a second session next week.

Shri L. Krishnaswami Bharathi (Madras : General) : Is it from ten to one?

Mr. President : Yes.

Shri L. Krishnaswami Bharathi : We are quite agreeable.

Mr. President : Now, I do not know in what order I should call Members. I suppose I must follow the usual practice. If Members stand in their places, I shall select one of them.

Shri H. J. Khandekar (C. P. & Berar : General) : They should be called alphabetically

Mr. President : I think that would be too mechanical. I shall follow the usual procedure and I hope there will be no difficulty in that. Shri Muniswamy Pillay.

Shri V. I. Muniswamy Pillay (Madras: General): Mr. President, Sir, I stand before this august Assembly to support the Motion moved by my honourable Friend, Dr. Ambedkar. Sir, I will be failing in my duty if I do not refer to the magnanimous way in which you have conducted the proceedings of this august Assembly in preparing the Constitution of this great land of ours. Sir, as one of the signatories of the epoch-making Poona Pact, you will be happy today that we have opened a new chapter in the history of India by giving equal opportunities to all classes and sections of the people who inhabit India. Sir, Mahatma Gandhi laid the seed for the amelioration of the condition of the Depressed Classes and that took shape in a formidable way and today we find ourselves in the company of men who have thought it necessary to afford facilities for the common man in our great country.

Sir, I proceed now to appreciate the great services that have been rendered by the Drafting Committee whose services are so valuable to us; they have not spared days and nights in coming to decisions on important articles. I must say a word of praise to the caliber and capacity of the Chairman of the Drafting Committee—Dr. B. R. Ambedkar. (*Loud cheers.*) Coming as I do from a community that has produced Dr. Ambedkar, I feel proud that his capacity has now been recognized, not only by the Harijans but by all communities that inhabit India. The Scheduled Castes have produced a great Nandanar a great devotee, a Tirupazanalwar a great Vaishnavite saint, and above all a Tiruvalluvar, the great philosopher whose name and fame is not only known throughout the length and breadth of India but of the whole world.

To that galaxy of great men of Harijans now we have to add Dr. Ambedkar who as a man has been able to show to the world that, the Scheduled Castes are no less important but they can rise to heights and give to the world their great services. I know, Sir, that he has served the community of the Harijans and also of India by his great service and sacrifice in preparing a Constitution which will be the order of the day from the 26th of January 1950 and I also feel, Sir, of the Chief Draftsman and of the staff that have worked in preparing the Constitution cannot be litted; they equally receive our praise.

Now coming to the Constitution itself, Sir, I feel proud that our countrymen have thought it necessary that the Fundamental Rights should give no discrimination, to any man who is considered to be lower in the rank and file of the nation. Articles 15 and 16 go to give no discrimination; at the same time they give equal opportunities of employment. I specially welcome these provisions.

The great thing that this Constitution brings to notice, not only to this country but to the whole world is the abolition of untouchability. The fair name of India was a slur and a blot by having untouchability, Great *avathars* and great saints tried their level best to abolish untouchability but it is given to this august Assembly and the new Constitution to say in loud terms that no more untouchability shall stay in our country.

Again, article 29 gives power to the would be Government throwing open all Hindu religious institutions to all classes and sections of Hindus. At one time

dogs and swine might enter the sacred precincts of temples but the shadow of an untouchable was considered a great abomination. I feel proud, Sir, that by this article that slur has been removed away. Due to this discrimination of not allowing a certain section of Hindus, my people have been converted to various faiths and thereby our population has dwindled as also their merit, but today I am proud that under article 29 not only all Hindu religious institutions have been thrown open to all classes and sections of Hindus but all educational institutions maintained by the State or are receiving aid from Government will be thrown open to all the sections of the people.

Another thing, Sir, is that Mahatma Gandhi has told in unequivocal terms that prohibition must be the order of the day. We declare that if he were to be a dictator for even one day he would have proclaimed prohibition for the whole of India. Article 47 rightly puts in the Constitution that there shall be prohibition through the length and breadth of India. Article 46 gives the Scheduled Castes and Scheduled Tribes a very important place and I welcome that. Another article, 48, deals with the preservation of much cow and prohibition of cow slaughter. As a Hindu I feel that the great value of a cow is felt in India and it is a religious sentiment that the cow must be preserved and I feel happy that an article has been brought in this Constitution. Under article 343 we have been able to agree for a common official language for the whole of India. Fifteen years has been set as the target period by which India must get into the common language, but coming as I do from a non-Hindi area, my community especially have not the occasion or the opportunity to train themselves in the language of Hindi. Whatever it may be, the future Government that will come to stay will think over this matter and see that, if a great section of the non-Hindi area or population have not developed to that state to take up Hindi, they will see that some more time is given.

Coming to article 74 which allows the choice of ministers, I am one of those, Sir, who believe in the political rights of a community. During the past years when the Act of 1935 was in force there was a convention that the unrepresented communities must be given a choice to be ministers but that has been taken away from here but I am sure the people who will be in charge in Future will see that the unrepresented communities in the ministries are given a chance so that the backwardness of such communities may be removed and they may keep an equal status with others. Coming to article 81 I find that in the composition of the Peoples Assembly no reservation has been given. When I questioned this matter in this august Assembly, the Chairman of the Drafting Committee told us that the Minorities Advisory Committee have not made any special recommendation as to this matter, but I am sure the President who will be responsible for getting the composition of the provisional Parliament will find ways and means later whereby a certain reservation may be got for these people.

Sir, I am proud that the Drafting Committee have understood the views of the members of the Scheduled Castes and others and have brought in articles 320 and 335 which deal with the representation of Scheduled Castes in the services. I feel it very important that a community that was at the outskirts of the society for centuries must be given a place and I think these articles go a long way to protect the interests of the Scheduled Castes in the matter of representation in the services.

Another important factor in the Draft Constitution is the giving of adult franchise in India. This will open the door to all the adults in this country, especially to the Scheduled Castes, who form one-sixth of the population of India, to equal opportunity to send proper representatives to the various assemblies. My only fear is, whether these people who have not yet been duly educated will be able to exercise their vote intelligently and send proper representatives. But, I am sure that with the help and assistance of the various communities in India, they will be able to send their proper representatives in the various assemblies.

[Shri V. I. Muniswamy Pillay]

Sir, in the matter of reservation of seats for the Scheduled Castes in the provincial assemblies, it was necessary to put a time limit of ten years. Though I pleaded before the Advisory Committee that there should be no time limit, due to the most crucial times and due to, the demise of Mahatma Gandhi, the whole country was not in a mood to give any reservation to any section. It is due to this and to the generosity of Sardar Patel: who so ably conducted the meetings of the Minorities Advisory Committee that, we have agreed to a time limit of ten years and also to the appointment of a Special Officer to see to the needs of the Harijan community and the Scheduled Tribes. If in that period we have developed properly, we will not hesitate to remove the time limit; but if it is found that these people have not risen up to the level of the other communities, it is my humble belief that the future parliamentarians and the Government will see that the time limit is extended.

Sir, another important thing is that a definition has been given of Scheduled Castes and scheduled Tribes. Before the Provincial Parliament comes into effect, it is said that the President by a declaration will say which are the communities that come under the category of Scheduled Castes and Scheduled Tribes. It has come to my knowledge and of other members of my community that some people have been playing to eliminate some of the communities that really come under the category of Scheduled Castes. I think, Sir, proper care will be taken to see that no community that comes under the category of Scheduled Castes is eliminated.

The great thing in this Constitution, that is before the House, is that the word 'minorities' has been removed. I know, as a matter of fact, it is not the desire of myself or of my community to be ever called a minority or Scheduled Castes, we want to merge with the thirty crores of people in this country. But, as Mahatma Gandhi rightly said, it is the change of heart that is required. If the caste Hindus and those people who predominate in this country only show that change of heart, it will be time, Sir, that we ourselves merge into the great community of Indians and I do not want to perpetuate this seclusion for ever.

In conclusion, I may, on behalf of the members of the Harijans that are present in this House and of Harijans outside, assure you and the august Assembly and the Government that we Harijans.

Shri K. Hanumanthaiya (Mysore State) : Do we not represent the Harijans ?

Shri V. I. Muniswamy Pillay : We come under the special label of Harijans. On behalf of the Harijans, I may assure you and the future Government of India that the Harijans to the last man will uphold the Constitution that has been passed by the Constituent Assembly and work it to the very letter and spirit.

I thank you, Sir.

Seth Govind Das (C. P. & Berar : General) : *[Mr. President, I am very happy today on seeing that the third reading of the Constitution, completed by us in about three years, has now begun. On this occasion, I would at first like to congratulate Dr. Ambedkar who has laboured hard to put this Constitution into proper shape. Today he has moved the Motion that the Constitution as settled by the Assembly be passed. It has been said about Dr. Ambedkar that he is the Manu of the present age. Whatever be the truth of that statement, I can say that Dr. Ambedkar was quite equal to the task of constitution making that had been entrusted to him

I feel, Sir, that another person who deserves our sincere thanks and gratitude in this connection is our Prime Minister, Pandit Jawaharlal Nehru. It was he who for the first time brought forward before this Constituent Assembly that Objectives Resolution which can be said to be the foundation stone of this Constitution.]

*[] Translation of Hindustani speech.

Shri Rohini Kumar Chaudhury (Assam : General) : On a point of information; in describing Dr. Ambedkar as Manu, was the honourable Member referring to the Hindu Code ?

Seth Govind Das : * [No, Sir, that statement did not have any reference to the Hindu Code, I believe that the House is aware that I am opposed to many of the provisions of the Hindu Code.

So I may remind the House of that Resolution which was moved in this Assembly by Pandit Jawaharlal Nehru in the beginning and, which as I have just said, is the foundation stone of our present Constitution.

The third honourable Member who deserves our congratulations is Sardar Vallabhbhai Patel, who has merged together into unions the numerous States, which had kept our country divided into many fragments.

Thus while supporting this Motion today, I congratulate these three honourable Members.

Our country is one of the six oldest countries of the world, which are India, China, Egypt, Greece, Babylon and Mesopotamia. In so far as Babylon and Mesopotamia are concerned, they do not occupy today any position of importance in the world. If we look at Greece, we find that the ancient Greece can be seen only in its ruins. The culture and civilisation of ancient Greece is not accepted in the Greece of the present day. Christian Culture and civilisation is now dominant there. In so far as Egypt is concerned, its ancient culture and civilisation is found only in its Pyramids. If one goes to Egypt today, he would hardly find there the ancient culture and civilisation of Egypt. Today the Muslim culture and civilisation are there. In so far as China is concerned we can see a little of the Culture and civilisation of India of the Buddhist age combined in its after effects. But there too we find mostly the effect of the modern age. In this way in five out of these six ancient countries, we do not find their ancient cultures. Only India is one of those six ancient countries where the tradition of its ancient culture and civilisation can be 'seen in a very field of life.

If there be any one here who desires that the India of Rigveda should exist again today in our country, such a one cherishes but a forlorn hope, a hope which can never be fulfilled. Nor do I consider it proper that such a hope should be entertained. I do not, think any one of us can transform the India of today into the India of Rigvedic times; but while I hold this view, I would like to make it clear at the same time that the civilisation and culture, which is the heritage of our early history and the continuity and vitality of which are visible in all spheres of our society and life and for the maintenance of which in our age Mahatma Gandhi—the Father of our Nation—sought to promote in many a way, should not be rejected by us. We should adopt all that the modern world has to give to us to fulfill our needs, as also all the inventions of the modern science. We need not have contempt for things European or American. We should be ready to assimilate all the new ideas which are useful to our country. Modern India should be so built up that we may be able to retain our culture and civilisation as well as also the advantages of the modern age. If we look at our Constitution from this view point, we would discover many shortcomings in it. Many people think that the present Constitution is an enlarged volume of the Government of India Act, 1935. From the view-point I have already placed before you, we may find some shortcomings but I am not prepared to accept that it is an enlarged edition of the Government of India Act, 1935. It was necessary that some sections of the Government of India Act should be kept in it. We find many articles of the Constitutions of other countries e.g., Ireland, Canada, and America also to have been drawn upon. And then, it is not a fact that this Constitution does not possess any originality. There is enough of originality in this Constitution. Of course, I am prepared to accept that this

* [] Translation of Hindustani speech.

[Seth Govind Das]

Constitution is not entirely satisfactory. Some people hold that this Constitution has become too bulky, it contains too many articles as also many details which could well have been left out. But I differ from them. If the Constitution is lengthy and if somethings have been given in detail that fact by itself should not make us dissatisfied with it, as these details will guide our Parliament in many a way. I feel that on the contrary we should be satisfied that this Constitution contains many articles and many details.

One thing that troubles me, however, and which I am afraid would continue to cause uneasiness to me, is that the Constitution of this ancient country has been framed in a foreign language even after the attainment of independence. I have always been drawing your attention to this shortcoming. You had assured us, not once, but more than once, that you also desired that our Constitution should be in our national language. In my opinion we would have definitely succeeded in this task if we had made an attempt. We have been sitting here for three years to pass this English draft. I think it would not have been either impossible or even inconvenient to have set for one month more and passed the Hindi constitution. I wish to say that our passing the Constitution in a foreign language after the end of our slavery and attainment of independence would for ever remain a blot on us. This is a badge of slavery a sign of slavery. You may publish the translation by the 26th January, still, I would say frankly that a translation will after all remain a translation. The translation cannot replace the original and whenever a constitutional difficulty arises, whenever any constitutional point arises before our Supreme Court, High Court or any other Court, we would have before us a Constitution in a foreign language and therefore I feel the domination of that foreign language. This will always hurt us and I am thinking of the day, dreaming of the day when our country will form another Constituent Assembly and that Constituent Assembly will place our original Constitution before us in our national language.

Now, if we look at our Constitution our attention is attracted towards the Adi Vakya, called Preamble in English. As I have just said Pandit Jawaharlal Nehru's motion, is the foundation stone of the Constitution similarly the preamble, the Adi Vakya contains the whole gist of the Constitution.

In this preamble we have made it clear that we will have a democratic government in our country. There were only two ways open to us. Either we could frame a democratic constitution or advance towards despotism and frame a type of constitution which would have in essence meant the establishment of despotism in this country. We have made it clear in this preamble, in this Adi Vakya, that our Government would be a democratic one. Further, I would also invite your attention to the four points in this preamble, which are justice. liberty. equality and fraternity. Justice has been quite rightly given the first place. In our country justice has always been given the first place. If we look at our past history, the traditions of that history we would come to know that justice has always got the first place in this country. It has been said

Swasti Prajabhyah Paripalayantam

Nyayana Margana Mahim Mahishah.

That is, 'the ruler should protect, nourish and cherish his subjects in accordance with justice.' So, it is quite proper that justice has been given the first place in the Preamble after the declaration of democracy. After that the next place has been given to liberty. All is of no worth without liberty. If our liberty is gone, every thing is gone. We have gained every thing by attaining liberty. Goswami Tulsidas has said in Ramayan :

Pradhin Sapanaihu Sukh Nahi

(one who is dependent on others cannot be happy even in dreams.)

This sentence of the Goswami will always retain its importance even though it has become so common. Thus the second place given to liberty in this preamble is quite proper. After this the third place has been given to equality. No country can be happy wherein on the one hand, one per cent, of the people live in big palaces, eat a variety of dishes, put on covers like Pashmina in winter and the finest raiment in summer, while on the other 99 per cent of the people do not even get tents to live in, do not get even dry bread to eat, do not get clothes, so much so that their womenfolk do not get clothes to cover their body, that country must inevitably face a revolution. Hence 'equality' must rightly get a place in this preamble. The fourth place has been given to fraternity. No social structure can beget happiness without mutual love. So I hope that our country would be ruled according to the Preamble of this Constitution.'

So far as the various articles of this Constitution are concerned, I would make a few remarks regarding only three of them. One is regarding the name of the country. In this Constitution, our country has been named 'India that is Bharat'. It is a matter of gratification that the name Bharat has been adopted, but the way in which this has been put there has not given us full satisfaction. 'India that is Bharat' is a strange name. The second article, which I wish to refer to, is regarding cow protection. It is a matter of satisfaction that an article regarding 'cow protection' has been added in this Constitution. But just as we have provided in the Fundamental Rights, that 'untouchability is a crime'. Similarly we should have said, 'cow killing is a crime'. This we could not see our way to do. The third article concerns our language. We are not fully satisfied with this article too. English will prevail in this country for another fifteen years, and the Nagri script has also been disfigured by introduction of English numerals in it. The Hindi-speaking people are very much disgusted at this.

So I would say that we are not fully satisfied with the three things which I have been emphasising from the very beginning. But the fact that these three things have found place in this Constitution is a matter of gratification.

In conclusion, I again congratulate Doctor Ambedkar, Pandit Jawaharlal Nehru, Sardar Vallabhbhai Patel, other members of the Drafting Committee, and you, Mr. President along with the whole Constituent Assembly, on having framed a Constitution of free India, a Constitution of which we and the whole country can feel proud.]

Shri Lakshminarayan Sahu (Orissa : General) : *[Mr. President, now that the Draft Constitution is under final review I must take the opportunity of making a few observations. Firstly, I feel that in framing the Constitution, we have deviated from the ideals we had set for it. The ideals on which this Draft Constitution is framed have no manifest relation to the fundamental spirit of India. This is what I think my Friend Seth Govind Das also made clear in his speech. It is the opinion of many people that we should not have drawn upon so heavily on the Government of India Act for preparing the draft of this Constitution. I feel that this Constitution has become a queer and unwholesome amalgam on account of the varied provisions it has borrowed from the Government of India Act and the other Constitutions of the world, things that cannot be compounded to form a harmonious whole.

It may be that this mixture may be to the taste of such people as are found of such mixed drinks as cocktails or such mixed food as Khichri. But while such mixtures may be enjoyable on occasions I can assure you that this cannot become staple food of any one and this Constitution made as it is for regulating our daily life, would not prove suitable and would break down soon after being brought into operation.

*[] Translation of Hindustani speech.

[Shri Lakshminarayan Sahu]

When at first we had started the work of framing the Constitution, our idea was to make India a Federal State with provinces as autonomous units. But gradually we gave up that line and as is evident from the present Draft Constitution the units have been practically robbed of all powers. This document, I would say, appears to be based on a lack of faith in the Provinces.

Confidence begets confidence, but contrary to this maxim Constitution does not place any confidence in the units. The provinces have been so tightly chained to the centre that none of them can have the least feeling of freedom. I am afraid that the provinces may on this Constitution coming into force feel that they have been put under a new kind of slavery.

Even though I sincerely compliment and congratulate Dr. Ambedkar for the hard labour he has put in this connection, yet I am afraid I cannot compliment him for this unnatural product of this labour which under constant changes has almost become shapeless and ludicrous. I know fully well and I believe that he is likely to say in reply that it is not entirely his handiwork. He had to frame the Constitution in accordance with the wishes of the majority party in the country. But be it as it may, I can predict that after two or three years a fresh Constitution will have to be framed again. During the early sittings of the Assembly when the objectives Resolution was placed before the House, the Hon'ble Pandit Jawaharlal Nehru had most spiritedly spoken of our 'Sovereign Independent Republic', but later on a new term 'Democratic Republic' crept in its place. Formerly Pandit Nehru had said that to remain in Commonwealth would be a disgrace to us and that as soon as we were free we would get out of the Commonwealth. But I find that even today we are clinging to the apron strings of the Commonwealth. All this appears to me as if we were seeking to put our ship into motion without lifting its anchor. I may however point out that the ship does not move and shall never move. I fail to see any logic or significance in this course of action. It can not be pretended that it is a policy full of daring. It may be that our hearts have not the courage nor our minds the vision which alone could enable to frame a Constitution suited to our genius and needs. It appears to me that our eyes have been turned towards the West for finding out the ways the world manages its affairs in order that we may copy their methods. Even now Pt. Jawaharlal Nehru often declares that the Constitution we adopt would be such as to make the whole world look to us for Constitutional wisdom, and as would draw the world very near to us. But I often wonder why this should be so and why the world should look to India for guidance. What special appeal after all, does India possess? Besides what does this Constitution as shall compel attention on the part of the world to its provisions? Even the spinning wheel which stood for the basic ideals of the Indian people and which was the object of such deep care for Mahatma Gandhi has been discarded by you and has been replaced by chakra. Formerly it had been decided that the Constitution would contain some provisions regarding our National anthem—Bande Mataram or Jan Gan Man. But we find that no provision relating to National anthem has been included in it. After all what is there in the Constitution to be proud of? My honourable Friend Seth Govind Das had suggested that cow slaughter should be abolished. It must be abolished at once. But you have provided for gradual abolition.

The article which states that this work will be done gradually does not state in clear words that cow-slaughter is being prohibited with immediate effect. Why is it not being prohibited? Are we afraid of anything in this connection? How can we then give place to any other social order, such as the socialistic order, in this constitution? On the one hand we give opportunity for private profit and on the other say that the resources of the Government are limited. That is why prohibition is not introduced and the people drink. The people will go on drinking so long as we do not make up our minds regarding our future

course of action. So long as we were not prepared internally to follow our ideals, how can we make others follow them ? Therefore we should give full thought to these matters. Are we not going to introduce the charkha which is the 'reflection' of India ?]

Shri H. V. Kamath : *[Symbol.]

Shri Lakshminarayan Sahu : *[Symbol. Yes 'symbol' is the right word. Moreover we have not decided anything in regard to our national song and our national flag. After all what is all this ? Where has everything disappeared ? Regarding Prohibition it is said that it should be introduced gradually. But what about the principles of Mahatma Gandhi? A friend has remarked just now that if he were a dictator even for a day, he would introduce complete prohibition. We say that we should proceed gradually and that we should forsake the habit of drinking too gradually. Green Bars and Blue Bars have been opened in our province of Orissa. When prohibition is going to be introduced, why are these bars opened ? Recently Blue Bars and Green Bars were opened in Cuttack. Moreover, I would like to say that we should again consider whether we should stay in the commonwealth and whether we should not establish a socialistic order. The position at present is that special privileges are being granted to the Anglo Indians. I do not understand why special privileges are granted to people. The Anglo-Indian community has been enjoying such privileges in the railways and elsewhere as cannot be granted to others even though they may be equally efficient. That is the reason, I would like to point out, why we do not have the necessary facilities in the railways. Our country was first named Bharat. Then it was thought that 'Bharat' would not be understood by other countries of the world and the words 'India that is Bharat' were included. What is this ? There is no mention of the national language. On the contrary it has been written that Hindi would be the official language and English would also continue. The position would be reviewed after five years and then after fifteen years. This is the form which our constitution has assumed. I think that it is altogether useless and worthless. 'I do not see anything substantial in it. Mr. Kamath has quietly introduced in it God too. Some people hold that there is no God. The people of India do not want 'God'. We should be clear about this that we shall accept the majority decisions. I see that we step forward hesitatingly and that is why this constitution has assumed a shape which does not reflect a clear picture of India. This Constitution could have been corrected and made more explicit. However, this is not the occasion for it and I know that all this will never be done. Just see what has been done in the case of civil liberties. They have been so much fettered that even the civil liberties enjoyed by the people during the British regime would be available to them no more. Many people are confined in Jails for years. We have got such civil liberties.]

Shri R. K. Sidhwa : (C. P. & Berar: General) : *[What civil liberties we had during the British regime ?]

Shri Lakshminarayan Sahu : *[Many more. You will see that on the enforcement of this Constitution very few civil liberties will remain. India is a country of villages. In complete disregard of the villages we have turned into citizens and ask for rights of citizenship. I would say that we should have 'village-citizenship' rights also. I do not see 'village-citizenship' rights anywhere in this Constitution. What is the step that we should take at the present moment ? We should revive the cottage industries. But the idea never occurs to us. When a few people make a hue and cry about a thing it is said that it may also be included. When we say that we want to shape a new world and that India will be a non-violent country and an ideal for others to follow, why do we say in the same breath that we cannot take up the question of capital punishment. I cannot understand what is in our minds. After all what is the reason for this

*[] Translation of Hindustani Speech.

[Shri Lakshminarayan Sahu]

inaction. We speak fluently but do not bother ourselves about practice at all. We imitate the turns and twists of the other countries of the world. All this has caused me great sorrow. What is after all this Constitution about ? What has become of the proposed elected Governors ? We had decided that we would have elected Governors, the question was reopened and provision was made for appointed Governors. All this is being done in the strength of the so-called majority. We are seeing that our country is becoming as lifeless as stone. There is no talk of decentralisation now. We had set before us the object of decentralising India and of setting everything in order. But there has been so much centralisation that there is only one centre now and the Units have been reduced to the position of Municipalities and District Boards. A weak Unit has no other prospect than of perishing. The powerful Units will receive encouragement from the Centre and make progress. The bigger Units like that of Bombay, Madras and U. P. will get facilities and money too and will make progress. It is no doubt true that there is a provision that every Unit which has deficit will receive capital allotment from the consolidated fund. But who will grant it ? The persons from greater States like Madras and Bombay, who would be in charge of the consolidated fund would consider so many things and then grant it. They will throttle Assam and Utkal. We would become slaves. I have seen for the last two or three years what facilities have been granted to Utkal. That is why I say that this Constitution is not to our liking.]

Shri K. Hanumanthaiya : Mr. President, Sir, it is now nearly three years since this Assembly first met for hammering out a Constitution. We are nearly at the end of our labours. This is a day on which the Assembly in general and the Drafting Committee in particular deserve congratulations on having completed the task entrusted to them under very difficult circumstances.

Today after having had a full picture of the Constitution. I for one feel that I cannot make up my mind wholly to appreciate and welcome this Constitution. There are very good points in it—the principles of liberty, equality and fraternity are embodied in this Constitution no doubt, and that is a matter for congratulation. But, Sir, there are other features of the Constitution that may not come up to the expectation of many people. It resolves itself into a question as to who is responsible for this constitutional set-up.

When I look into the list of members of the Drafting Committee, and see their names, I must say that many of them are very respected names. Many of them are very able men. But only some of them were in sympathy with the freedom movement. Most of them, if I scrutinize the names of members of the Drafting Committee, I find were the people who were not with the freedom movement in the sense in which many of our leaders were. They naturally brought their outlook and knowledge of things into the constitution making. That was not the kind of psychology or the knowledge that the Congress, for instance, or the country needed. I submit with all humility, they were no doubt very learned in the several laws and rules that were framed before we got independence. They were very well versed in case law and code law. But that was not sufficient for the purpose of hammering out a Constitution for a great country like India and its future. It is, something like this: we wanted the music of *Veena* or *Sitar*, but here we have the music of an English band. That was because our constitution makers were educated that way. I do not blame them rather, I would blame those people, or those of us, who entrusted them with this kind of work.

Look at the way the structure of the Constitution is built up. We were during the days of freedom struggle, wedded to certain principles and ideologies as taught to us and as propounded to us by Mahatma Gandhi. The first and foremost advice which he gave in his picturesque language was that the constitutional structure of this country ought to be broad-based and pyramid-like. It should be built from the bottom and should taper right up to the top. What

has been done is just the reverse. The pyramid has been reversed. The initiative from the Provinces and States and from the people has been taken away and all power has been concentrated in the Centre. That is exactly the kind of Constitution Mahatma Gandhi did not want and did not envisage. Whether or not we are, right in having discarded our faith in this kind of democratic constitution, whether or not we are right in having discarded Gandhiji's idea of constitution making, it is too soon for us to judge. The future will judge for itself.

Sir, there are some very interesting contradictions in this Constitution. Here we have a Republic with a King above and Rajpramukhs below. Here is a Constitution which we say is a Federal Constitution but which in essence is almost a unitary Constitution. Here is a Constitution which we call Democratic, but democracy is centered in Delhi and it is not allowed to work in the same sense and spirit in the rest of the country. It is like the famous Hindu view of things that if you are to go to Heaven then you should have to go and have a dip in the river Ganges, especially at Benares. Nowhere else is the country so fit and so sacred as to send people to Heaven. Some thing of the kind has taken place in this Constitution-making. If you are to find democracy congenial to the soil, or if democracy is to be worked, it is in Delhi and nowhere else. That is the spirit with which this Constitution is framed. Again the people who have had a hand in Constitution-framing here have not only looked at the people in the Provinces and States with a certain amount of suspicion but they have also looked at the future with suspicion. They have made all sorts of provisions for preventing, what they probably think is the misbehaviour on the part of the people for generations to come. That was not the intention with which we started Constitution-making. Anyway, inevitably the tendency has been allowed to develop that way.

There is again this language question on which some of my predecessors have spoken. We no doubt wanted the Constitution to be in our own language but we are compelled to keep the foreign language in use. That is again another interesting contradiction. These contradictions in my view are not of a very serious nature. The King above and the Rajpramukhs below will not be able to harm the Republic that we have set up. They are almost powerless in the set-up we are now adopting.

Though our constitution-makers have not adopted the course of decentralisation, still I have faith in the people of India. They will be able to assert themselves in times to come and make this democracy work equitably from Cape Comorin to the Himalayas. Whatever may be the set of rules, whatever may be the set of articles that we might draw up, human mind and human energy are greater factors in life and I have got full faith that they will be able to rectify matters in times to come.

Some of my friends naturally feel aggrieved that the Constitution has not been drafted in Hindi and that the national language has not been straight away adopted. That again is due to the limitation of the circumstances and the times that we are living in. If some of us have not been educated in Hindi ever since our childhood, it is not our fault. It is the fault of the situation that existed then. We learnt English, therefore we are fond of English. A day will come when people will learn Hindi and they will be equally fond of Hindi. All that is required is a certain amount of patience, certain amount of charity, a certain amount of tolerance, and I am glad to say that people who are wedded very fanatically to Hindi are prepared to give that amount of tolerance and charity.

I happen to come from a State and I would be doing an injustice to myself if I do not express my innermost thoughts. Whatever may be the reason for including article 371 in the Constitution, I am not very happy about it.

[Shri K. Hanumanthaiya]

I almost feel that we are treated in a way that is not in keeping with our self respect and I feel that generations to come will wonder why we the people of the States at all accepted or were willing parties to this article 371. It may be, that no doubt certain Governments or certain political leaders in the States have not come up to the expectations of our great leaders, and that has to be taken into consideration as well. But I would far rather stand by the principle that democracy is its own corrective. If democracy goes wrong in any particular area in the country it is not safe or wise that somebody from outside should always have the responsibility to rectify matters. That will not work. It may be that so long as our great leader Sardar Patel is there he may be able to rectify matters. But here we are framing a constitution not for a generation, not even for a century but for centuries unnumbered, and can we guarantee that there will always be at the head of affairs a man of the care of Sardar Patel to go on rectifying matters ? And mind, you, it is not the constitutional authority with which Sardar is now endowed that will rectify matters but it is his personal prestige. Personal prestige cannot be given as a gift by constitutional rules or precedents. Therefore, I would have appreciated. I would have thanked this House and those responsible for this article. if they had believed in the principle that democracy is its own corrective, and left it to the people of the area to pull up any Ministry or any Legislature or any particular Minister if they misbehaved. Not only is this article 371 against the canons of true democratic principles but ultimately it may be the cause of friction and many constitutional fights as well. There is a relieving feature that its duration is only ten years. But even for those ten years we are under the shadow of what is called "misbehaviour". That is a matter that has gone into the marrow of our bones. I hope that occasions will not arise when this article has to be exercised. If I may say so, it is also the responsibility of the people of the States to conduct themselves in such a manner that article 371 will ultimately prove a superfluity.

Sir, the Constitution that we have drafted is of a peculiar type. We students of Constitutional history and law were familiar with two types of constitutions; the federal one and the unitary one. Here is a Constitution which cannot be strictly classed under either of these two heads. It is almost of a new type and I may call it instead of a federal Constitution or a unitary constitution, a "Union Constitution". It bids to be a new phraseology that is contributed to constitutional thought by this Assembly. Whether this kind of constitution will prove as much of a success as federal constitutions, it is for the future to judge. But this is a new type of Constitution altogether and we have to work it with that spirit. After all, people say whatever the rules or the articles, the success of them depends not upon themselves but upon the people who work them. It is that faith that is sustaining us, not the faith that is generated by this Constitution. It is my hope that the people of India and their representatives will be able to work this Constitution with all its disadvantages and drawbacks to the best interests of the country.

Prof. K. T. Shah (Bihar : General) : Mr. President, Sir, at this stage of the debate on the Constitution. I feel it necessary to point out certain defects of" commissions and omissions, on which, at the appropriate stage. I had tried to suggest amendments; but as those amendments, almost every one of them, found no favour in the eyes of the draftsmen, I feel, at this last stage, when we have an opportunity of pointing them out, that I should voice them in appropriate form.

Sir, as the House would recollect, my amendments had not been of the nature of verbal alterations, or suggesting points of mere formal controversies. This is not to say that I do not recognise the beauty of form, or the value of precision in expression. In fact I am bound to say that the labours of Friends,

like Mr. Naziruddin Ahmad, who has striven hard to bring out the appropriate, the exact, expression, and proper punctuation; and make in all respects as correct a form as we could present, have not met with the appreciation that they deserved. While saying this I would not like it to be understood that I, on my side, do not appreciate the hard work, the deep learning, and all the careful attention they could possibly give that the Drafting Committee with its Chairman leading and some other members of that Body have rendered in this case. While judged as a piece of art in drafting, I am afraid I cannot regard this draft as a gem of its kind, I am willing to admit that, within the circumstances and under the conditions under which they had to work, the Drafting Committee have shown, and the Chairman particularly of that Committee, an erudition, a knowledge and ability to adapt himself to changing circumstances, and new conditions, and present as good a draft as, under the circumstances they could. For that they deserve every appreciation this House and the Government can show.

Having admitted this, I feel myself at liberty to point out still the defects, both of form and of principle, which, in my opinion, mar this Constitution and do not make it what we had hoped it would be. As already stated, I have tried to make my amendments and suggestions of principle and of root, rather than of mere superficial alterations. Now, confining myself only to those, I would like to point out, for instance, that the promise held out in the Preamble, -the promise held out in the very first Resolution of this House, has not been fulfilled to the degree and in the manner we had a right to expect. We claim, for instance, to be a sovereign, independent Republic. While, however, we continue to be Members of the British Commonwealth. I am afraid it would lie impossible for us to exercise that sovereign independence which we fancied we were acquiring and enshrining in this Constitution.

It may be that the Constitution is, in intent and form, democratic. But the ideal of Democracy in the shape of the Government of the *people*, by the *people* and for the *people*, is far from being realised if one scrutinises carefully the various Articles of this Constitution.

Several suggestions had been brought forward at the proper moment regarding, for instance, the right to consult the people by means of a Referendum. or the power of the people to initiate radical legislation to make the Constitution really democratic. But they have been all negated. The excuse has been given that we are not yet ready for such methods of working democracy in all its fullness. We would need, we were told, greater experience, better education, and more wide-spread consciousness of political power in the masses as well as its responsibilities, to be able to work with success such radical forms of democratic government. I am afraid, Sir, I cannot quite accept and endorse such a view of our people's capacity, or of a working democracy in this country. The ability to work a democracy comes by having the responsibility to do so, and not by paper professions in its name, and practical negation of its forms. Had we agreed to such arguments in the past, had we accepted the suggestion of the British that the people of India were not educated enough and aware enough of their rights and obligations to be able to work a democratic Government of their own, we should never even now have obtained our independence, and the right to self-government which is now our proud possession.

Because you are still unable to trust in full the people; because you are still unable to realise that it is only by working a democracy that democracy will really be established in this country, you have not accepted those suggestions and those amendments of mine which wanted such weapons, such instruments and devices to be introduced in the Constitution, whereby the right action by the will of the people for the benefit of the people and through the representatives of the people could have been asserted.

[Prof. K. T. Shah]

It is not only that you are lacking in a proper faith in the people as a whole. It is perhaps even more true to say that you are lacking in faith in your own leadership. For, if your leadership is really popular; if your leadership is really the open expression of the subconscious feeling the hopes and aspirations of the people, then you need not doubt at all that the leaders' guidance in crucial moments will be accepted; and the device I have suggested will be fruitful rather than mischievous.

I hold, therefore, that this Constitution is not, in the fullness of the sense, a real, working, effective democracy that the people of India had been led to expect they have achieved.

Take, again, the instance in which those of us who had entertained ideals of freedom have felt themselves disappointed by the actual wording in this Constitution. I mean the Chapters like those dealing with the Fundamental Rights and Civil Liberties, or the Directives of Social Policy, are not what they well might have been. I am afraid the wording of those articles gives much more verbal promise, than holds out any hope for actual performance. Almost in every case, in every article, in every clause, and in every sentence of each clause, the Right is given conferred or declared either restricted, conditioned, or made dependent upon certain contingencies that may or may not happen. There is nothing to show in the entire Constitution that efforts will be made to see that those Rights and Liberties are not merely paper rights, but that they will be made real, actual, living possession and enjoyment of the people.

Take these illustrations, Sir, The Right to free and compulsory education, the Right to full employment, or the Right to personal freedom, are in almost every instance made subject to restrictions and conditions that I had hoped will not occur in a Constitution we are claiming to be democratic, claiming to be popular, and claiming to be made by the chosen representatives and trusted leaders of the people of India. It is a pity, Sir, it is a great pity, that even such a simple right as the right to personal freedom has been made, under the Emergency provisions,- wholly illusory. Excuses can also be found for seeking to detain a person without trial for three months. It is therefore, not a right to personal freedom, so much as it is a right to remain under detention without trial, without any proper judicial proceedings for a period of three months.

There may be plenty of excuses. But I hold that those excuses are obstacles to overcome, and not reasons to take shelter under and deny or circumvent or restrict the Fundamental Rights as you call them, or the Civil Liberties of the people. There is in my opinion no Chapter more painful to read, no Chapter more disappointing in this Constitution, than that dealing with the Fundamental Rights and the Civil Liberties of the people.

And, corresponding to that naturally there is no suggestion at all about enunciating any set of Obligations or Duties which might make the people also realise that there is in consideration of the rights they enjoy also certain obligations of democratic citizenship that the citizens can learn to appreciate. You are not giving those rights in full because you have fears of democracy becoming mobocracy. You have, therefore, restricted the Chapter on obligations of the citizens.

Take, again, another instance in which in my opinion the working democracy of this country has yet to be realised, and certainly not in this Constitution. I mean the question of the formation and functions of the various organs of the State. Again and again I had tried to put in amendments suggesting, if not a complete separation of the powers and functions and Organisation between

the principle organs of the State. There must be at least such a measure of mutual independence, at least such a degree of mutual freedom as would ensure the operation of each within its own sphere to the fullness that such power is given to that body under the Constitution without interference from outside or other organs of the State. I am afraid that, if we scrutinise the chapter relating to the legislatures, to the judiciary and to the executive, we cannot but come to the conclusion that the freedom or independence of these institutions, the real sovereignty of these institutions, is hardly likely to operate in actual practice. Constitutional *pandits* are not wanting in this House who declare that the doctrine of the division of powers stands exploded. I am afraid I am not one of those who can share that opinion. Even those who have found it necessary to keep and maintain close links and mutual influences between the various organs of the State, even they could have wished to introduce those safeguards, those provisions which might have enabled each of these bodies to function with a degree of independence, with a degree of sureness about their own work. But those safeguards have not been provided. I am not going, Sir, to go over in great detail—there is not the time for it—each of the provisions that would in my judgment imply this aspect of the Constitution.

I cannot help pointing out that the attempts, made again and again, to ensure a degree of purity, a degree of selflessness in the rulers of the country, did not meet with the success that I had hoped that such transparent devices to make the administration proof against charges of corruption would have met with in this House. Time and again, Sir, I suggested amendments whereby the Head of the State, the great governing authorities of the State, would be free from party politics and influences, by divesting themselves of interests which might conceivably lead them to misinterpret their duties and abuse their powers. But again and again, Sir the excuse was held out that this was too idealistic to be practicable in a working word of mere mortals. I am afraid this excuse, without claiming to be nothing more than a mere mortal, does not sound good from those who claim to follow in the footsteps of Mahatma Gandhi who cherish the ideals that he held, and who claim to follow the principles advocated by the Father of the Nation.

These are some of the illustrations. Many more I can give you which would show that the actual doctrine of a working democracy is anything but fulfilled in this Constitution that we are now passing. The mutual relation, for instance, of the several bodies, the formation of the several organs and even the scope for local self-Government I mean, are extremely limited. If you scrutinise the schedules relating to the functions of the Centre—the subjects they are called—and of the local units, you will see that the local units are made utterly powerless. They have neither power nor funds to do their duties effectively. A previous speaker actually mentioned that real self-government, real democracy, can only be in the unit. In the Centre you should have only representatives of the representatives; you see there only delegated power from the units. Now that alone would be real responsible popular government. It may be that the overwhelming majority of a single party and the position of its leader may help you at the moment to obscure the actual fact that in the Constitution as it stands there is room rather for the development of Fascism, than for the development of a working, real democracy. And that danger is much greater at the Centre than in the units. The Concentration of powers that you have in the Constitution in the head of the State,—who will really be a nominal figure-head but in whose, name the Prime Minister functions,—is such that, if he was so minded, the Prime Minister for the time being may become an actual dictator; and his colleagues in the Cabinet and the Parliament even as a whole may become nothing but the registry office of such a dictator.

[Prof. K. T. Shah]

I shudder to think of the possibilities that are inherent. I hope that these possibilities will not be accomplished in the manner I fear that they may be. But even so I cannot but utter this word of disappointment that provisions have found their place in this Constitution which may make of the President or, in his name, of the Prime Minister, a possible, potential, a dangerous dictator.

There are other aspects too, Sir, in this Constitution, which make one think that the hope of a working democracy free from any entanglements, free from any dependency or influence from outside, equal to all and accepting no privileged classes as such, is illusory. We had hoped, Sir, that the sovereignty of the people will be so asserted as to secure at least the absolute ownership by the State of all forms and all sources of primary production. To the attempt by me to introduce such an amendment which would secure to the State the ownership of all minerals, flowing waters and, other primary possessions which can be utilised for the betterment of the lot of man, to that attempt the blank answer was it is not practicable.

These and many more instances, Sir, could be given to show that the Constitution we are passing has failed in material respects, in essential particulars, to carry out the ideals which we had hoped we would carry out. Even so, at this stage I am not prepared to say that this Constitution with all its defects, all its shortcomings, all its weakness should be rejected. I am willing to say that with all its defects, with all its shortcomings, let us work it in the spirit at any rate which we hope and which we think ought to be the guiding spirit, the directing influence of this Constitution. If there are shortcomings, if there are defects, if there are omissions or sins of commission, working experience will reveal them to us. And if we work it with the right spirit, if we are intellectually honest, if we have nothing but the good of the people at heart, then I for one feel sure that, notwithstanding defects, notwithstanding short-comings, this Constitution can be worked in such a manner that real democracy may in a short time be established, and if not in the immediate future, within five years or ten years, the people of this country may become the real rulers of this country.

Shri R. K. Sidhwa : Mr. President, with the greatest joy and pleasure, I stand here to second the motion that has been moved by my honourable Friend, Dr. Ambedkar to pass the Third Reading of this Constitution. At the outset, Sir, with your permission let me make a personal reference. You know, Sir, that I was born in Sind; the prime of my life, thirty two years, I spent in the public service to serve my Sind people to the best of my ability and in my humble way. When the British Mission declared that there should be a Constituent Assembly to frame a Constitution, Sind was allotted one seat, and I had a desire to serve in the Constituent Assembly, but my Friend, Mr. Jairamdas Daulatram was nominated. Sir, I am greatly indebted to my leaders, the Honourable Sardar Vallabhbhai Patel and the Honourable Maulana Abdul Kalam Azad who encouraged me to sit in this Constituent Assembly. They found out a Constituency for me and they suggested C.P. and Berar. The Maulana Sahib gave me a letter to my esteemed Friend. Seth Govind Das and he and Pandit Ravi Shankar Shukla included me and got me elected unanimously to this Assembly from C.P. and Berar. I take this opportunity of thanking Seth Govind Das and Pandit Ravi Shankar Shukla and, members of the C. P. Assembly for giving me an opportunity to come here and serve in this Constituent Assembly. Sir, thus, it has given me an opportunity to play my little part in framing this Constitution and thus acquire the citizenship of India which I always cherished and what shall be always proud to retain. There was a little effort made in this House after the partition that

I should be unseated because I came from Sind. You, Sir, very rightly interpreted the law and said that I was returned from C. P. despite that I have been residing in Sind, although I am not today so. (Dr. P. S. Deshmukh : I hope that will be the last time). You rightly interpreted the law that I am legally returned and you announced that in this House. I am thankful to you, Sir; it was not a favour but you did the right thing.

Now coming to the Constitution, on the 6th of December 1946 before entering this House, this memorable hall which has been renovated particularly for framing of this Constitution which will be remembered in the history of India, some of us, friends were informally discussing what will be the type of Constitution and how much time would it take. One of the well-known Members of this House, who has subsequently resigned, stated to me, Sir, that the Britishers are not going to leave India and this Constitution will be a second Nehru Report. Another honourable Friend Seth Govind Das told me that it will take six months: I said it will take the least two years. (Shri Mahavir Tyagi : You were right). From experience we have seen that today is exactly three years, or rather to be more accurate 15 days less than three years, when we have completed this Constitution. On the 1st of February 1948 after our deliberations from the 9th December 1946 to 1947 a draft Constitution was presented to us. It included 313 articles in the Constitution. Today we have now presented to this House 395 articles, that is to say 82 new articles were inserted. Then there were nearly 220 old articles which were simply scrapped off and in the case of nearly 120 articles the phraseology is materially changed. Accepting the preamble without a change or single comma or punctuation, several articles have been changed and I am very glad—and the House is also glad that we have by experience thought it desirable that it was not in a hurry that we should prepare a Constitution. We are therefore Tight in taking this long time and preparing a Constitution for which we shall all be proud. There have been criticisms outside this hall that we have taken a long time and wasted some money. I give no countenance to that. It was also stated that some of us were sending amendments for the purpose of sending amendments and making speeches. We did not countenance or listen to their arguments. We were fighting our battles in this Constitution Hall, to put our views and we have fought our battle very well, and I am glad that the Drafting Committee have taken our battles in the right spirit. We have done our duty. Proceedings in the matter of record are there for future generations to see and the historians will have to judge whether we have wasted the time or we have done our duty to the people of this country and framed a Constitution, for which all of us are proud and I am very proud too.

Now in this Constitution, the redeeming feature is that of citizenship. It was a very ticklish question after the partition as to how to define the citizenship, and the Drafting Committee and others who have given their attention, they deserve credit. Those displaced persons have been straightaway told that even if their parents are born in India they will be automatically recognized as citizens of India.

Then coming to the Fundamental Rights there have been many criticisms, but on the whole I do think, and I have stated it repeatedly, that the freedom of speech or freedom of expression of views does not mean that a person should have license to speak any thing that will be detrimental to our freedom. This is known in all democratic countries. My honourable Friend Prof. Shah was just now criticising 'democracy'. Let me state that democracy does not mean that every person has got his independence to choose and do as he likes. Therefore if there are certain restrictions that have been imposed in certain articles of the Fundamental Rights, it has necessitated us to do so, although we may not like it. I do not like some of them. I would like to be an absolutely free man as I like but I have also to work under certain limitations and therefore, the Fundamental

[Shri R. K. Sidhwa]

Rights are the rights of which we can stand today before anybody and state that these are our rights and if anybody desires at any stage to trample our right, on a mere application to the Supreme Court a man can get his justice there. What more do you want in this Constitution?

Another redeeming feature is the adult franchise. The adult franchise is the greatest risk which the Constituent Assembly has taken. I may tell the House it is the greatest risk for this reason that 85 per cent. of our population is illiterate and it is even now doubted whether the adult franchise will be successful. Whatever it may be, Sir, successful or not successful, we have taken the risk rightly. We had to take the risk and we have taken the risk. A democracy without adult franchise would have no meaning and, therefore, I am very glad and the House is proud that we have in this Constitution put in 'Adult Franchise'. There have been critics outside this Hall, they have been criticising our work that we have been monopolising and we want to stay here for ever. If that was the desire of this Constituent Assembly we could have framed this franchise in a different manner, but we felt that whatever it may be 'adult franchise' is there as the Congress has been proclaiming for the last fifty years that whenever they attain freedom they shall see that every man and woman of the age of 18 or 21 shall have the right of a vote and that I consider is the greatest right. (*Interruption*). It is 21. I would have personally preferred 18 but it is 21, and this is the thing that the future people have now to rightly exercise. It has to be seen how they exercise their right in returning the members to the various legislatures. It is stated that the illiterate people will dominate the future legislatures. Well, I do not mind if illiterate people come from the remotest parts of the Indian Union. I have seen that sometimes illiterate people have a power of originality and they argue much more ably than some of us, literate persons. Therefore, I am not at all frightened and we have taken the right course and if there is a risk, I know there is a risk and we have taken it in the right direction.

I am really sorry that as far as the local bodies are concerned, this Constitution has been simply silent, silent in the sense that they are not given the due share which we all aspire to see that every village and every villager should become prosperous and self-sufficient. The ideal of our great leader, Mahatma Gandhi was the "Rural Swaraj" that every village should be self-sufficient and self-supporting. I am sorry to state, Sir, that part has not been fulfilled in this Constitution despite the amendments that I have been able to move and which I am sorry to say the Drafting Committee were unable to accept.

As I said the other day, in the earlier stages, when we were discussing the Objectives Resolution, the House was unanimously of the view that the Centre should be strong and therefore the Drafting Committee had that point in view—I do not say that the provinces are mere skeletons, they have been given many powers—and the Centre has been made strong. I am for it; but that does not mean that the villages should not also be made strong and the villages should not be left to themselves. I am indeed glad that the various provincial Governments have passed Panchayat legislation : the Bombay Government has passed the Bombay Panchayat Act; the Madhya Pradesh Government have passed the Janapada Act; the United Provinces Government has passed the Gaon Panchayat Act and the Bihar Government has enacted the Village Panchayat Raj Act. All these are there. But, if you do not give them the required money, what can they do? My regret is that the legitimate share of the finances due to the villages is not given to them, for village administration and village self-sufficiency. The provinces do not give the villages their due share. The local bodies today are a sham, I should say, in this country. I hope, whatever the Constitution, the provincial Governments will make efforts to see that the villages are made

self-sufficient and unless we have village self-sufficiency, there will not be happiness, and prosperity for the common man in this country, for whom we have the greatest regard.

Sir, the other redeeming feature in this Constitution is that we have abolished communalism. At the earlier stages, frightened by the remark that we would be called ungenerous to the minorities, we enacted in the old Draft Constitution presented to the House on the 1st February 1948, communal representation I come from a minority community. I have held during my whole life that this minority was a canker and a poison in our political life. Subsequently, it has been realised by this House that the various communal representations must go and they have gone. It was the happiest day when, through the efforts of the Chairman of the Minorities Committee, Sardar Patel, we have been able to erase that communal representation which had been introduced into the Constitution. Today, this Constitution which we are presenting to the country and to the world will not show any kind of communalism in any of the articles. As far as the Scheduled Castes and Scheduled Tribes are concerned, I have expressed my views. I do not consider them as a communal body. I consider them as a class of people from the Hindu community to whom our great revered leader Mahatma Gandhi felt, and rightly felt, that a great deal of injustice has been done. Although a Parsi, I have had the privilege and honour of working as the Secretary of the Harijan Sevak Sangh in my province and I can claim to say that really a great injustice has been done to them. It is but right that we have provided for them special privileges. I am confident that within the ten years after the commencement of the Constitution, this class of people will also have come up to the level and standard of the other people and these Scheduled Castes will automatically go away after ten years.

Sir, every effort has been made in this Constitution to see that the Judiciary is put above any kind of influence of the Executive. What more do you want, I ask? We have taken pains to see that howsoever great influence the Executive have, it should have nothing to do with the Judiciary, so that the rights and privileges of the citizens should be fully secured and protected. I have only to remark that sometimes the Judges are also puffed up. While we have given them all possible supremacy, they must also bear in mind that they should not be puffed up. If any criticisms are made of their judgments, they take action for contempt of court, bring a prosecution and themselves sit in judgment in such matters. I brought forward an amendment; I am sorry to say that it was lost. The Judges have no business, when they say that the Executive and Judiciary should be separated, to order that such and such newspaper or such and such person has committed contempt of court and to order that he should be prosecuted, and again, himself to sit on the Bench and decide the Issue. This is a very unheard of procedure. I leave it to the good sense of the future, Judges, right from the Supreme Court down to the lower courts, and hope that the Supreme Court will give a lead to the other High Courts that in the matter of contempt of court, they should not behave as they have been behaving in the past.

On the question of language, how proud are we? Some state that we should not have a language and that English should continue. A country without, a language of its own, could never be a democratic country. This was a ticklish question and there were those days when there was a hectic fight going on over this. But, with one voice, the House decided that we should have the Hindi Language and we are proud of it. We have not forgotten, at the same time, that the regional languages should be retained and we have retained them.

History will judge this Constitution. It is certainly not perfect; there may be defects; I know there are defects. I told you that I fought my battles in this hall by moving my amendments and I lost them. But, it is my duty to

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say to the people that this is the best Constitution and I expect every Member of the Constituent Assembly to say, despite any difference of opinion, that this is a Constitution of which we are proud and we must proclaim to the world and the world will realise that this is a document worthy of preference by various countries in the world. Therefore I feel proud of this Constitution when it becomes law on the 26th day of January 1950, the historic day on which we shall inaugurate the Democratic Sovereign State. The various articles of the Constitution have been given a great deal of publicity, and rightly publicised, and today every man is conscious what is this Constitution and what is this article. Two years ago when we started the work, people were not conscious of what the Constitution was. But, by the prolongation of the sittings and the sessions of the Constituent Assembly, people are taking great interest in discussing the various articles after reading them in the newspapers, although the newspapers give a scanty report—they cannot give a *verbatim* report. People are today taking a great interest in what this Constitution is and what these articles are, which give to the people their rights and their obligations.

Lastly, Sir, I would say, there is an article in the Constitution that the privileges and rights of the members shall be preserved, as those prevalent in the House of Commons. I got up half a dozen times to know from the Drafting Committee what were the privileges in the House of Commons; but none of the Members knew it; nor have they enlightened me. The Honourable Dr. Ambedkar, the Chairman of the Drafting Committee when he was confronted with my question repeatedly, said, "I have got some South African Parliaments privileges; you come to me; I will show you." I have written a letter to him to send me the same; but I have not received a reply, nor have the privileges been shown to me. I do not know whether it is in existence in his office; but I have not been supplied with a copy. I am really anxious to know what those privileges are. It is really vague to put in the Constitution that the members will enjoy the rights and privileges which are prevalent in the House of Commons which the Drafting Committee is ignorant of, of which they have no knowledge. It was not proper to have put such a thing in the Constitution. Whatever it may be, it is there and I hope that in the first session of the Parliament, efforts will be made to see that the members' rights are well protected and secured.

In the end, I will only state that it was under the inspiration of our great leader whose picture hangs over your head, Sir, that we were all the time discussing these articles, and I am quite confident that although his body is not there, his spirit will guide us rightly after this Constitution becomes law and that we shall act faithfully and loyally and follow the teachings that he has all along his life taught us, faithfully and honestly.

Prof. N. G. Ranga (Madras : General) : Mr. President, Sir I am very glad to say that this is one of the memorable days that this House has come to witness, during its career of more than two years. There were times when this House was very much inspired by the speeches made by our Prime Minister and Deputy Prime Minister and many, other leaders of our own. This is also, a memorable day in the same sense because today we have begun our mutual fencitations over the great task that we have all performed in fashioning out, a Constitution for the future of this country, for the free India of our dreams, which has now come to be a reality. It is also in another sense a memorable day because with the blessings of this House and with your own personal blessings and the strength, support and inspiration of our two great national leaders—Panditji and Sardarji—a new province is being brought into existence as a result of the deliberations and the work of this Constituent Assembly. I am fortunate in being an Andhra and in being able to do my own little bit by the

side of our two veteran leaders, the Kesari, Mr. Prakasam and our Rashtrapathi Dr. Pattabhi, in trying to bring into existence the Andhra Province, and we have the good news today that the Congress Working Committee has agreed to request our Government to bring into existence this Andhra Province for which the Andhras as well as others have been fighting for the last 35 or 36 years. My only regret is that the founder of this movement, once the Acting President of the Indian National Congress, one of our great martyrs in this country. Desabhakta Konda Venkatapayya, is no longer alive to see this day and to hear this great news. I sincerely hope that the Government as well as yourself as our President, will do their best to take the necessary steps under Section 290 of the Government of India Act and later on under the appropriate section of our own Constitution, for the creation of this province and help it in every possible manner to make its debut in the realm of our own States in this country and enable it to make its own contribution to the progress of an Independent India.

Coming to the Constitution that is before us, I am glad to say that in several respects this Constituent Assembly has been able to set an example to the rest of the world. We have read only to-day that Mr. Truman, President of America, is trying to persuade his own countrymen to confer civil rights upon the Negro peoples of that country who form 10 per cent of their population. But according to our own Constitution we have sought to confer all those, civic rights upon our own Harijans, other Scheduled Classes and backward peoples and backward Tribes. We have banished untouchability first of all from our minds and from our social matrix. We have agreed that there should be no untouchability at all and anyone who observes it should be taken to task. We have also agreed that our Scheduled Castes should be protected. My Friend Muniswamy Pillay was rather afraid that it might not be possible for them to make such progress within the next ten years that it would be possible for the whole of the country to say good-bye to these reservations at the end of the ten years, but I am more optimistic and what is more, I am anxious also that our Indian democracy should play its role so well and perform its duty by our Scheduled Castes so satisfactorily that at the end of ten years our own Scheduled Caste friends would be willing to join hands with all others in saying good-bye to these reservations.

Then, Sir this Constitution has set another example to the Imperialist Nations of the World and also to the tribal people especially of Africa, by that Chapter we have included in the Constitution for the protection of tribal peoples of our country. Ours, as everyone knows, is an ancient country and therefore there is such a lot of debris of the past which has got to be cleared. We cannot clear it in a rough-and-ready fashion. We have to take constructive steps and our Constitution seeks to take those constructive steps by agreeing to create autonomous tribal republics in those far distant lands of Assam and providing a chance for the tribal people to live not only their own social and tribal life but political life, in a manner which would be conducive to their rapid progress. We have set an example to all other peoples because, as we all know, the British, the Belgian, the French and other Imperialists who were having their control over the peoples of Africa are today hard put to it to find a way by which they could possibly help the tribal people in those countries to make the necessary progress and as we all know that the tribal people of those countries themselves are in need of means-political means-by which they can make their own rapid progress, not only towards complete independence as we have achieved, but also towards social progress and I feel that the way for their progress lies in the manner in which we have ourselves prepared this Chapter and shown the way to our own tribal people.

Sir, in order to achieve religious harmony many countries have had to undergo a tortuous history. In Canada, in England and in France where there was

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conflict between two different denominations of Christianity itself, it took so many years to come to a harmonious solution as to how their various denominations should be allowed to be taught, preached and propagated for their progress as well as for their social life. In our country we had to harmonise the interests as well as the proselytising proclivities of some of our own religions and we have many more religions I am afraid that many other countries—and yet we have struck upon, a solution which, I am sure, will be considered not only by Constitutionalists but also by Sociologists all over the world to be highly progressive, to be harmonising and to be useful. There is also this difficulty of bilingual areas in regard to which also, the League of Nations of old and the present U. N. O. and several peoples of various countries have had to wrestle with their own minorities, their interests and their conflicts. We too in our country have come to a solution which is progressive, which would bring about harmonious relations between different people speaking different languages, or living within the same area or within particular areas of different provinces. And I am glad, Sir, that power has been given to the Central Government to see to it that the peoples living in these bilingual areas are able to enjoy the privilege of getting their children educated in their own languages, while at the same time, enjoying the privilege of getting into the services, and the legislatures and also the political life of the regions of the Province or the State in which they happen to live.

It is also good, Sir, as you yourself so ably put it, that we have come to take a decision with regard to our common language. It is going to be one of the biggest constructive efforts that this country would be making, in order to weld all our different people into one strong, solid and harmonious nation; and I sincerely hope that it would be possible for our children and their children not only to learn this language, but also to enrich it with all the genius that we have been able to develop, and our ancestors have been able to develop through their own languages, in this vast country.

We are very grateful to our Sardarji, whom we all love and respect, for the manner in which he has consolidated our country and integrated province with province, State with State, and all of them together into this great whole, this united India; and for achieving a social revolution of which any country or any nation can be proud of, a revolution achieved in such a non-violent manner and in such a short time a record time, indeed.

Sir, we are laying the foundations for our democracy. I am satisfied for the time being, Sir with these foundations. We have these Fundamental rights. We have not contributed very much to these, beyond what we have been able to gain from the experience of the rest of the world. But at the same time, I am glad to say, we have tried to draw as many lessons as possible, for our own adoption and for our own practice, in the formulation of these Fundamental Rights. In one respect I think we have gone a little forward, and rightly so, and that is in detailing those rights which we can establish in a court of law, if any executive authority were to try to violate any one of them.

I am also glad that we have taken sufficient care to prevent the kind of experience that the United States of America has had for several number of years, over the conflicts that arose between different States on the one side and also States and the Federal Government on the other, and we have taken a lesson from their experience and made sufficient and necessary provisions in our Constitution in order to prevent any conflict between one State and another, and we have also established harmonious relations in the development of their own inter-provincial irrigation, flood control and various other subjects, and also to see that in the economic development of our country no one State would be able to prevent the general development of the country or the progress of its neighbouring States.

I am also glad that we have had the courage, the moral courage, to place certain restrictions upon the kind of liberty or kind of license that any one group, of people, a few individuals or many, would like to enjoy in this country and exercise. It needed moral courage because so many of us have been to jail and suffered from the detention and all the rest of it, and therefore, We know the pangs of it, and we have been inveighing against this aspect of executive authority for so many years. And therefore, we had to realise its necessity, and it is not easy for erstwhile revolutionaries to realise so soon after the achievement of their immediate objective, namely, independence, that if the country is to grow in strength and in stability, and if we are to have social progress at all in the country, then we must be prepared to restrain such of those groups, parties or individuals as would like to stake their all and sacrifice the good of everybody for the benefit of their own particular isms, their own communalisms, their own castes, creed or class or their own politics. Therefore, I do not think that any Member of this House need have to be apologetic to anybody who might come forward and say, "Oh, you have put all these restraints upon such and such fundamental rights, and so on." We have also taken care to fix certain limits to the exercise of executive authority even in this direction.

We have also displayed our moral courage in another direction, and that is, in accepting the need for a strong, stable, loyal and patriotic public service. There were days when I was a young man, in the university, when Mr. Lloyd George began to speak about the "steel frame" in India, and I felt very unhappy. I used to be very angry, and I thought "Why this steel frame" ? But now within the period of three years, we have been able to realise how necessary it is for us, if we are to achieve cooperative progress or Gandhian Socialism, how necessary it is to have a Civil Service, and if we are to have a Civil Service, how necessary it is to trust them, and to be trusted by them, to stand by them and to be served by them in a loyal fashion. So I am in agreement with the provisions made in this Constitution for the protection of the salaries and emoluments of our public servants. But this does not mean that we are giving a *carte blanche* to our public servants. We are providing these privileges to the Civil Service with the hope and with the object of seeing that they do serve the country loyally and efficiently.

Sir, with regard to one aspect of our Constitution I am a little unhappy, and that is, the degree of centralisation that we have provided for in this Constitution. Not that I do not want a strong Central Government. All of us want it. But just contemplate for a moment what is likely to happen if another Hitler were to arise and take charge of the Central Government, or to play the same pranks and tricks that the earlier Hitler had played in Germany, by dismissing socialist provincial governments or one or two liberal provincial governments. We have given certain powers to the Central Government here which would empower them to dismiss certain of our Provincial Governments. Whether this is a good thing, whether it is a progressive thing, that is yet to be seen. But that power we have agreed to give to our Central Government in the hope that our people would see to it that the Central Government of the future would always be democratic, that it would not be allowed to degenerate either into a Communist totalitarianism or a Fascist totalitarianism.

Sir, with regard to our own Provincial Governments too, and their constitution, we have taken care to provide for them a democratic basis. It is very necessary for our own people to see to it that this basis is respected and strengthened. The success or failure of any constitution depends upon the people who have got to use that Constitution, who have got to help to grow the various conventions, conventions over conventions, growing from precedent to precedent. Are our people going to take their responsibilities seriously? I have every confidence that they will. I have every confidence that people who accepted the leadership of Mahatma Gandhi and followed it over all those troublous years

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and fought imperialism and achieved freedom for this country would also have the necessary wisdom and statesmanship to help us to grow from this Constitution into a higher and higher conception as well as experience and practice of democracy. I look forward to the day when it would be possible for us to achieve a Cooperative Commonwealth; as Bapu was good enough to call it through the, Kisan-Mazdoor-Buddhijeevi-Kalakar raj-that is, the Raj of the toilers of the country, not the Raj of the idlers or exploiters, but the Raj of the people who lived by their own toil, who made their contribution to the society in an honest and progressive manner, the Raj of the people who lived, worked and died for democracy and democracy alone and never countenanced dictatorship.

Mr. Naziruddin Ahmad (West Bengal : Muslim) : Mr. President, Sir, once upon a time a man went on a sea voyage and returned to his village after a long time and people asked him what was the greatest wonder that he had seen. He said the greatest wonder that he had experienced was that he had returned home. So far as this Constitution is concerned, the greatest wonder is that we have finished it. One of the other wonders and possibly a most exclusive wonder in the world was the invention of a "second reading which we concluded yesterday.

An Honourable Member : Second and a half reading.

Mr. Naziruddin Ahmad : May be. This kind of reading has never been known in any constitutional or legislative history in any part of the world; and somehow or other, I was an unconscious instrument in creating this mischievous state of affairs. I had suggested at a very early stage the idea of the Drafting Committee revising the work of the second reading. I had a suspicion that the way in which we were proceeding would lead to many mistakes. I therefore suggested a rule that the Constitution as settled at the second reading be sent to the Drafting Committee for revision. It was then strenuously opposed by Dr. Ambedkar, but ultimately he agreed and we can now see the practical value of the rule. The unfortunate result of that procedure was that whatever was intricate or difficult or anomalous began to be made over to the care of the Drafting Committee. There was however a condition that the Drafting Committee should make changes only of a formal nature and further amendments by members should be limited to those amendments. The power given to the Committee was similar to that given to the Secretary in the Legislatures. An unforeseen result of the rule was that a large number of anomalies could not be considered by the House and were shut out at the second reading. This was due to another rule introduced at the instance of Shrimati Durga Bai. Punctuation, grammatical and other formal amendments were passed over as if these were nothing. They have never been considered by- the Drafting Committee and the House was, absolutely debarred from considering them. This reading may, to my mind, be fittingly described as the fourth reading. It is something of a new precedents for the world.

The rule that formal, grammatical and punctuation amendments should be left over was supposed to be based on the English practice, but in England there are no such drafting mistakes as we are accustomed to here. Drafting mistakes there are absolutely out of the question, impossible and a thing never to be thought of. But here we have taken considerable liberties with the English grammar including punctuation and the wording of the Constitution. This led to entire ignoring of grammatical and formal errors and this led to errors and anomalies with which the world has never been familiar.

I submit these rules have in practice led to a serious state of affairs. There are a number of errors, anomalies, redundancies and repetitions. I shall refer to only one repetition of a glaring nature. Article 89, clause (1) says: "The Vice-President of India shall be an ex-officio Chairman of the Council of States." Exactly the same provision, in the same identical words also occur in article 64 where it says: "The Vice-President of India shall be an ex-officio Chairman of the Council of States". One of these provisions should have been deleted. I ventured to attempt it, but I was ruled out on the ground that such glaring repetitions would be looked over by the Drafting Committee. The Drafting Committee have simply ignored it and the repetition remains. (*Interruption*).

Shri R. K. Sidhwa : What is the mistake?

Mr. Naziruddin Ahmad : The same provision in identical words appears in two places in the Constitution. But it has been passed over. It is no use holding a post mortem examination of this defect.

Shri Mahavir Tyagi : But we want to follow your argument.

Shri R. K. Sidhwa : Where does the mistake occur?

Mr. Naziruddin Ahmad : I have no time to be cross-examined by Members.

Mr. President : I would ask honourable Members to let the speaker proceed in his own way.

Mr. Naziruddin Ahmad : There are a large number of anomalies and mistakes with which the Constitution abounds. I will not tire the House with a catalogue of them. Some of the amendments moved in the House have not been accepted by the Drafting Committee, in the House not because they were not considered necessary, but because of a kind of bashfulness or nervousness that acceptance of those things would imply some amount of inferiority. I should have thought that that was not a correct attitude to take. Many amendments have been quietly accepted at the revision stage without any acknowledgment. I shall cite one or two typical cases. One is, there were in the Constitution expressions like "article such and such of this Constitution", "Clause such and such of this article". The repetition of the words "of this Constitution", "of this article" in more than one hundred places is against all principles of drafting. I repeatedly pointed out these redundancies. But they were not then accepted. But at the revision stage they have been quietly a without acknowledgement. I do not grudge the Drafting Committee the credit, because it has effected some improvement. Then there was the expression "Notwithstanding anything contained in this Constitution". The word "contained" according to modern principles of drafting is redundant. This word to which I objected has been removed in all places, also without acknowledgment. Then I referred to expressions "date of commencement of this Constitution" and pointed out that the word "date" should be omitted because that is clearly implied. This has also been done by the Drafting Committee, but again without acknowledgment. Then, I said that Judges should be spelt with capital letters. This has been done. Ministers also, I said should be capitalised. This has also been done. All these have been corrected in hundred places without, acknowledgment.

An Honourable Member : It is a great change indeed

Mr. Naziruddin Ahmad : We should be grateful even for these small improvements. But so far as Courts are concerned, they have, on my suggestions, used capitals in respect of the Federal Court and High Court, but smaller Courts have been looked down upon by the Drafting Committee and they are in small letters. Their acceptance of this is half-hearted.

Shri H. J. Khandekar : May I draw the attention of the honourable Member to the Clock !

Mr. Naziruddin Ahmad : Such words are usually capitalized in all our statutes. Such expressions as Magistrates, District Judges, Assistant Magistrates and a large number of similar names have been written with small letters contrary to established practice.

The greatest defect with the Drafting Committee, however, was that their minds were continually changing. In fact these changes were so apparent and so persistent and almost of such daily occurrence, that it does not require to be mentioned specifically. These have resulted in many anomalies.

Then, Sir, one other defect mentioned in the course of the debates was that the Drafting Committee was increasingly encroaching upon the Provincial sphere and succeeded in denuding the Provinces of all responsibility and power and in concentrating power in the Central sphere. The result of this would be that the Provinces would have responsibility without powers. That would produce irresponsibility. This happened in the case of the Dyarchy which miserably failed.

Another defect is that the word "State" has been grossly misused. "State" means no less than several different kinds of institutions in the Constitution, and a reader will have to take careful note of the special definitions of the word "State" in each Part in order to know what is really meant, and even then he cannot be sure. This is due to the fact that the Drafting Committee failed to use specific names to distinguish between the Central State, the Provinces, the Indian States, the District Boards, the Municipalities, the Local Boards and the Union Boards. They have all been called "States". The anomalous result is that provisions which should apply only to the Centre have been made applicable to Municipalities, District Boards, Local Boards and even Union; Boards. There are passages to the effect that "the States shall promote international peace and security" and "maintain just and honourable relations between nations". "foster respect for international law and treaty obligations between nations" "and encourage settlements of international disputes by arbitrations"—as if the Municipalities, District Boards and other local self-governing bodies will try to do this! What is meant is the Centre. Only confusion has resulted from this needlessly comprehensive definition. The reason for this is the passion of the Drafting Committee to use an expression of a sonorous and catching nature. It is this passion for grandiose terminology that has induced them to do so. But the English language was rich enough to have given them different words to express these ideas correctly in the context, and expressions like the "self-governing bodies" or "local bodies" might have been used in special contexts only where necessary. I submit this has created considerable confusion.

Then the Drafting Committee has interlocked the word "the" with the "State". The State has been defined as "the State". It is an unheard of procedure and Dr. Ambedkar could only cite an example from Australia in support. Whenever in difficulty, just as Mr. Sidhwa has pointed out, he cites the example of South Africa or Australia. But when asked to show the authority, he declines to accede. I submit, Sir, that these words should not have been interlocked. The word "State", without being well-locked with "the" should have been used for the definition. The word "the" is a definite article but it has to be used in different places with indefinite effect. The result has been that we have always said "the" State, meaning also the Municipalities, District Boards, Local Boards, Union Boards and other similar bodies. Had there been only one State in India the word "the" State would have been proper. It cannot be used in indefinite connotation. There would

be, according to the definition of “the State”, several lakhs of States including the District Boards, the Municipalities, the Local Boards, the Union Boards, etc. So when we say “the State” at various places, we really mean several lakhs of States. The word “the” is out of the question in the contexts. We should say “this” State, or “that” State, or “a” State, “any” State, or “every” State according to the context. The adjectival adjunct should depend on the context. The result of this inter-locking is to put the draftsman into a straight jacket rendering freedom impossible.

Shri Mahabir Tyagi : Have you been a school master?

Mr. Naziruddin Ahmad : Then, Sir, there is something like a passion for the use of the expression “Dominion” of India. In fact it is just like a bird which has lived in a cage for all its life when released it wants to go back to the cage. It is a jail bird, who if released, commits a crime again and goes back to jail. Although we have been released from the bondage of a Dominion, we still want to go back into it. Instead of using a very simple expression, the “Constituent Assembly of India”, the Drafting Committee has unnecessarily introduced the expression the Constituent Assembly of the “Dominion” of India. This is perfectly unnecessary but Dr. Ambedkar told us that he was unable to find a way out. The way out was simple: it was simply to mention the Constituent Assembly of India—that would have been sufficiently expressive and we have used it so often that it would not have created any anomaly.

As. Mr. Sidhva has pointed out, no one knows what are the privileges of the House. I pointed out during the second reading, that the privileges of the Members of the House of Commons were unknown and scattered in different English rules and in text books. They should have been collected. This work should not have been shirked by a vague reference to the privileges of the Members of the House of Commons. The privileges should have been worked out and incorporated in the Constitution. But the Drafting Committee had neither the time nor the inclination to do so.

Then, Sir, with regard to the pay of High Court and Supreme Court Judges. It has been reduced most unjustly and unnecessarily and in some cases there was an attempt to reduce it with immediate effect even with respect to present Judges. That would have gone against the contract on which they were appointed. On my objection there was a concession that Judges appointed up to 31st October 1948 should get their old pay. But that has again been grudgingly removed and the pay of existing Judges has been retained.

I shall refer to another anomaly as to the transfer of cases—small cases involving an interpretation of this Constitution. Some how or other the question of law involving the interpretation of this Constitution has a fascination for the Drafting Committee. In small cases—petty cases—in the districts, if any question of the interpretation of the Constitution is involved, the result will be that it will be obligatory on the part of the High Court to withdraw the cases and to dispose of these at once or to determine the issue. In fact, I submit that often this question of interpretation of the Constitution will depend upon facts. The High Court will have to be over-flooded with a large number of petty cases and a veteran litigant will take the objection that a question of interpretation of the Constitution is involved: the case will have to be withdrawn and an expensive litigation will follow in which a poor man will be at a disadvantage. So this will be used to the disadvantage of the people at large making the administration of the law more costly and dilatory.

Then, Sir, I find one individual who has been given a place in the Constitution with out any function, that is the Uprajpramukh in article 366, clause (30), He has been given no functions. The Uprajpramukh is just like Euclid’s point which has existence but no magnitude. This Uprajpramukh has been given

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a status but no one knows what it is. He has been given no function. No indication is given in the Constitution as to whether he should function in addition to the Rajpramukh, or whether he would be merely supplementary functionary. I should submit, as Mr. T. T. Krishnamachari, in a different capacity once said, that the Constitution is so badly drafted that it will be a lawyer's paradise. Of course on his elevation to that elevated body, the Drafting Committee, he has changed his opinion.

I suppose I must come to a close. I owe some apology to this House for criticising the Drafting Committee in this manner, but thanks are also due to the Drafting Committee for the troubles they have been put to. It must be acknowledged in all fairness that the Drafting Committee did their best; they worked very hard but worked without any definite, settled or fixed plan. They began to change their plans every day and that is why so many anomalies have resulted. They were however in many cases forced by the Party in power. There is another anomalous position. Part VI deals with the Provinces. In order to adapt this to the States, Part VII was introduced with some adapting sentences. These sentences are in a most perfunctory condition and they could and should have been incorporated in Part VI. It would have been very easy to say that wherever there is the word "Governor" the words "or Rajpramukh" be added. That would have been quite simple. I gave notice of an amendment No. 364 to this effect. I did as well as possible and the only thing for the Drafting Committee was to accept the same with modifications if they desired. That would have made the thing sensible and a continuous whole. The provisions relating to the Provinces and the States have been combined in all other places except this. But I believe the Drafting Committee was tired and they must have been absolutely overworked and were unable to go further, though this improvement was desirable. My amendment was ready-made and only a little revision would have done.

In closing my brief remarks which for want of time are of a sketchy nature, I cannot but mention the deep debt of gratitude which 'We owe to you, Sir, personally. Whatever has been done in the House, you were the guardian of Members who found it their duty to speak against the Drafting Committee and you did your work so wisely, so liberally and so well that the House owes a deep debt of gratitude to you. You have been extremely watchful of the proceedings—not that you did not follow the anomalies which the Drafting Committee was committing, but it was not in your province to interfere on the merits—and you gave the greatest latitude to the Members who found it an unpleasant duty of speaking against the Drafting Committee.

Sir, with all these and many other faults, I submit that the Draft Constitution should be accepted. It is not the drafting that matters. The drafting is very bad, it will lead to innumerable cases, as Mr. T. T. Krishnamachari in a different capacity suggested, on which lawyers will delight, but I believe that the success of the Constitution depends upon the spirit in which it is worked. If it is worked well, this bad Constitution, lame as it may be, will give encouraging results and will make the people of India freer and freer politically and economically with the passage of time.

Shri B. Das (Orissa General): Sir, at the conclusion of the three years' hard work, however inadequate may be my own contribution in the shaping of this Constitution, I have reached the conclusion that we have done our task well. There must be differences of opinion because if all of us will be of one mind it will be fascism or autocracy, it cannot be democracy. Therefore, there might have been and there may be differences now and hereafter, but the fact stands out foremost that we have got our Constitution, a democratic Constitution.

For that my heart goes to you for your wise guidance in bringing the ship safely to the port. My thanks are also due to the Drafting Committee. However much I might have disagreed or may still disagree with them on certain articles, they have discharged their duties well.

Sir, the feeling that has been left in my mind all the time, though the Drafting Committee worked very hard to bring this Constitution to this finish was that it was a pity that the Constitution did not reflect the spirit of the Congress. How it happened that the Drafting Committee had its majority in non-Congressmen it is not for me to analyse at present, but that feeling persisted in my heart all the time, and I think many of my comrades here will agree with me, that the spirit of Congress is lacking in this Constitution which will be our *Magna Carta* for some time to come.

Before I proceed, I must bow in reverence to the Father of the Nation who fought the battle of freedom and independence of the Indian people, who made us come to this stage and whereby we have framed this Constitution. He is no more with us though he is watching us, but in all humility, in all gratitude I remember him this moment. Whatever we have achieved, in spite of that Commonwealth link which I do not like nor many of us like here, it is all due to the Father of the Nation.

I have heard charges outside by those who profess to call themselves Socialists that this Constitution will be a dead letter. I remember a few months ago the Socialists produced a book, "A Draft Constitution". If the Socialists have the hardihood, if their leader Sjt. Jaiprakash Narayan has the hardihood to speak out that this Constitution would be a dead letter, I challenge them, I challenge him and I challenge the Socialist Party. If they are to inherit the Kingdom of Heaven, the Government of this country, from the Congress

Shri H. V. Kamath : We want the Kingdom of the Earth.

Shri B. Das : Kingdom of the Earth, I apologise, I accept. If they are to inherit this administration from us the Congress Party, they must be realist and practical. The very small minority they are, they should not talk of this Constitution being scrapped. What alternative have they? I have some respect for Sjt. Jai Prakash Narayan but I ask him from the forum of this House to be realistic. If they think they can administer better than the Congress Government, let them produce a Constitution and let us see what fundamental differences there exist between this Constitution and the Constitution that they imagine to produce.

Before I go to the points I wish to comment, I will also thank the Secretariat of the Constituent Assembly and all those who are not with us at present but have gone on work of State outside. I remember Sjt. D. N. Rau who, as our honorary Adviser, rendered us great advice in the light of his wide knowledge and experiences. There are others who have gone on foreign service, to our Embassies and the like. To them all our thanks are due. I hope my colleagues will agree with me in offering our thanks to them for the services they rendered to the Members of this House in giving them proper advice at proper times.

Sir, are we a Republic or are we still suffering from the sin of being associated with the Commonwealth countries? The Preamble says that we should render justice, economic, social and political. Can we render economic justice as long as we are tied down to the apron-strings of the sterling areas? The suffering of the Indian masses on account of the high prices prevailing in India today is all due to our subjection to the Commonwealth and to the foreign country, the United Kingdom. The United Kingdom is responsible today for all our economic distresses. After seven of years of high prices, the index prices

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in the United Kingdom have gone up only by 60 per cent. while in our poor country the prices have gone up to 400 per cent. In the United States of America the prices have risen only to 220 per cent. And yet we were allies during the war Sir, I was no ally of the United Kingdom or the United States of America. I was only, a slave with the halter put around my neck. I was exploited. I was bled white. All the wealth and 'the economic resources of' India passed into the hands of the United Kingdom. And yet Mr. Churchill and one or two Labour Members of Parliament had the audacity, had the ignominy to say that India must pay for the defence of India during the last war. The perfidy of the politicians and statesmen of the United Kingdom still persists. I have no love for the United Kingdom. On the 26th January 1950, when the Republic of India is declared—I will declare for cutting as under from any association with the Commonwealth countries, particularly the United Kingdom.

Sir, the Drafting Committee has given us a Constitution of 395 articles. It is a Maha Bharata in Constitution and in History. The Constitution which the British Parliament framed had 321 sections while the Constitution we have made has 395 articles. Well, the circumstances over which the Drafting committee had no controlled them to increase the number of articles in the constitution. Perhaps it was like the soldiers running amuck. Therefore they must stiffen and stiffen and amplify so that the Constitution will be understood by everybody. If I may say so, they have done away with the work of the legal interpreters. This Constitution of 395 articles does not need, any Bhashyakars or commentators.

Sir, the machinery that this' Constitution envisages places at the top a cabinet with joint responsibility, though it is qualified by certain emergency powers given to the President as the head of the Government, Sir, I never liked these emergency powers, but they have come in. But the administrative machinery that they have introduced by which the Cabinet will rule over the vast masses of the country is controlled by three instruments of Government such as the administration of justice by an impartial judiciary in the shape of the Supreme Court, the Auditor-General who will test and check all expenditure of public moneys and the Federal Public Service Commission whose selection of officers for the services the administration will accept. It is for our Home Minister to see that any advice given by the Commission is respected by the Ministries. This has not been so in the past, not even during the last two and a half years since we attained our independence.

Sir, the Auditor-General must maintain the financial integrity of the country. He must not allow officials to over-spend or to spend without proper sanction of Parliament. No Parliament worth its name should allow the officialdom to exceed the sanctioned amount of grants and play ducks and drakes with public finance. That has been the practice in the days of the foreign rule. Most of our official, however much they have changed their hearts and are working under a democratic system of Government tuning their policies to the policy of the Congress Government and of the Cabinet, still labour under the old-fashioned idea that an auditor should not challenge their financial irregularities. This must be safeguarded.

Sir, the economic distress which this nation is facing, must be remedied by the Cabinet with the help of the Administrative Heads and the people at large including this House. But how can there be economic self-sufficiency when we have got a Cabinet of 20 or 21 Ministers? Nobody can expect retrenchment or reduction in expenditure in the circumstances. And Ministries will continue to be extravagant. If their number could be reduced, some economy can

be effected. The British rulers ruled India with seven secretaries. Today we have got nineteen secretaries. When this is so, retrenchment must come from the top. Attempts are made by our Cabinet to remove the present economic distress by compulsory savings or compulsory cuts in salaries of Cabinet Ministers and by our compulsory acceptance of a reduction in our daily allowance. But these will not solve our economic problem unless we establish a Government suited to our national economy and national genius. We have borrowed a foreign system of Government. We are carrying on with the old-fashioned British system of government and the ex-British officials are now our trusted advisers. That mentality must change. I hope and I pray God that from 26th January 1950 the indigenous spirit of administration, will come into existence in India.

Sir, I wanted to talk a word or two about adult franchise. It is a welcome democratic principle. But it is a western idea. We have borrowed it. I have accepted it. But I wonder if it can be brought into practice here and if our Ministers can devise means to hold elections under adult franchise by January 1951. Borrowed ideas are not suited to Indian genius. So perhaps five or ten years hence we may have to change our ideology when we find that adult franchise is not practicable in India.

Sir, I take this opportunity to congratulate my friends from the Andhra province for finalising the creation of the Andhra province. They are my next door neighbours and I have been intimately associated with that province for years and years, and I do wish that the Constitution should have empowered the Government to bring this province into being on the 26th January 1950, but I believe it will take some time.

If I look at the provisions of the Constitution I do not like some of them. I do not like article 22 on detention. I do not like article 34 on the martial law provision, nor do I like article 128 whereby High Court Judges could be shunted from one part of the country to another, as my honourable Friend Dr. Ambedkar put it yesterday, for the convenience of administration. It has already been remarked this morning that the separation of the judiciary from the ordinary civil administration is not necessary at present. What was a point of serious complaint, a serious difference of opinion, in the days of foreign rule, is not a grievance today. If all officials are honest, there is no necessity to separate the judiciary from the general administration which would otherwise increase the cost of administration of every province. I am glad my honourable Friend Mr. Bardoloi, is present today. Assam is in very serious economic distress. Under this Constitution, if it is economic distress today, tomorrow it will be severe distress, and therefore there are certain things in which we must go slow.

Speaking of article, 322, the Federal, Public Service Commission, the advice tendered by them should not be overruled by a Secretary or a Deputy Secretary.

We came to some agreement on article 148 and whatever the difficulties, whatever the desire of the administration, the Auditor-General must be the highest authority in audit control of expenditure. If that is not there, there will be chaos as there has been since 1938-39.

I must conclude by saying that certain omissions must be corrected before the 25th or 26th of this month. The National Anthem must be settled, and if I may be permitted to suggest, we must specify also the national dress. I hate to see official still moving about in ties and collars. Our association with the

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Commonwealth does not entitle anybody to put on foreign dress. They should be debarred from doing it. Parliament should debar by legislation. Nobody in the employment of the State should wear foreign dress.

Another point is the financial reallocation between the Centre and the provinces. Dr. Ambedkar twice declared on the floor of this House that an *ad hoc* Committee on Income-tax reallocation will be announced. I hope, Sir, that you will compel the Government of India to come forward and appoint that Committee on income-tax reallocation which may give real relief to my Friend, Mr. Bardoloi from Assam and will certainly bring some relief to Orissa. Sir, I support the motion.

Mr. President ∴ The House will now stand adjourned till ten o'clock tomorrow morning.

The Assembly then adjourned till Ten of the Clock on Friday, the 18th November 1949.
