

Tuesday, 22nd November, 1949

Volume XI



सत्यमेव जयते

14-11-1949
to
26-11-1949

CONSTITUENT ASSEMBLY DEBATES

OFFICIAL REPORT

REPRINTED BY LOK SABHA SECRETARIAT, NEW DELHI
SIXTH REPRINT 2014

Printed at JAINCO ART INDIA, New Delhi.

THE CONSTITUENT ASSEMBLY OF INDIA

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Marshal:

SUBEDAR MAJOR HARBANS LAL JAIDKA.

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CONSTITUENT ASSEMBLY OF INDIA

Tuesday, the 22nd 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.)

Shri H. V. Kamath (C.P. & Berar: General): Mr. President, a few days ago you were good enough to tell the House that the election of Members from Vindhya Pradesh to the Constituent Assembly would take place about the 20th of this month. Will you kindly tell us whether the election has taken place and whether the Members will take their seats here during this session ?

Mr. President : Well I am expecting them to come; but it is not by way of election. As I informed the House the other day, an attempt has been made to constitute an electoral college, but for some reason or other, that has not been found possible. So ultimately I was asked to agree to nomination, and I did. So I am expecting the nominated Members to come.

Shri Jainarain Vyas (United State of Rajasthan) : I understand that two Members have already come here.

Mr. President : It they have come, they will come here.

Shri Jainarain Vyas : But they have not got the credentials from the Raj Pramukh and that is why they are waiting.

Shri H. J. Khandekar (C.P. & Berar: General) : I read in yesterday's paper that four persons have been nominated by you to this House from the Vindhya Pradesh.

Mr. President : No, not by me.

Shri H. J. Khandekar : No, I am sorry by the Rajpramukh. May I know on a point of information whether there is a Harijan among them ?

Mr. President : Well, the names that we have received are these, and I do not know if any of them is a Harijan or not. The names are:

- (1) Captain Awadhesh Pratap Singh,
- (2) Shri Shambhunath Shukla,
- (3) Pandit Ram Sahai Tewari, and
- (4) Shri Mannulalji Dwivedi.

No, I do not think there is any Harijan there.

Shri H. J. Khandekar : From the sur-names also I can make out that there is no Harijan.

Shri H. V. Kamath : Is any attempt being made, or will any attempt be made, to get the Hyderabad State into the Constituent Assembly by the next session ?

Mr. President : I do not know. I cannot make any attempt so long as Hyderabad does not accede to India and agree to send its representatives to this Assembly.

Shri H. V. Kamath : There was a rumour in the Press that Hyderabad was shortly going to accede.

Mr. President : I have no information.

May I suggest to honourable Members to confine themselves to ten minutes each, because there is a very large number of speakers and many of the points have already been covered by one speaker or the other. So, the speeches now will be more or less a repetition. I would, therefore, suggest to honourable Members to confine their remarks to ten minutes, if possible.

Begum Aizaz Rasul (United Provinces: Muslim) : Mr. President, Sir, this is indeed a very solemn and auspicious occasion that this Constituent Assembly has finished its mighty task of drafting a Constitution for free India—a Constitution which embodies in itself the hopes and aspirations of the Indian people. If a constitution can be judged by its phraseology, or by the provisions it contains, then, certainly, our Constitution deserves a very high place in the constitutions of the world and I think we are justified in feeling proud of it. I would like to congratulate Dr. Ambedkar and members of the Drafting Committee on their wonderful work and to thank you, Mr. President, for the patient and efficient manner in which you have conducted the proceedings of this House. The Secretariat staff of the Constituent Assembly also deserve our thanks for their hard work and incessant labours.

Sir, the most outstanding feature of the Constitution is the fact that India is to be a purely secular State. The sanctity of the Constitution lies essentially in its affirmation of secularity and we are proud of it. I have full faith that this secularity will always be kept guarded and unsullied, as upon it depends that complete unity of the peoples of India without which all hopes of progress would be in vain.

Then, Sir, being a Democratic Republic, the Constitution provides for all citizens, individually and collectively, the best fruits of democracy and ensures to them those basic conditions and freedoms which alone make life secure, significant and productive. Even though these Fundamental Rights are hedged in by various conditions and provisos, yet to my mind, Sir, they guarantee to the citizen that measure of liberty which is necessary for a free and full development of his total personality. These are also justiciable which is an essential corollary to the theory of Fundamental Rights which are incorporated in a constitution to ensure the principle that man has certain rights independently of the Government under which he lives and a court of justice is there to see that these rights are not infringed by any of the governmental bodies—the Legislature or the Executive.

Articles 14 to 28 ensure to the individual social, economic and political equality, irrespective of caste, creed or sex, religious freedom and equality of opportunity. Articles 29 and 30 ensure to the minorities the preservation of their language, script and culture. I hope, that article 29 will be so applied as to be effective, and primary education of children will be imparted in their mother tongue wherever such demand is reasonably made.

But, Sir, I regret to say that article 31 relating to the right of property has been very unfairly and unjustly embodied in the Constitution. Like, builders of cities, the makers of the Constitution frame a constitution for all times, embodying principles of universal applicability. The Constitution should not favour one party or one group or one province. It is regrettable that the provisions of article 31 do not pass this test and have been made to facilitate party programme in some provinces. It discriminates against *zamindari* abolition Provinces other than the U.P., Bihar and Madras, and also discriminates between agricultural and industrial property. It takes, away the rights of justiciability from agricultural property in these provinces. This is a strange provision and makes an ugly blot on an otherwise beautiful picture.

Sir, the introduction of adult franchise in the country means a great step forward, but with the large masses of uneducated people this system would only succeed if effective measures are taken immediately to educate the people of India for citizenship.

Sir, the women of India are happy to step into their rightful heritage of complete equality with men in all spheres of life and activity. I say so because I am convinced that this is no new concept which has been postulated for the purposes of this Constitution, but is an ideal that has long been cherished by India, though social conditions for some time had tragically debased it in practice. This Constitution affirms that ideal and gives the solemn assurance that the rights of women in law will be wholly honoured in the Indian Republic.

Then, Sir, one of the most important and historic features of the Constitution is the abolition of reservation of seats for minorities. I am in the happy position to remind the House that right from the very beginning I have consistently supported the thesis for the abolition of these seats, as I made clear in my speech at the time of the First Reading of this Constitution. The part that I have played in the removal of these reservations and which I did with the greatest sense of responsibility was inspired by the conviction that it was absolutely suicidal for a religious minority to keep alive the spirit of separatism by demanding reservation on communal lines. As a matter of fact nothing can protect a minority or group less than a barrier that divides it from the majority. It makes it a permanently isolated group and prevents it from moving closer to the other groups in the country. I hope that by doing away with reservations we have also swept away those difficulties and misunderstandings which so unfortunately marred our public and political life in the past few years. I look forward, Sir, to the day when individuals will cease to regard themselves as members of religious minorities. But this, Mr. President, can only be done if and when the majority also cease to be conscious of their majority and members of all communities, big or small, sincerely and simultaneously begin to consider themselves and one another as full and equal citizens of a Secular State.

Another interesting aspect of our Constitution is the fact that it is now applicable to the whole of India, including the erstwhile Indian States. This has been made possible by the remarkable genius of Sardar Vallabhbhai Patel who has achieved in a miraculously short period of time, in a completely non-violent manner, the unification of our country in spite of the intransigence and obduracy of such States as Hyderabad and Bhopal. We look forward to welcoming very shortly in our midst the chosen representatives of Hyderabad.

May I say, Sir, what a thrill of pride we felt on reading that the Prime Minister had referred to and quoted from the Constitution of India when he addressed the Parliament of the mightiest democracy of the modern world. By this gesture of his we feel that the seal of authenticity has been placed on the democratic nature of our Constitution, Sir, a constitution is judged by the spirit in which it is worked: it is judged by the manner and method of its implementation. Then, again, the ultimate aim of all constitutions is to increase human happiness, human well-being and weld together the various elements in a country into one nation. Ours is a great country with a great destiny stretching before her. I hope and pray that the implementation of this Constitution will be such as to enhance the prestige of our motherland and make her a dynamic force that will bring together all nations of the world within the orbit of an enduring peace. Sir, I support Dr. Ambedkar's motion.

Dr. P. S. Deshmukh (C. P. & Berar: General): Mr. President, at the very outset I would like to endorse all that has been said in praise of you and the

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tributes paid to you. I refer especially to the tributes paid by Mr. Maitra, Mr. Naziruddin Ahmad and Pandit Thakar Das Bhargava. I do not propose to spend more time in offering congratulations to various Members of this House who have taken such keen part and have spent all their intelligence.....

An Honourable Member : All their intelligence ?

Dr. P. S. Deshmukh : Not all, but so much of their intelligence and have worked so hard in seeing that the Constitution was framed as far as possible to their own satisfaction.

In this Constitution we have decided to have a parliamentary democracy. It is a parliamentary democracy modelled on the British constitution and although we have not parliamentary sovereignty and although we have decided to encroach on the sovereignty of our Parliament in various ways by incorporating Fundamental Rights and many other matters of like nature, including decisions as to what salary shall be paid to such and such individual, etc. We have gone on the model of the British constitution more than the American constitution. So far as similarity between ours and the American constitution is concerned it is more in the form or the nomenclature than in the essential powers that we have conferred on the various office-bearers or dignitaries in the Constitution.

One great merit of this Constitution I consider is that the people of this country are not going to have a Constitution very much different from what they are familiar with during the last ten or twelve years. With the exception of responsibility at the Centre it is essentially the Act of 1935. I do not mean this, for the moment at any rate, as a sort of condemnation. I am prepared to regard it as a merit and not a demerit, because the people will not have much difficulty in understanding the Constitution. The Governors are there, the name of the Governor-General has been altered to the 'President, but essentially the whole superstructure of the constitution of 1935 remains intact. There is one important change which will bring about, I hope, a radical change in the social and political status and composition of the people in the country and that is adult franchise. Excepting for this there is very little in the Constitution to enthuse over. But that, namely adult franchise, is one factor which I think will make a tremendous difference to the nature of representation in the various legislative bodies. Although the superstructure will remain the same I have no doubt that the underdog or the common man in India will have greater power in his hands and he will be able to wield it to the benefit of the whole country. I look at the Constitution from two distinct points of view and I consider it unsatisfactory from those points of view. Firstly, if we look at it from the point of view of building a strong nation we have certainly discountenanced many binding forces which should have been useful and which are useful to all societies and all nations : I mean for instance the binding force of religion. At the present day I do not think in the whole world there is any other country which is so definitely irreligious as India is and on the excuse or on the fundamental principle of making our Constitution secular we have seen to it that there is not even a shadow of our religion reflected in our Constitution. I am not a very religious man myself but I think religion has and can certainly have a definite place in the life of every society and in the administrations of many States. I would not have minded if we had given some place to the noblest religion on earth, namely the Hindu religion, and even if we wanted that the Constitution should remain secular, even if we had declared that this shall be a Hindu State, I have not the slightest doubt that the Constitution would have remained as secular as we wanted it to be, because there is

no religion on earth which is more secular in character than Hinduism, (*Hear, hear*) I for one would have utilised, especially in a country like ours, the religion of India which our forefathers and ancestors have left us for the further unification and building up of the future Indian nation.

There is also another point of view from which I find the Constitution defective. This parliamentary democracy is essentially meant for maintaining the *status quo*. It is not meant to bring about a radical change from the existing state of affairs. We are going to keep the various institutions intact. We want to keep the various layers of society where they were and from that point of view I would not be surprised if this Constitution does not last long, because it does not answer the aspirations of the man in the street at the present time. We have praised, many of my honourable Friends have extolled, the principles of equality, liberty and fraternity. Sir, after a period of more than two hundred years, I think most of these very high sounding words have lost their significance. Under these phrases it has been possible for various countries to maintain the upper layers where they were and to exploit the lower ranks to their hearts' content. And I think that if the present Constitution is worked in the right spirit, if the adult franchise makes a difference and we get the right people from the common and average men as their representatives, then alone will it be possible for the people to receive that benefit which they are aspirin for. Otherwise, what was good after the French revolution cannot be good in the year 1949 and there will have to be some sort of a rebellion or a revolution in order that the superstructure should not remain as it is perpetually and the proletariat coming into its own will have the powers of authority and the well-being of the country in their own hands.

From that point of view, Sir, having a parliamentary democracy is not answering the requirements of the present age. Unless the adult franchise itself is going to make a difference, unless the vested interests which will try to maintain the *status quo* find themselves powerless to maintain their own present, hold under the altered circumstances of the future, then alone is this Constitution likely to work, Otherwise the Constitution required under the present age is entirely different, at least as different as Mahatmaji himself wanted it. After all, we have worked this very Constitution during the last three years and it is quite easy to see from this experience that there is not going to be much material difference between the way in which we have administered the country for the last three years and what we may do hereafter. And if we look back at it we will find that we have not been able to answer or to satisfy the aspirations of the people. It is no exaggeration to say that there is, however imperceptible, a conflict arising between the Government on the one hand and the people on the other. it is no use consoling ourselves by saying that the discontent is not able to focus its attention or to organise itself in one single party so as to damage the administration of the present day. But that may very easily come about because the signs and the seeds are there. The people are thinking that this is not our administration because they have got so many grievances, so many items of discontent. So, from that point of view I am doubtful whether this Constitution really answers or satisfies either the genius of the Indian people or the requirements of the present age.

Sir, apart from that we have undoubtedly achieved very many things for which we ourselves deserve congratulations and the person who deserves the highest congratulation is the Iron man of India, Sardar Vallabhbbai Patel. It was he who brought about homogeneity in the sub-continent of India by liquidation of all the States. Then, the minorities and the various other impediments in the working of a proper democracy have also been removed largely

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by his wisdom, by his prudence and by his tactful handling than that of anybody else. So, from that point of view we have achieved a great deal. In giving adult franchise, in abolishing all special interests and representations, in abolishing the States and in also liquidating many of the vested interests, we have certainly advanced a great deal. But in discouraging or denouncing certain of the vested interests we have also strengthened some others. In times to come it must be our endeavour to see that these vested interests also do not remain as impregnable fortresses of conservatism and old-age philosophies and in that connection I would certainly like to express that the people of India should cultivate a sort of respect for this Constitution. If and when they find it wanting, it may then be time for them to change it. But there is no doubt that we have done our best to incorporate the essentials of a democratic Government in it.

Some people have objected that the President has been given too much power. I too agree that in some cases the President's powers are extensive but really speaking these are not the President's powers, they are the powers of the executive and the Prime Minister. I do not think the President will be able to act in any other way except as a constitutional monarch. He will have no initiative, he will have very little power to act arbitrarily; it is the Central Government which is clothed with more executive power. Sir, I had proposed that we should have a unitary form of government, but I have the satisfaction that although we have not incorporated a full-fledged and full-blooded unitary form of government, our Constitution is more unitary than federal and from that point of view I think it is a much greater improvement from the time we set about this task.

I have one or two complaints to make, but I do not think this is the opportunity when we should resort to any fault-finding. It is enough to say that the people who are known as the backward communities of India, have not been treated as fairly as I would have liked them to be. There would have been no harm if my suggestion in this respect were accepted, but if it was not found acceptable for incorporation in the Constitution. I hope the sympathetic attitude which many people have towards them will be reflected in the legislation that we may pass hereafter or the policies we may pursue. After all, the whole of India is economically and educationally backward. There are only very insignificant proportions of our people who have got either the wealth or the education or the various good things in life. The generality of the people are destitute, are ill-fed, their health is very little cared for. Therefore, the handicaps and the sufferings of the people like the Scheduled Castes and Scheduled Tribes are also, in a large measure, shared by vast communities which are in the Hindu fold itself. That being so, I would say that it would be very desirable that the sympathy which we show towards the Scheduled Castes and Scheduled Tribes should also, in a measure, be extended to these people who have yet to see any benefits accruing from the freedom that we have achieved, and the more sympathy we show, the better will it be for the homogeneity of the Indian society.

Sir, I again thank you for the latitude you gave us from time to time and the way in which you have conducted the proceedings of this House. It has given immense pleasure and every satisfaction to every Member of the House and I for one would like to pay you this tribute once over again.

Shri Sita Ram S. Jajoo (Madhya Bharat) : Mr. President, Sir, it is a matter of great pride that I stand here to support the motion of the Honourable Dr. Ambedkar. I have no desire of entering into the history of the idea of the

Constituent Assembly but so far as I am concerned, as a representative from an Indian State, I feel gratified at the development and evolution of the association of the Indian States people in the present Constituent Assembly. We the people in the Indian States, under the Presidentship of the present Prime Minister of India, the Honourable Pandit Jawaharlal Nehru, and later on Dr. Pattabhi Sitaramayya and Sheikh Abdullah, have tried and agitated for the association of the, Indian States people with the Indian Union. We have wanted that there should be no distinction of any kind between the representative of the people of Indian States and those of the then British India. We thought that racially, culturally, ethnologically and in every other respect we were the same people, we were the same race and we had all common interests with the, rest of the country. Fortunately for us, Mahatma Gandhi, Father of our Nation and other national leaders realised it and with their blessings we achieved success and marched from one milestone to another and ultimately we have been associated in this Assembly under your very able guidance. Mr. President, Sir, you started the negotiations with the Princes which ultimately resulted in that there are now only a few handful of people who were their nominees and that the rest are all the elected representatives of the Indian people. As a matter of fact we feel that by a single stroke of the pen we have wiped off the history of 200 or more years during which period the foreign Government created various interests here with a view to perpetuating their imperialistic interests and their strangle hold on this country.

Sir, in this Constitution as regards the chapter on Indian States we felt that the control of the Centre over the Indian States was wrong; I was strongly of the opinion that such control was an insult to the people of the Indian States. With that view I with other friends of mine particularly Shri Balwant Singh Mehta, brought that matter to the notice of the Drafting Committee, its Chairman, Dr. Ambedkar, Shri T. T. Krishnamachari and others. It was very kind of them that they did hear us and told us that the circumstances in the Indian States were such that they could not take any different attitude. We reluctantly agreed with them, but still believed that there was no necessity of making this distinction in the Constitution. Later on we heard and we see it provided in the Constitution that the provinces also get the same treatment. That is a consolation for us, as the proverb goes 'that misery still delights in its resemblance with another's case'. But still we feel that we should not be treated like that.

Sir, there has been a change since the Partition in the political ideology of the country from provincial autonomy to the strengthening of the Centre and the desire to grab as much power to the Centre as possible is there. I am not going to criticise this change in the ideology, because that is perhaps the view of our leaders. They want to strengthen the country. After the Partition, other things have also developed. Those developments are not our own creation. We feel, however, that on the whole whatever has been done in the States is a grand achievement and further we have the assurance given by the Deputy Prime Minister who is also Minister for the States that there will be least interference with the administration of the States. I hope we will not be treated like Harijans.

Our greatest achievement is that the people in the States who were being treated as sub-humans with no civil rights or civil liberties are now granted these rights and have been brought on par with the rest of the people residing in this country. The old system has been obliterated and the systems of forced labour and other inhuman customs are not be perpetuated any more. But it remains to be seen how far we will succeed in implementing the provisions in the Constitution. I have no doubt that under the able guidance of our Prime Minister and the Deputy Prime Minister we will see that our aspirations are fulfilled fully well.

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Another thing we have achieved, concerns the minorities. Separate electorates had been the cause of discontent in the country and also the cause of Partition of the country. We have now wiped them off. But there is one thing about which I would like to warn my co-religionists who are in a majority here. We have done away with reservation of seats and separate electorates except in the case of Harijans and that too only for 10 years. Now we have to remember that the treatment we not out to the minorities during the next ten years and the goodwill we show them should be such that at the end of this period we should be able to wipe off the reservations for the Scheduled Castes also. If we fail in this respect in this test, our failure will remain to our lasting discredit. We have to prove by our action that we are men of goodwill. This is the time for action. No provision in the Constitution will be equal to that. Not professions but actions are needed, and I hope we shall not fail.

Another point I wish to dwell upon relates to the financial integration of our country. I feel that by having financial integration we are strengthening the Centre. But we have to see that the Indian States which contribute much to your coffers are treated fairly. You are taking many things from them and their income from the railways and other sources. You should see that they do not become financial wrecks. In Madhya Bharat and other States particularly in Rajasthan, you have taken Bikaner, Jodhpur and Udaipur railways. In case they do not get a fair help and subsidy from the Centre, financially they will be only wrecks. You have to see that they get a fair chance to govern and manage their affairs well.

Administratively we have been hearing from our administrators that the Indian States people have been dubbed incompetent. I refute such statements about the Indian States. There are probably more glaring cases of maladministration in the provinces. We all know what is happening in certain provinces now. If everybody says that the Indian States are not sufficiently advanced for handing over power, I ask what has been happening in Madras Province, in West Bengal and in the East Punjab?

Shri L. Krishnaswami Bharati (Madras: General) : What do you know of Madras ?

Shri Sita Ram S. Jajoo : If I do not know anything about Madras, I challenge those who come from the Provinces to say what they know of Indian States. There is no reason why you should dub the hundreds of Indian States as backward. We may be backward and yet we may get representation here. But there is one thing you should remember. We are human beings with the same aspirations and ambitions as others. We have all been slaves with you and fortunately for all of us we have been redeemed from that slavery. Thanks to Bapu. I do not see how you are superior to us. I will never concede that. So far as the administration is concerned, as it is under the able guidance of the Deputy Prime Minister, all the administrative services have been integrated and we feel we should have a fair chance and representation. One request of mine in this connection is that the people of the Indian State should not be given the cold shoulder.

Another thing is that people have been saying 'I am not going to defend this Constitution. There are more competent gentlemen like Dr. Ambedkar and Shri T. T. Krishnamachari for that'. I do not agree with them. They say, that this Constitution does not go far enough. I do not agree with them also. This Constitution according to me, is suited to Indian conditions. I do not think in the present circumstances anybody could improve it. Everywhere we find that all man-made things are faulty and there is always room for

improvement. And in the present circumstances we could not make a better Constitution than this. But I am confident that had the Father of the Nation been alive today he would have certainly approved of it, though he might have not entirely agreed with it. There are provisions in the Constitution which show that we have wholeheartedly followed the Gandhian philosophy. The Constitution contains the seeds of all that Gandhiji had taught us and these seeds would flower if the Constitution is worked properly.

Under the Constitution we have drawn up we can fulfil all our election manifestoes and promises to the electorate provided we work it in the spirit in which it is conceived. It is not the letter of the law or the articles that we should look to for guidance. We should be guided by the spirit in which we have framed the Constitution. As for example, Sir, though it is not provided in the Constitution we have the assurance of our Prime Minister that so long as he is Prime Minister salt tax is not going to be reimposed in the country.

Another change is that this is a voluminous Constitution, for that I have to draw your attention to the fact that there are certain things which, if you leave provisions relating to them as you find them in the Constitution, the result will be jugglery of the lawyers and the judiciary will interpret many of them in such a way that the people will be the sufferers.

Sir, now I will refer to the question of property rights. It is provided in this Constitution, Sir, that the *zamindaris*, will be abolished only in provinces where Bills to that effect are introduced before the 26th January, 1950. This abolition should come into force throughout India on a uniform basis. Everywhere *zamindaris* should be abolished by the 26th January next. In the Republic of India there should be no vestige left of the *zamindaris* or other feudal or vested interests. The opportunity is there and we have full faith in our leaders Pandit Nehru and Sardar Patel that they will achieve this and lead the country forward taking one milestone after another. Our ambition to make a Constitution for ourselves has been fulfilled. Here we have ended one part of our journey to take up the greater task of fulfilling and implementing the aspirations underlying this Constitution. Now it has to be judged how we are going to put it into practice and fulfil our promises to the electorates. We who have been swearing in the name of Mahatma Gandhi on every available opportunity have to show in actual practice that our actions will not be inconsistent with his principles. Particularly on Congressmen falls the duty of seeing that we are true to the Mahatma's ideals and do not fall victims to communalists or vested interests.

We should take a practical view of the whole thing and see to it that people are not victimised by vested interests. We have to see that we got out of the clutches of the vested interests. We approve of the Constitution as worthy of the objectives and worthy of the (Objectives) Resolution that we have passed here. With these words, Sir, I support the motion which has been moved by the Honourable Dr. B. R. Ambedkar.

Mr. President : Pandit Hirday Nath Kunzru.

Shri Lokanath Misra (Orissa : General) : I hope, those who gave their names on the first day will have their chance.

Mr. President : I am not calling the names in the order in which they came.

Shri Lokanath Misra : None the less, I hope those who gave their names ought to have their chance.

Mr. President : Of course they will have.

Pandit Hirday Nath Kunzru (United Provinces: General) : Mr. President, no one who considers the Constitution as a whole can but approach it with

[Pandit Hirday Nath Kunzru]

a full sense of responsibility. It may not be what everyone of us would have desired it to be but I think that the wholesale condemnation of what is contained in it, which has been indulged in by some people here and outside is out of place. In this connection, Sir, we must all in fairness pay a tribute to the Drafting Committee for the efficiency and thoroughness with which it dealt with its task. Its members have had to work hard individually and collectively, and while it is impossible for anyone to say that all their recommendations are of such a character as to win the approval of all Sections of the House, it must be admitted that they approached their duties, in so far as they were free to give effect to their wishes, with a desire to enlarge the bounds of freedom. In this connection, Sir, I should like to pay a tribute to the officers and staff of the Constituent Assembly whose duty it was to help the Drafting Committee in placing its recommendations before the House and honourable Members in obtaining, information and understanding the various provisions of the Constitution. Perhaps I have proved more troublesome to them than any other Member of this House.

Shri H. V. Kamath (C. P. & Berar: General) : There are some others also.

Pandit Hirday Nath Kunzru : I should therefore like on this occasion to pay my acknowledgments for not merely their efficiency but the splendid spirit in which they worked. I do not think that anything can exceed their sense of duty or their enthusiasm for the work with which they were concerned.

Shri T. T. Krishnamachari (Madras: General): Hear, hear.

Pandit Hirday Nath Kunzru : I sincerely think we should place our sense of gratitude to them on record.

Sir, there are many points of view from which we can look at the Constitution but I think that the more distinctive features of the Constitution are those that relate to individual liberty and the relations that will prevail in future between the Centre and the component units. The main article dealing with the first point is article 22. I recognise that that article places certain restrictions on the power of the provincial Governments and the Central Government that did not exist before. For instance, under the Public Safety Acts, many provincial governments had accepted the responsibility of supplying information to the detenus with regard to the charges on which they had been detained only if they were asked for it. Again, it has been found in several cases that there was undue delay in supplying the information. Another defective feature of the provincial Public Safety Acts was that they did not provide for the reference of the cases of detenus to an Advisory Board, so that even if no judicial examination of the charges was possible the public might feel that some impartial body had considered the charges and judged whether the detention was justifiable or not. Under article 22 the case of every detenu will go before an Advisory Board composed of persons who have been Judges of a High Court or are qualified to be appointed as Judges. Again Sir, the Government concerned will be under an obligation to inform the detenus as soon as possible of the grounds for their arrest and detention. It is further provided that no man unless he has been detained in accordance with the law passed by Parliament shall be kept in detention for a longer period than that prescribed by Parliament by law. Article 22, therefore, removes, some of the defects that existed formerly. Nevertheless our experience of the existing restrictive laws shows that scope is so narrow that it cannot deal with some of the difficulties that have arisen in various provinces

Sir, although the Public Safety Acts have given full power to the Provincial Governments to detain persons who in their opinion have committed or are about to commit acts prejudicial to the public safety, nevertheless the High Courts had intervened in some cases and ordered the release of detenus on the ground that the charges against them were vague, indefinite or incomplete and did not contain sufficient information to enable them to make the representations contemplated by the Acts. Some of the Governments following the lead of the Central Provinces Government amended their laws so as to prevent the High Courts from releasing anybody on these grounds. The Madras Government has recently amended its law in this sense and the Minister of Law stated in the Madras Assembly that the change had been introduced at the instance of the Government of India. Dr. Ambedkar has placed before us an article that would impose restrictions on the powers of the Provincial Governments, but his Government, possibly his own Ministry, has advised the Provincial Governments to choose an indirect way of ousting the jurisdiction of the High Courts.

Another illustration will also show how narrow the scope of article 22 is. In a case that came before the Central Provinces High Court a few months ago the High Court found that the charges were groundless. The facts and the evidence placed before it by the detenu concerned showed that there was no ground for the apprehension entertained by the Provincial Government and that the facts mentioned by it and the grounds for arrest communicated by it to the detenu had no basis in fact. I suppose that the Central Provinces Government communicated definite charges to the detenu because it feared that the High Court might otherwise hold that the detention was not justified, but article 22, as placed before us and as passed by the Assembly, would afford scarcely any relief in such a case. Neither the Central Government nor the Provincial Governments would be under an obligation to communicate definite charges to the detenus and consequently the High Courts would be unable to exercise even the little supervision that they have so far been able to do.

Sir, there is one other feature of the Constitution

Shri T. T. Krishnamachari. May I, point out to my honourable Friend that clause (1) of article 22 might probably cover the case he has in mind?

Pandit Hirday Nath Kunzru : Clause (1) of article 22 does not relate to cases of persons who are detained under any preventive law. I am speaking of persons arrested under the Public Safety Acts and not of people arrested under the ordinary law. I do not, therefore, think that clause (1) of article 22 will apply to the cases of persons to whom I have been referring.

Sir, there is one other feature of the Constitution that I should like to refer to in this connection. The administration of a law is a matter of no less importance than its provisions. It is necessary, therefore that the position of the judiciary should be strengthened and that every step should be taken to devise a machinery that would ensure that impartial justice was meted out to everybody, but I fear that the Constitution will not promote what is necessary for this purpose, viz., the separation of the Judiciary from the Executive. The form in which the recommendation on this subject was placed before us required that this reform should be carried out in three years, but the reference to this period was deleted when the recommendation was discussed by the House. Consequently the recommendation is only of a general character now. I know that in Madras at least the scheme for the separation of the Judiciary from the Executive has been put into effect in one or two districts and that in one or two other provinces schemes for carrying out this

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purpose are under consideration. But, the Constitution as it is, does not enable us to exercise any pressure on the provincial Governments to effect this reform as speedily as possible.

Again, take the position of the High Courts. It will be more than ever necessary in the future that the highest legal talent should be attracted to the High Courts and that they should enjoy a high degree of prestige I fear, however, Sir, that the provisions relating to the salaries and pensions of the Judges taken in conjunction with the prohibition of private practice will not induce men with the highest legal qualifications to take up Judgeships in the High Courts. It is still open to us to revise the law regarding the payment of pensions to the High Court Judges so that there may be at least one law that would induce really able men to accept Judgeships. I do not want to go into the details of this subject; but in my opinion, what is necessary is that the pension of a Judge taken from the Bar should not depend on the length of his service and that the pension given to such a Judge and perhaps even to other Judges should be as high as it is, for instance in England. At the present time, the Judges in India may at the outside get one-third of their salary as pension on their retirement. I think that the pension should in the future not be less than two-thirds of the salary.

Another way of strengthening the prestige of the High Courts and of creating confidence in the minds of the public in the efficiency and purity of judicial administration, would be to allow the High Courts to appoint and transfer District Judges. It was at first contemplated that our Constitution should confer such an authority on the High Court. But, unfortunately, the article that was placed before the House was revised so as to take away this power from them. This is a weakness of our Constitution which is deeply to be regretted. All these features taken together show that the Drafting Committee and perhaps the Central Government have not realised the importance of the provisions relating to the future judicial administration of the country.

Now, Sir, I shall deal only with one more point before I sit down. In judging the character of the provisions relating to the distribution of powers between the Centre and the Provinces, I shall not be guided by any theory. There is no uniform definition of federalism. Federal constitutions are of various kinds. What we have to see is whether the relations that would prevail between the Centre and the component units will be such as to promote the growth of democracy and a due sense of responsibility among the provincial Governments. The experience of federal Governments in various parts of the world has shown that it is necessary to endow the Central Government with the power to deal with certain important matters which certain Constitutions have placed within the jurisdiction of the component units. Experience has also shown that it is desirable in view of the conditions prevailing now that the Central Government should have considerable power in the economic sphere, so as to be in a position to raise the standard of living of the masses and to bring about an increase in the production of wealth in the country. We know how important the economic factor has proved to be in various countries. The power conferred on the Union Government by this Constitution in regard to economic matters is then at once to be welcomed.

Again, it is a welcome feature of the Constitution that the Central Government will be in a position to implement the treaties to which it is a party, or any conventions that it has agreed to. In my opinion and in the opinion of Indians in general, it was a serious defect in the Government of India Act, 1935 that the Central Government did not possess this power.

Again. Sir, it is necessary that the Central Government which is responsible for the security of the country should be able to intervene effectively when the national security is threatened by external or internal causes. But there are certain powers given to the Central Government that in my opinion are not required either by experience in other countries or by the developments that have taken place in the world since the end of the last war.

Sir, the provisions that I have in view are those relating to the annulment of the financial relations between the Centre and the constituent units in an emergency and the control to be exercised by the Central Government over provincial budgets when the President is of opinion that a financial emergency has arisen there. I do not think that these provisions are called for. I have had opportunities of discussing these questions at length and I shall not therefore dilate on them now, but these two articles and the article No. 365 show that our Constitution is over-centralized. Even in the circumstances prevailing in India, it is not necessary that the Central Government should regard the Provincial Governments as its perpetual wards. Under the Government of India Act, 1935, the Governor, I believe, was responsible among other things for the maintenance of the financial stability and credit of his province. The Central Government under this Constitution will take the place of the Governor. We have not been content with the reintroduction of Section 93 into our Constitution in a slightly changed form but have also borrowed from that Act in respect of the control to be exercised over democratic provincial governments in regard to their finances. Article 365 in my opinion shows that the provisions of the Constitution relating to the distribution of powers between the Central and State Governments are based on a complete distrust of the provinces. We are trying to usher in an era of full democratic Government and yet we begin by distrusting the States, on which it will ultimately depend whether democracy succeeds in this country or not. I fear that the Central Government has taken too much responsibility on itself and that the Constitution may, instead of making the State Governments realize their responsibility, will discourage them in the performance of their task and make them feel that they are no more than agents of the Central Government. Such a feeling cannot promote the development of a full sense of responsibility nor can it stimulate the provincial electorates and the legislatures to exercise the supervision that they should in a self-governing country.

Sir, while speaking of the future Constitution of the States I hope you will allow me to say a word about adult franchise on the basis of which members of the Provincial Assemblies will be elected. There is no doubt that property is not a satisfactory basis of franchise. If a man does not pay a tax or does not live in a house of a particular rental value, he does not thereby cease to be a citizen. On the contrary perhaps the neglect from which men like him have suffered for generations is a reason why he should enjoy the power to vote and to bring pressure on those on whom the improvement of his condition depends. But we have to consider whether the sudden expansion of the franchise that will be brought about by adult franchise will be helpful to the development of democratic ideas and that sense of discrimination and restraint on which the successful exercise of democracy depends. In the provinces I believe not more than 18 per cent. of the adult population is enfranchised at the present time. In the States mentioned in Part B of the Constitution there is hardly any franchise. In many of them there are hardly any local bodies. It seems to me therefore that to go at one bound from a greatly restricted to universal franchise is not the part of wisdom. Had we graduated the lowering of the franchise so as to

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bring about adult franchise within a definite period of time—say 15 years—and been content immediately with say, the enfranchisement of between 40 to 50 per cent. of the people, we should probably have allowed less room for demagogy and made it easier both for political parties and individual candidates to meet the electors and educate them; but under the conditions that will prevail under this Constitution, I fear that the education of the electorates will be a needlessly difficult task. All those that have had experience of the ignorance of the electors under the present Constitution will, I hope, agree with me in the view that I have taken of the sudden expansion of the franchise. As, however, it is not possible to change anything in the Constitution before us, let us hope that the political parties in the country and public men ardently desirous of enabling every person to become a responsible citizen will take all possible measures to enable the electorate to understand the duties that it will be called upon to perform and to provide the conditions that will make it possible for the elector to become a self-respecting citizen capable of thinking out, at any rate, the ordinary issues for himself.

Sir, the Constitution, judged from the point of view that I have placed before the House, one cannot but be received with mixed feelings. There are undoubtedly some features of the Constitution that deserve every praise. The Chapter on Fundamental Rights, though some of the provisions in it are open to serious criticism, confers substantial rights on the people of the country, and particularly on the oppressed minorities. It also gives assurances to the minorities that are of the greatest value. Take again the provisions relating to the manner in which the public servants are to be recruited in future. It is upon their honesty and efficiency that the future of the country will depend to no small extent. I think we can feel sure that in so far as the law can provide for it, this Constitution ensures that no man shall be appointed to a public post except on the ground of merit. That is undoubtedly a great achievement and our gratitude is due to the Members of the Drafting Committee and to the House for this feature of the Constitution. But there are several features of it to which one cannot give one's full-hearted support. But support we must, the Constitution at this juncture. I do not think any one of us can cast his vote against it. But some of us at least win regret some of the important features of this Constitution and wish that it had been possible in accordance with the suggestion made by the Prime Minister some months back, to amend the Constitution for a few years, as if it were an ordinary law. (*Cheers.*)

Shri Syamanandan Sahaya (Bihar: General) : Mr. President, Sir the present is a unique occasion in many respects; but above all, it is an occasion for prayerful thanks-giving to the Creator of us all, for the fulfilment of the ambitions and aspirations of our leaders who fought valiantly, now for over half a century, and never considered any sacrifice too great for the achievement of the objectives the fruits of which we are here now to enjoy. How much we wish we had some of them amongst us today to bless us and to guide us in our onward march. I wish also that some spiritual background would have found place as an important feature of this Constitution. This would not have made this Constitution any the different from others, because we find such references in other Constitution also. In our case, however, this matter assumes greater importance because for once in the history of religion and politics, it was the great Mahatma who brought them together, and not only showed the place of religion in politics, but also laid down for the first time that it was not merely the end that should be good and truthful but also the means employed to achieve the end if the end is to be of any permanent good. Some of us, Sir, feel that it is not right to mix up

politics with spiritualism. That in my opinion, is not the need of the hour. While speaking here, or even in other countries, do not our leaders express the importance of the spiritual background of this country ? And would it do, I ask, any credit to us, if we do not give expression to this background in the very first act of this Nation ? However, even if this does not find a place in the written constitution of this country, I trust that in carrying out the purpose of this Constitution, our countrymen and our leaders will keep God in front of them, and in their hearts, and then alone the Constitution will be really successfully worked.

This, day Sir, is again a day for expression of gratitude to the Rishis of old who laid the foundations of this country, spiritual, economic, social and religious, on such firm grounds. The Grand Old Man of India, Dr. Sachchidananda Sinha, while presiding at the preliminary stages of this Assembly, in concluding his speech, quoted the famous verse of the great Indian poet Iqbal-

*Unan o Misr Roman sab
mit gaye jahan se,
baqi abhi talak hai
Hindustan hamara,
kuchh bat hai ki
hasti mitati nahin hamari,
sadiyon raha hai dushman
daure zaman hamara.*

The poet says there must be something inherent in us, that we are still existing. What is that inherent thing obtaining in this country as compared to others ? I submit, Sir, it is the spiritual background all through.

As I said before, the present is a unique occasion, and it is unique in many respects. It is unique in the annals of history, which depicts the past. If we look back to our history, it will be conceded that although we have had at one time milk and honey, flowing in this country under able rulers, and although we had what we are still striving for, viz., Ram Rajya; but it was all the rule of a benevolent ruler, and not a law given unto ourselves by the representatives of the people. I therefore say, Sir, that this is a unique occasion even if you compare the present with our hoary past. Even the future, I submit, will have nothing to equal it. We may have reforms in this Constitution, and we may have better things in the future, but the originality that this Constitution win claim, would not possibly be available to any other.

It is unique, Sir, because we have been able to incorporate in this Constitution not only what was called British India but also the States which were under the administration of hereditary rulers. We can now visualise India as such with one type of administration from Cape Comor in to the Himalayas.

While thinking of this one cannot fail to have a feeling of remorse at the separation of the two wings of this country. Let us hope, however, that good sense will prevail on our countrymen wherever they may be and that we shall have India as we all considered India to be from times long gone by.

The entire credit for this unity that has been brought about must go, Sir, to that firm old man of India, Sardar Vallabhbhai Patel. We had read of a Latin saying: "vidi vini vici", and now we have seen it translated into action; because that is what the Sardar has done in the matter of the merger of the States. He went, he saw and he conquered. May he be spared long to serve his country is the prayerful wish uppermost in the minds of all his countrymen.

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The present, Sir, is unique again from another consideration, because it ushers in independence to this country brought about by a method unknown in the past, the method of non-violent non-cooperation or *satyagraha*. The non-violent method of meeting your opponent without any ill-will towards him has already achieved wonders and will remain an abiding article of faith for the whole world. What a tragedy, what an agonising decision of fate that the man through whose *tapasya* alone this was secured is no more amongst us! India needed him ever so much more today. The effect of that *tapasya* is seen by the results we have achieved in so short a time. But what really pleasantly surprising is that all that some of us talked about in the past regarding safeguards and reservations finds a very small place in this Constitution. What a pleasure that those who were enthusiasts of such safeguards have willingly surrendered all that in the larger interests of the Nation and they deserve our best congratulation for this.

Last, though not the least, this Constitution is unique in another respect. Mahatmaji's methods once again proved how with goodwill towards opponents, one could win over and conquer the worst of critics and we now see a practical example of a high ideal translated into action, namely that the achievement of independence would go to the credit of Mahatmaji, and its codification to one of Mahatmaji's worst critics, *viz.*, the great architect of our great Constitution Dr. Ambedkar. Dr. Ambedkar, Sir, deserves the gratitude not only of this Assembly but of this Nation. He and his colleagues on the committee have laboured to find out the best things almost all over the world and to suit them to the needs of this country. The masterly way in which they prepared the draft and the masterly way in which Dr. Ambedkar piloted it will ever be remembered not only by us but by the posterity with gratitude. Many a defect has been pointed out in this Constitution. I do not think the framers of this Constitution claim any perfection for it, but it cannot be denied that there has been a sincere and a genuine effort to bring about as large a measure of perfection as it was possible under present conditions. Some friends and critics have compared it with, constitutions framed on a tennis court as in France, or with constitutions framed by thirty-nine almost self-elected representatives in America. Administrative problems and principles have gone far ahead since 1787 and it would not do for any nation or any set of people framing a constitution to ignore the onward march and the progress made during the last one and three quarters of a century.

This Constitution, Sir, envisages a kind of Federo-Unitary system of Government, leaning largely towards the unitary system. The long list of concurrent and Central subjects in the field of legislation and taxation, the powers to take over the administration of states under certain conditions, the powers to issue directives to states even in executive matters, certainly make it more unitary than federal. I do not contend that there was no justification for it. But I have no doubt a feeling in my mind that it would have been as well that we had started with greater confidence in the people and the States than what we have betrayed in that part of the Constitution where we deal with the States and the Provinces.

In the matter of Fundamental Rights again, Sir, my feeling is that it has been hedged in by too many conditions and that although we provide for all the liberties in the Constitution, in the very following paragraphs we laid down conditions by which such liberty could be seriously restricted. In fact we have not even given a time-limit to such legislations which restrict the liberty of the citizen. As you may be aware, Sir, in the past every such legislation had a definite life but under this Constitution we have laid down that legislations could be introduced and passed without giving a time-limit to the restrictions they impose on the liberty of the citizen. Perhaps in the present conditions it may be considered as a safety measure; but I will contend again that it would have been better had we started with a little more confidence in our people and left it

to the judiciary to punish those who wanted to convert their liberty into licence. After all what is it that the man in the street or the common man desires Independence for ? He wants to find in the newly-won independence of the country something exhilarating, something new about his status, so that he may be able to strut about without fear of the loss of his liberty. That feeling I submit, will be found wanting. If we refer to clauses (2) to (6) of article 19 of Part III it will be quite clear even to a casual reader that we have tried to place too many restrictions on the common man and too much powers in the hands of the administration. However, much will depend upon the manner in which this Constitution is implemented and I have no doubt, knowing as we do our leaders, that there will not be many occasions to exercise the powers vested in the Government.

In the matter of financial adjustments between Provinces and the Centre think that the Provinces have not been treated as well as they should be. In fact I have a feeling that in this matter the Provinces are worse off than in the days of the 1935 Act. The responsibilities of the Provinces, their commitments and their sphere for introducing ameliorative measures for the people are far greater than even those of the Centre and as such they should have been given sufficient scope in the field of taxation. As you are aware, Sir, in Bihar alone although we have the biggest steel factory not only in this country but at one time it was supposed to be the second biggest in the Empire, although our coal resources supply coal to the entire country, although our mica is perhaps the best exporting material, yet because the head offices of all these concerns happen to be either in Bombay or Calcutta the province itself gets very little out of them even by way of incometax. The other day we heard an Assam representative putting forth the same grievance. Considering what we are up against in the matter of our financial resources it would be necessary that this matter must form the subject of serious consideration between representatives of the Centre, the Provinces and the States.

I feel that in the matter, of framing the constitution we have superimposed a Constitution from above and have not made a real effort to start from village life. This matter, as you will remember, formed the subject of an important discussion in this House and I must admit that for once and for the first time I thought that Dr. Ambedkar was not only in the wrong but very much in the wrong. His idea of the village life in this country appeared to be highly inaccurate. It is the countryside that provides all that we need in the towns. Whether you look at the military, the civil administration or the production of food, it is the village and the villager that supply the needs and it will not do to say that they are past redemption. After all they form the bulk of the population of this country. If they have not been up to the expectation of some people, who are to blame ? The Centre in the past did not give them the attention that they deserved. Do we propose to do the same ? If we do so I submit we shall do so at our peril. Unfortunately we have kept the 1935 Act very much in the forefront and hence the other aspects necessary for the uplift of this country have not been properly thought out and have not got the attention that they deserve.

Further we have made a written Constitution but we know of countries which have no written constitution and yet they are functioning as well as if not better than many countries which have a written constitution. It therefore depends very largely on how the constitution is worked. There is no dearth of able men in the country and if a real attempt is made to harness their services without any consideration for their particular affiliations I have no doubt that we shall soon be able to show the real worth of the people and this Constitution.

Before I conclude, I must express the feelings which I and other members have with regard to the very able manner in which the proceedings of this House have been conducted by you, Sir. As far as I know you have never been a member of a legislature before but the manner in which you have conducted the

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debates and upheld the best traditions of a legislature will do credit to some of the best parliamentarians that the world has produced. It is therefore a matter of gratification for all of us.

I do not think I should conclude without saying a word about the great leaders of the opposition in the House—Messrs. Kamath, Sidhva, Naziruddin Ahmed and last but not least the veteran Constitutionalist from Bihar Mr. Brajeshwar Prasad. The large number of amendments that the Drafting Committee had ultimately to propose does show that there was a great deal of substance in the proposals that these gallant Members were making from time to time. Prof. Shah, a valiant fighter, also gave way at the end when the battalion was joined by Mr. Brajeshwar Prasad and with the fun enthusiasm of a neo-convert he carried on the fight to the best of his ability. In fact but for these men we might have been accused of hustling the constitution and to them is due our individual thanks for the way they have carried on the debates now for full three years.

Our Leaders have secured the independence of the country, we have now given to ourselves a constitution but this is not the end of our troubles. It is, if I may say so, the beginning of our troubles. Let us keep before our eyes therefore the wise saying that “Eternal vigilance is the price of liberty” and let us behave in such a manner that it might not ever be said of us that:

*Khola kafas to taqate parwaz hi nahin
Bulbul tere nasib ko sayyad kya kare.*

Shri Rohini Kumar Chaudhury (Assam: General): Mr. President, Sir, I am surprised that some of my honourable Friends have even at this stage of the proceedings chosen to deliver serious and sombre speeches. To me it is a week of joy and rejoicing. Before this week is out, we shall have passed a Constitution which, in my humble opinion, will not only be the pride of India but also a wonder of the world. Sir, under your able guidance, under your distinguished guidance, we will have passed a Constitution which has avoided as far as possible all the evils and pitfalls of the existing Constitutions of the world and at the same time has culled the best principles of those Constitutions and embodied them in one single Constitution for free India. It has not only satisfied the aspirations of the liberty-loving young men and women of India, but it has also added to the past glory of India. It fills our heart with joy when we consider that once more this ancient land which was hitherto known as India only will be known as Bharat. It fills our heart with pride when we remember that Hindi is going to be the official language of this newly liberated country. It fills us with pride when we see that Devanagri has been taken as the script for the entire country. Sir, I feel beholden to my Muslim brethren in this House who have unhesitatingly and in one single voice supported us in fulfilling this desire of India.

Thanks are due to many in this House for this Constitution, I would not like to repeat their names, but I cannot help feeling that you, Sir, have laid us under a deep debt of obligation and gratitude throughout the proceedings. You have been a monument of patience for men like me and others. I take this opportunity of thanking you on behalf of Mr. Naziruddin Ahmad, Mr. Sidhva, Mr. Kamath and myself. I should have liked to add the name of Prof. K. T. Shah in this list but I refrain from doing so advisedly. He has been reticent, entirely reticent, for the last two sessions. It seems that while in the case of Mr. Naziruddin Ahmad the thieves have only taken away the copies of his amendments, in the case of Prof. Shah the entire original copies have been taken away, and it is for this reason that in the last session we did not have his speeches nor any amendments from him excepting a few.

Sir, I remember vividly the words which were uttered by that gallant gentleman, Dr. Sachchidananda Sinha who opened the proceedings of this House and who congratulated you on your election. He said that throughout the course of your life you had never stood second. You had stood first in the Calcutta University the territory of which had extended from the Punjab to the remote Assam. He also expressed the feeling that you had seriously disappointed him by refusing to become a High Court, Judge. Sir, I say today, and I think the House will agree with me, that you stand first in piloting this Constitution of this country. You have enabled a subject nation—we were still a subject nation when we started making this Constitution—to become an independent nation in the course of the proceedings. I hope that though you have once disappointed Bihar, you will not disappoint the rest of India by refusing the position of honour and distinction which is justly your due under the new Constitution.

I had referred to the serious and sombre speeches which were made by some of my honourable Friends. But how is it that two important points had escaped their attention? These points relate, according to me, firstly to protection against cows. We have in this Constitution cow protection to some extent but there is no provision at all for protection against cows. There is also no provision in this Constitution for protection against women. I should say protection against women is very essential. You have made some provision in the Directive Principles for protection of women and children, but you have entirely failed to take into consideration one very important fact, protection which is needed against women. I hope this House unanimously accepts the point which I am making now and regrets equally with me that there has been no provision in the Constitution for protection against women, and if there is any dissentient voice, if there is even any dissentient golden voice, let her come out and protest against this expression of opinion on my part.

An Honourable Member : Are you oppressed by women so that you ask for protection against them ?

Shri Rohini Kumar Chaudhury : I would like to develop that point. It is not a new idea with me.

Honourable Members who had the courtesy to listen to my honourable Friend Mr. Nichols Roy from Assam must have heard what he said about these cows in Assam. He said that unless the uneconomical cows at least are allowed to be slaughtered, they will be a great source of danger. I can amplify his ideas and say that there is really such a danger in Assam because the habit of cow-keeping is not prevalent in that Province. Cows are brought to the homes only after they calve; they calve sometimes in the streets and sometimes in the fields but never in the house of any human being. These cows who roam about freely for nine or ten months in the year and breed the calves become very dangerous; they are in a semi-wild condition and they begin to attack and gore any person who approaches them. Therefore, it is necessary to have some protection against them. There are also a number of weedy bulls in the Province of Assam as a result of which the breeds of cows are stunted. If you allow all this cattle to live as they like without any human care and attention then really the cows will be a source of danger and it will be necessary to protect ourselves against them.

The idea of protection against women also is not my own idea. My honourable Friend Dr. Deshmukh had tabled an amendment for removal of the cursed system of prostitution, but he did not move it. I think Dr. Deshmukh felt shy in the presence of all the ladies here to actually move that amendment, but I think that was a mistake. We really need protection against women because in every sphere of life they are now trying to elbow us out. In the offices, in the

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legislatures, in the embassies, in everything they try to elbow us out. They succeed for two reasons : one, our exaggerated sense of courtesy, and then because of their having some influence in the ear of those persons who have authority. One good thing there is about this Constitution for which I would like to congratulate Dr. Ambedkar and that is that he was not insistent on giving special seats for women. That is at least something saved, some achievement made. Now, even after seats for women have been abolished, if the feelings of man are such that he should push them forward. I would very much regret it. It is not Dr. Ambedkar who is responsible for it. It is the foolish man who wishes to give them votes and send them to the legislatures and thus create troubles like the trouble which they have created in the matter of the Hindu Code.

Now, Sir, I would like to refer to the speech of my Friend Shri L. N. Sahu. Hearing him one would think that there is nothing in this Constitution worth looking at. He repeated the language of those who said, and rightly said in regard to the Government of India Act, that it should not be touched with a pair of tongs even. That seems to be the idea of my Friend Shri L. N. Sahu. But may I ask him to push his memory back to the first week of December 1946 ? What was our position then ? The Muslim League had boycotted the elections and tried to boycott this Constituent Assembly. It was said that unless the grouping system was agreed to, the Constituent Assembly will not sit. When the Muslim League stood out in a body boycotting the Constituent Assembly, there seemed to be no use proceeding with this Assembly. There was, I remember, a voice even among the Members of the Constituent Assembly who did not belong to the Muslim League which said that we should better postpone the Objectives Resolution, allow the Muslim League Members to come to the House and then proceed with our work or postpone the sitting of the Constituent Assembly altogether. That was a very critical moment. If at that moment our leaders had hesitated and faltered, if our leaders Pandit Nehru and Sardar Patel had faltered, the hope of acquiring independence at early date would have completely disappeared. If on the other hand we took our seats as Members of the Constituent Assembly, if once the Constituent Assembly which is a sovereign body assembled in session, there was no power on earth which could obstruct the gaining of independence. In fact it has proved so. Pandit Nehru, with absolute determination, said "Let whatever happen, let grouping come or not, let the Constituent Assembly sit and decide the question." When once it sat the way to independence was clear and open, because whatever Constitution was made by the Constituent Assembly would be the constitution that will be enforced. So, Sir victory in the fight for independence was achieved from the moment the Constituent Assembly sat. And today we must give all credit to those statesmen who somehow or other brought about the first meeting of the Constituent Assembly. Sir, when you remember those days, you remember also Mahatma Gandhi who had smashed the grouping system. Unfortunately, even the Congress Working Committee was not in a clear mood on that point. But for Mahatma Gandhi, and our Premier of Assam, the major provinces Of Bengal and the Punjab and a large area of Assam would have become part of Pakistan. So, may I ask my honourable Friend Mr. Sahu to ponder over this and see what we have gained by carrying out the plan for the Constituent Assembly and the Constitution ? What is the position today under the Constitution and what was the position the other day when he was in December 1946 ?

Sir, I had not the honour of listening fully to the speech delivered by my honourable Friend Mr. Kamath. I think he did not give his whole-hearted support to the Constitution. I am really very much touched by the recent activities of my Friend Mr. Kamath. I had undertaken certain responsibilities

on his behalf after completing the work connected with Constitution-making I am referring to my personal relations with him and his personal life. I am disappointed with him and I do not know if I will proceed with the work in connection with which I had given him an assurance. He has of late taken to saffron-colour robes. You have seen how he is going about in his saffron colour robes. He has been referring to God at all times. He wants the Assembly to commence its work with a prayer to God. All those ideas of his have stupefied me. I am afraid that a time will come, when he is in the spirit in which he gave up the Indian Civil Service for doing service to the country. It seems that he will give up worldly life even for the furtherance of his ideas.

Shri A.V. Thakkar (Saurashtra) : May I ask how this is relevant to the, Constitution ?

Shri Rohini Kumar Chaudhury : Sir, the relevancy is this: We have framed a Constitution for ourselves over which we must rejoice. We have done enough serious work. We must feel happy about this Constitution and when we are happy we should not be gloomy and brooding. I would say in the words of Byron: 'What is writ is writ. Would it we are wiser'. You cannot undo what you have done, by making many serious speeches. But for the advice of my honourable Friend Thakkar Bapa I would now be saying something more serious than what serious-minded people could say. After all, Sir, it will not do to be grave and formal always as in the saying 'Can man the solemn owl despise ?' So, I say what is writ is writ. We have drafted this Constitution after considerable pain and anxiety, and that is there. I certainly admit that this Constitution is more detailed than any other Constitution. There is no doubt about that. It is perhaps because that we Indians who have been subject to slavery for so many centuries have faith only in written things and not in oral expressions. Therefore, our Constitution is unlike the English Constitution which is an unwritten Constitution, but they too change it whenever there is occasion to do so. In our Constitution we have been more cautious, and put into our Constitution greater details which we could have afforded to leave to the collective experience of our countrymen. Instead of that we have utilised our own collective experience and put in more details into it instead of leaving anything to the future.

But it need not be supposed for that matter that I have nothing to complain against in the Constitution. My bitter complaint is that the Constitution is silent about death sentence. The world is civilised to such an extent now that the continuance of the death sentence is an act of barbarity. The civilised world does not want death sentence. The death sentence has no deterrent effect. I wish we had put in the Constitution that there should be no death sentence. There is no death sentence as far as I know in the Scandinavian countries of Norway and Sweden and in some of the States of America. The death sentence was abolished in Italy but was restored by the Fascist Leader Signor Mussolini and it is only the Fascist tendency in us which still want us to have death sentence in this country. Whatever has been done, there is a liberal provision in the Constitution which enables us to revise the Constitution whenever we consider it fit to do so.

Mr. President : Mr. Chaudhury, you are becoming serious.

Shri Rohini Kumar Chaudhury : I am always serious, Sir, but others take me lightly. For myself, I am always serious, Sir but I am always misunderstood. Those who have been in prison will bear me out when I say that transportation for life or detention for life is a much greater punishment than the death sentence. Death sentence gives a glory to the recipient of that death sentence after the execution of that sentence. That glory should not be given to a criminal. Death sentence whether in non-political cases or 'Political cases gives a sort of added affection from his relatives to the man who has

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been an ordinary villain, who might not have been remembered because of his villainy, who might have been hated by his family, when he is executed. The relations of the man might feel otherwise that the man has been rightly punished, but the moment the death sentence is executed, the sympathy of his family and friends goes to that criminal. Do you think that crime will be deterred by this sort of punishment? By this sort of punishment only the praise, the commendation and sympathy of the family goes to the person who has been executed. After all, we are followers of Mahatama Gandhi, who had adopted to some extent the teachings of Jesus Christ. You must not take an eye for an eye. You must not take a tooth for a tooth. You must not take a life for a life. That should be the feeling of modern India; that should be the feeling of Gandhian India. I think we have made a mistake—which we might correct afterwards—in not abolishing the death sentence by our Constitution.

I would refer to another matter about which I feel strongly. It is about the Arms Act. The Arms Act against which we fought for so many years under the British regime still remains on the Statute Book. Why? Is it because there have been a multiplicity of crimes, you are not going to have this Arms Act repealed. Do not consider for one moment that those who want to commit violence and crime will be deterred for, a single moment by your Arms Act. It is only those who want to protect themselves against robbers and criminals who will be deterred. It is only these honest men who are prevented from possessing arms under your Arms Act, and the criminal, the robber and the murderer would never feel handicapped by your Act, and therefore, Sir, I feel that it could have been better if we had abolished the Arms Act under this Constitution.

Then, Sir, there is another matter I would now like to refer to and to which I have been compelled to refer by the speech delivered by my honourable Friend Mr. Kher from Bombay, that is with reference to the separation of the executive and the judiciary.... We have been long crying for the separation of the judiciary and the executive, but we have made no provision for it in the Constitution, but I would not complain so much against that because there is nothing in the Constitution to prevent us from separating the executive and the judiciary, but I was surprised to find that a distinguished leader, a man who is responsible for the administration of a major province, *viz.*, Bombay, saying the judiciary are not knight errants and the executive are not all so many fools or criminals and therefore the separation of the judiciary and the executive need not be made. It may be that in the executive today we have got some excellent men who would not tamper with the judiciary, but how can you guarantee for the future? As a matter of fact, I consider, Sir, that when adult franchise is introduced, we must have some sort of protection and that protection can only be given by an independent judiciary and therefore the judiciary should be made Independent as quickly as possible.

I regret also Sir, in this connection that provision should have been made in the Constitution for the transfer of the Judges of the High Courts from one High Court to another. In some cases, these cases may be penal transfers. For instance, if a High Court Judge from Bombay is transferred to Assam, he would sooner prefer Port Blair. He would never like the transfer from Bombay to Assam, or even a transfer from U.P. to Assam. He would consider it a sentence of transportation for life for almost an uncertain period. What he would do is he would try to please the Governor or oblige the President in a way that would prevent his transfer to a penal province like Assam or Orissa. There would also be Judges in Assam or Orissa who would be very glad to pay anything if they can secure a transfer from Assam or Orissa to the U.P. or

Bombay. Now this method of patronage has been given in this Constitution to the President and the Governor. This is a new patronage, a new avenue of patronage, a new method by which even the High Court judges could be brought and by this way transferred. The old Constitution did not allow such a transfer. The new Constitution in allowing this transfer is, in my opinion, making a formidable mistake and it should be our duty to correct that mistake as early as possible.

(At this stage the President's bell began to ring.)

Sir, I was the third person to give my slip here and the old rule applies to me and not the new rules. The old rule is for 20 minutes and the new rules are for 15 minutes. The old rules apply to me.

Mr. President : Both together.

Shri Rohini Kumar Chaudhury : Sir, I wish to join my voice with my honourable Friend Mr. Sa'adulla in bringing to this House, to the pointed attention of this House the financial condition of our Province. If the situation is allowed to remain as it is, if there is no change immediately made about it, the administration of that Province will be impossible. I have heard that already a collapse is imminent and before the year is out, you will hear that the machinery which is running the Government in Assam will cease to work if for nothing else but for want of funds.

Sir, the other point which I wish to draw the attention of the House is the method of administration of justice in the Excluded Areas. What is the method? The Civil Procedure Code, the Criminal Procedure Code and all the laws which are applicable to the other Provinces of India will not be enforced in the Excluded Areas. I would not have troubled over it if I had known that all the people living in the Excluded Areas were as simple as some of the Tribes are. But some people are most forward and in these hills where people coming from the rest of India lived and in places like Dinapur and Shillong if these people are to be treated as Tribals in the matter of administration of justice, it would be a great misfortune. I would submit Sir, that there is a provision in the Constitution that the Governor can make rules for the administration of justice, he can lay down the law himself. 320 persons are required to frame an Indian Penal Code or amend an Indian Penal Code or the Criminal Procedure Code or Civil Procedure Code but one single Governor will lay down the law for administration of justice which will not only be applicable to the tribal people but will be applicable to the most civilized people of the Punjab or Bombay or Bengal. Is it not a misfortune, Sir ? Would it not have been better to say that all laws should be applicable, there subject to such modifications as could be made by existing conditions. So, Sir, with these words I close. If I have not thanked anybody, it is not that I have forgotten them but the heartiest thanks are due to that dear Doctor of human ailments as well as of Political malady, viz., Dr. Pattabhi Sitaramayya, who has practically forged this Constitution in our party behind the screen.

Shrimati Hansa Mehta (Bombay: General) : Mr. President, Sir, it is with a sigh of relief that we have come to our journey's end. I wish we had taken less time to cover, this journey. Time is of the essence of things and once the psychological moment is past, the thing however good loses interest and so it has become with the Constitution. On the floor of this House and even outside questions have been asked whether the Constitution is good and how long it is going to last. It is very difficult to reply to this question. The goodness or badness of a Constitution depends on how it is going to work. If it works in the interests of the people, it will be a good Constitution; if it works otherwise, it will be a bad Constitution. It is for the future electors to elect the right kind of persons, who will work the Constitution in the interests of the people. The responsibility, therefore, lies with the people. One thing,

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however, I would like to observe and that is in the circumstances in which we were placed, we could not have produced anything better. With such divergent views in the Assembly, it is indeed a miracle that we have achieved this measure of agreement. At one extreme we had Seth Govind Das, the champion of the cow and at the other extreme we had Professor K.T. Shah, the champion of the underdog, and in-between we had many variations; the last speaker would supply a good example.

In spite of all that and in spite of all the many complicated problems that we had to tackle, I feel that we have not done badly. The most difficult problem that we had to tackle was the problem of Minorities. Nowhere in the Constitution we have defined 'Minorities'. We accepted the definition that was given to us by the last Rulers. They created religious minorities, communal minorities in order to help their policy of divide and rule and that policy has culminated in the partition of this country. We do not want any more partitions. What do the minorities want? What can be their claims? The Constitution guarantees equal protection of law, equality of status, equality of opportunity; the Constitution guarantees religious rights. What more can the Minorities ask for? If they want privileges, that is not in the spirit of democracy. They cannot ask for privileges. The only exception, however, I would like to make is in the case of the Scheduled Castes. They have suffered and suffered long at the hands of the Hindu society and any exception in their case would be making amends to what they have suffered. In this connection, the abolition of untouchability is the greatest thing that we have done and posterity will be very very proud of this.

While discussing this question in the Fundamental Rights Committee, we also raised another point. We were anxious to consider the abolition of purdah. It is an inhuman custom which still exists in parts of India. Unfortunately we were told that raising this question will hurt the religious susceptibilities of some people. As far as the Hindu religion is concerned, it does not enjoin purdah. Islam does. But, I feel that Islam will be better rid of this evil. Any evil practised in the name of religion cannot be guaranteed by the Constitution and I hope that our Muslim friends will remember that if not now, later on, this question is bound to come up before the legislatures.

While the chapter on Fundamental Rights is a most important chapter, the chapter that follows, the chapter on Directive Principles of States policy is, also to my mind a very important chapter. In this chapter, I would like to draw the attention of this House to two items. The first is prohibition. A reference was made the other day by the Premier of Bombay that what they are doing is according to the Constitution. I would like to draw a distinction here. Gandhiji's name has been associated with the policy of prohibition. But, what Gandhiji desired was that the State should not manufacture liquor, nor should the State sell it and that public bars should also be closed so that there may be no temptation for those who are susceptible to drinking. But, I do not think that Gandhiji ever desired that we should raise an army of police. Gandhiji never desired that we should spend good money on police. We are prepared to forego the tainted income; but is there any reason why lakhs and lakhs of good money should be spent on excise police? It will only add one more source of corruption, and we have enough of corruption in this country. Another thing, it will perpetuate the sales tax and people who are already burdened with taxes are groaning under the sales tax. I therefore wish to make this distinction that while endorsing the prohibition policy in this Constitution, it does not mean that we agree with the method of introducing prohibition in the various provinces today.

The other item to which I wish to draw the attention of the House is the Common Civil Code. To my mind this is much more important than even

the national language. We have too many personal laws in this country and these personal laws are dividing the nation today. It is therefore very essential if we want to build up one nation to have one Civil Code. It must, however, be remembered that the Civil Code that we wish to have must be on a par with, or in advance of, the most progressive of the personal laws in the country. Otherwise, it will be a retrograde step and it will not be acceptable to all.

The world would have thought very little of the men if they had asked for protection against women in this Constitution; I am very happy to see that the Constitution does not include that provisions. Otherwise men would have had to hide their faces before the world.

Sir, I have felt it a very great privilege to have been associated with the making of the Constitution of free India. I hope and pray that the Constitution fulfils the expectations raised by the Resolution moved in this House by our Prime Minister three years ago and passed, and which forms now the body of the preamble. It is only in the fulfilment of that promise that this country will rise to its pristine glory.

Shri Lokanath Misra : Mr. President, Sir, it is a regret for me that my contribution to this Constitution has been so small that even our President who has been fair and good to everybody does not know my name.

Mr. President : I am sorry.

Shri Lokanath Misra : That really indicates that I have not proved my worth. I am sorry for it and I do blame my President. But, then, Sir, I must say, as a matter of duty what are my reactions to this Constitution which we are going to give to the country for unborn generations to come.

It is my view and so it may be that this, our Constitution Act will go as a great civilised document of the modern world. But I would not like to indulge in any kind of self-praise, praise either for the Drafting Committee or for the honourable Members or for our honourable President or for anybody else. The reason is, we have only done our duty, as best as we could and it is for the people to judge our labours. In fact, the test of the pudding is in the eating and when people will be eating it, they will know how it is tasting. Even if it tastes well, there will still be ground for complaint if it does not give us health and gives only good taste. Therefore, without eulogising ourselves, without praising ourselves, I must say that it has apparently begun with lofty words, but vain ideals; it promises to give us justice, liberty, equality and fraternity, securing the dignity of the individual and the unity of the nation. But the individual! the Nation!

Friends have already said that due to the magic wand of Sardar Patel, India has now become united politically and perhaps geographically. But, I do not find anywhere in this Constitution what is that nation, what is the individual, what is the individuality of the Indian nation that makes India India, that we are going to nurse. I do not find anywhere in this Constitution the individuality of India that makes it different from the other nations. I do not anywhere see in this Constitution what is the individual, his destiny and his purushartha for which the nation will be striving, for which the individual, the family, the country would be striving.

When we go to the Fundamental Rights, we find one thing: whatever they may be professing, in practice they will not give the desired result. They promise liberty, equality. I should say when we think in terms of equality of sex and its liberty one thing comes to my mind. If unfortunately on the emergence of the new woman, women claim freedom and equality in all respects with men and thereby becomes competitors and rivals to men, I am sure there

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will be an end of our civilization on which we have been living all these years. I beg to say that India certainly has an individuality of its own. Gandhiji was saying that India has a mission for the world and it is for the fulfilment of that mission that he was living. If India forsakes that mission, my place will not be here. Now I put to this House what is that individuality of the Indian Nation that we are going to build and give to the world, a message that will be our gift to the world civilization. I beg to say that we have simply followed suit. Instead of calling this an Indian Constitution, I would call it an Anglo-American Constitution Act for India. That is the proper name.

We have given adult suffrage—that sounds well but this sudden and direct application of adult suffrage is to harm to those very people who are going to exercise that suffrage. For instance, there will be about 20 crores of people voting at the general elections. At present they do not know what they are going to vote for, and they will simply be having their right. There will be different parties—rivals in the elections who will be going to people and saying ‘we will give this or that—do not vote for them and vote for us.’ That will simply engender in them a sense of right without a sense of duty and they will vote and be voting for a certain party which will never be in a position to deliver all the goods. Their appetites will only be whipped up. It can lead only to chaos—and to no healthy growth. I therefore say that our adoption of the Party Government of England can do more harm than good as at present. But let us hope that our statesmen and our leaders will be responsible enough to educate the people in such a manner that best use may be made of this great leap.

I think, as many friends especially the honourable Mr. Prakasam said, our Constitution could have been genuine only if we had built it on the solid foundation of panchayat raj which is still in our veins and still favoured by our people. That would have given us little democracies and enabled people who will be democrats to exercise their rights with a responsibility and with zeal and also with joy. But now under this Constitution, there will be two classes, a new ruling class at the helm of affairs and at the bottom there will be the common man exercising a vote once in five years. In the middle the middle-classes will be crushed entirely and I would say if the middle-class is crushed, the entire intelligentsia of the country will be crushed and then we will not know what is the future of the country.

Let us take another article of Fundamental Rights—article 31 relating to properties. Now in the whole Constitution this is perhaps the most absurd article. *Prima facie* this article says what is not justiciable upto 26th January 1950 will be justiciable afterwards. Supposing for instance the U. P. Bill now pending or the Bihar Bill now pending before the commencement of this Constitution Act is passed after the Constitution is passed, the provisions of that Act, under this article will not be justiciable but if that same Bill or most of the clauses of it are incorporated in a Bill before the Legislative Assembly of Orissa, after the commencement of this Constitution and if that is passed, that might be justiciable. I do not understand how what is not justiciable now can be justiciable afterwards. And then again look at sub-clause (6). Whatever has been passed within 18 months before the commencement of this Constitution will not be justiciable and whatever was passed beyond 18 months will be justiciable. This discriminative provision is quite out of place in Constitution, particularly on the Chapter of Fundamental Rights. Then again we do not say here what is the definition of ‘property’, what is ‘possession’ and ‘acquisition’ and what is ‘public purpose’. For instance in Orissa our Land Revenue and Land Tenure Committee has come to the conclusion that abolition of zamindari does not involve any taking of possession or acquisition for public purposes. The reason is, every zamindar has two rights—the right to collect rent and the right to cultivate his own

private lands. Suppose we leave his private lands to him and take away the right to collect rent, what property is he going to lose for which he will be recompensed? And suppose we abolish entirely feudalism, we abolish land revenue and instead we raise some tax, what is there to say that there is some property which is being confiscated or expropriated for which there will be compensation? These are anomalies we have chosen to bring in for nothing. It would have been enough if we had only article 31 clause (1) and nothing else. These will bring unnecessary conflicts and I think-I am not blaming anybody—a spirit of undue compromise has been responsible for enacting this article and this gives a clue to the very mind that has been actuating all things in framing this Constitution.

I, therefore, submit that this Constitution has been framed to please as many as possible but it has been a medley of ideas and ideologies and I think there is no coherent, genuine substance behind it which can hold us on. The reason is simply this. We have been so much imbued with modern ideas—ideas with which we have been spoon-fed for years, that we have forgotten ourselves. Is there nothing genuine in this land which could be the solid foundation for our future Constitution? If you want to go in for a civilization which has not been tested in our land, and which is still on its trial—I think we, are going to undo everything real and I do not know, what the future will bring us to. Now Sir, we have given adult suffrage. Well and good. After having done that, it is my submission that we should have raised the age of people who would be seeking election. In my view for the Lower House it should have been not less than 30 and for the Upper House not less than 35. In that case we could have somehow brought control over these matters and brought sense to our people.

Then again we should have given high rigid qualification for people who would be coming to Legislatures. We know what is in store for us. We know that this Constitution is founded on a Parliamentary System and any parliamentary system is founded on the members who will form the Parliament. If those members are not sober, honest, wise and able, I think the whole system of Parliamentary democracy will go down. But as I see, this Parliamentary system will go wrong for the simple reason that we have not given a rigid qualification for those people who will be taking this great responsibility. We should have advised rigid qualification for members, honest people people not exploiting people, not encouraging black markets and people who command confidence and selfless devotion. But shall we immediately see clash of interests, competition and no corporate existence? The result would then be that in the name of Parliamentary democracy, there will be chaos.

Now, Sir, a word about centralisation. We have, now in the name of a strong State, so centralised power, that I am afraid, due to its very weight, the Centre is likely to break. However good Pandit Jawaharlal Nehru may be, and however good Sardar Vallabhbhai Patel may be, they are more distant from me than is my home in Puri from Delhi. It is not possible for me to talk to them as my own man. In actual life, in fact, it is my family, my village, my district and my province, thus we go. And now think in terms of India in a great leap is simply absurd. In certain spheres, it might be good to centralise. But we have so empowered the Centre, and we have made the Provinces so powerless that in fact, I am afraid, there will be no initiative in the provincial Legislatures or even in the provincial Ministers. In fact, this Constitution really tends to make the people irresponsible, and simply remain content with voting once in five years, and caring only for the Centre and cajoling the people in power at the Centre for this and that advantage. In this way, we have made this irresponsible Constitution in the hope of giving responsible government to our people.

With these words, Sir, I say that with great honesty and great labour and with the best of intention we have passed this Constitution, and it is for us

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now to see what shape it will take in practical working and it will be our bounden duty to maintain this Constitution, and to educate the people in the lines of this Constitution. That is a great task and I hope our country will be equal to that task, and that our leaders at the Centre will be equal to that task, because if they go wrong, the Centre is so strong that the nation will go wrong, and to me it seems there is more chance of going wrong than of going right. Jai Hind.

Mr. President : The House stands adjourned till three o'clock.

The Assembly then adjourned for Lunch till Three P.M.

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

Shri Jadubans Sahay (Bihar: General) : Sir, much has been said regard the different aspects of this Constitution. I for myself do not agree with me who have shown a spirit of despair and disappointment over this Constitution as a whole. I think, Sir, we have nothing to grieve over what we have done. It is only an exhaustion of spirit which has been shown by some of the Members when they have criticised this Draft Constitution out and out.

The fact is that we are a nation born new and we have to learn the arts of democracy. The lessons of democracy are not taught in any book, but they have got to be developed. It all depends upon the character of a nation, the integrity, the honesty, our love for democratic principles and our zeal to pursue and follow them which can make or mar a constitution. The constitution of a country does not depend upon the cold letters, however beautifully or brilliantly printed in a book. It depends for its growth and development upon the character of a nation. It is the soil—the character of a nation—upon which the seeds of Constitution have got to germinate. If the soil is rocky or barren, then certainly howsoever good the Constitution might be and in howsoever grand language it may be worded, it is sure that the Constitution cannot lead us to our goal. But I have faith, Sir, in the innate genius of our country. I have faith also in the coming generation of tomorrow and we have nothing to despair over what we have done. I think that no amount of guarantees in the Constitution or the filling up of the omissions mentioned will carry us to the goal. It depends upon those who work the Constitution. It depends on how we develop the spirit of tolerance and not on the Constitution or the letter of the law. It depends on the spirit of love towards those that are down-trodden and those who call themselves minorities. We may enact in the Constitution that untouchability is abolished in every hearth and home but that carries us nowhere. You should have love and sympathy for what we call the 'have-nots'. It does not depend on the Constitution or its articles. It depends upon our own character, our own vitality as a nation.

It am not one of those who share a feeling of disappointment and so I shall approach the Constitution with a dispassionate mind and touch on one or two points and no more.

We had our struggle for freedom and we have won the independence of the country. But it is political independence or political freedom. The pre-dominant slogan for 25 or 30 years from the lips of every patriot, every soldier of freedom was the elimination of British rule. The economic slogan was not there. British rule has been eliminated and political sovereignty has been won. Therefore, in the Preamble of the Constitution we are going to declare

that India is an Independent Sovereign Republic. Even though we are going to declare it on the 26th January we are already recognised by the nations of the world as such. During the last 30 years the struggle for economic democracy was not in the forefront and the result is that even in the Constitution we have glimpses of the challenge to the economic structure of society. The economic structure of society as it existed hitherto will exist hereafter and there comes the clash. There is today a crisis in our country. There is crisis in agricultural production, there is crisis in the production of industrial goods and we have not been able to solve it. We are taking all the measures we can and yet they are not bringing results as speedily as we want. What is the cause? The cause is something which challenges the economic basis of our society and demands a radical change.

There is the property clause No. 31 in the revised Constitution. You will excuse me if I say that it is a hesitant, vacillating and insipid approach to the vast problem facing us. On one side in China, Burma and other countries subversive forces, alien to the genius of this country, are knocking at our doors and coming like an avalanche. Communism will flourish in a country which is backward agriculturally. In China it has been flourishing and it will flourish in Burma. How are we going to tackle it? We are out to abolish the zamindari system. In article 31 we find that the advantage which we have reluctantly given to provinces like Bihar, U.P. and Madras cannot be shared by Bengal, possibly Assam and Orissa also. These provinces have not been able to bring a bill in their assemblies till now. Do we think that we can challenge Communism in this way? Communism cannot be crushed by bullets, neither by our military nor police. It has to be tackled in a different way. The root cause has to be diagnosed. The disease lies in the discontent of the oppressed and hungry millions of the country. We hear of bombs, bullets, acid bulbs and the burning of tram cars in Bengal. The Bengal Government is for the time being engaged in her domestic problems. They have not been able to bring any Bill for the abolition of feudalism in their province. After the 26th January they will be deprived of the benefit which we have given in clauses (4) and (6) of article 33 of the Constitution. Not only in Calcutta and other big towns but we find Communist influence growing in the rural areas also. It is there among the Santhals, the aborigines and the *kisans*. They are all becoming victims to the Communist slogans and propaganda. You cannot stop it by sending the police to the villages. In the very nature of things it is impossible. In the Constitution we have tried to approach this problem in an insipid manner. There is a clash of ideology. There are two schools of thought clashing with each other,—one trying to maintain the old economic structure of society and stabilise it and the other trying to destroy it and reshape society on a new economic basis. I would invite attention to article 31, which is a compromise formula born out of the tug-of-war between the two schools of thought. We have not been able to touch other interests than agricultural interest. Even the zamindari or feudal interest has been touched in a very lukewarm manner. The economic structure of a country is responsible for its political development. On one side we are going to give adult franchise to the vast millions of our countrymen. We are going to clothe them with political power—those who do not have two square meals a day and those who are almost beggars in the streets, and those who remain unemployed for nine months in a year; on the other hand you are going to stabilise the present economic structure of society. You want to maintain the *status quo*. Here is a problem which you will have to solve. We who, belong to the great Organisation which won political freedom and which shaped to a very great extent the Constitution of the country, if we run away from this problem, the problem is not going to run away from us and

[Shri Jadubans Sahay]

it will pass into the hands of others for solution. It will be solved by those who will bring in foreign slogans and a foreign sphere of influence into the country. Are we going to leave the solution of that problem to them ? It is a challenge which we have not been able to answer in this Constitution.

But I will not harp on this point because the Preamble is enough guarantee if we want to work the Constitution honestly, vigorously and with integrity. It is enough guarantee for those who are downtrodden, for the *kisans*, for the labourers and for the, *mazdoors*. If we do not work it in the proper spirit, then what is meant by economic justice? What is economic justice to a man who has not enough food to eat, who has not an anna in his pocket ? You will say he has got the right to stand for Parliament. Is that economic justice? It is a farce. You will say that your schools and colleges shall be open to all the sons of *kisans* and *mazdoors*. Is it giving them education ? How many sons of *kisans* and labourers are there in the science colleges of the different Universities ? Very few. So it is a farce. Let us not in this age, when practical problems demand solution at our hands, run away from the realities of life. Times are changing and we have got to adapt ourselves. The greatest virtue of the Congress was this; and it was the greatest virtue of the Father of the Nation also, that he used to adapt himself or rather he used to keep his fingers on the pulse of the time and when he found that we were fit for such and such a thing he used to dictate the remedies to us. But what are we doing today ? We are in an economic deadlock with devaluation, export and import questions and the problem of 'Produce more or perish' facing us. We are appealing to the industrial magnates for their generosity and charity in connection with the sugar scandal.

I would have been glad if we had incorporated in the Constitution at least the hope of a classless society for the people of this country. It is not a socialistic thing, it is not born out of the philosophy of Marx. They were the very words said by Mahatma Gandhi. If he had been alive today he would have practised and brought it to reality. Sir, some people run away from the idea of this classless society and say that it is a thing which the Socialists and the Communists proclaim and that therefore we should not touch it. But no; it is rather the voice of those who have got vested interests in this country, it is the voice of those who want to keep down the millions of this country. Mahatma Gandhi who was the greatest lover of the downtrodden not only in India but over the whole world had clearly said that India wanted a classless society. But what are we doing today? What to say of a classless society, even the words nationalisation of property are not there either in the Fundamental Rights or in the Directive Principles. What hopes are there for the millions in this country? The only hope is that our leadership in this country certainly is very sound and is sensitive to public opinion and I have every hope that if we try, under this Constitution we can do all those things, we can bring about a classless society, we can bring hopes to the doors of the teeming millions, we can bring solace to their huts and homes. All this we can do out of this Constitution if we proceed honestly, if we proceed with the knowledge that democracy does not mean anything if it does not mean economic democracy. Democracy of the few, of the few educated persons who live in the houses of Delhi and who come from the various Provinces, is no democracy at all. Real democracy means that we are the servants of the people, the real representatives of the people. Let us say that this is the greatest experiment in the history of India because this type of democracy did not exist before however much you quote the *Shastras* and the *Puranas*. This greatest experiment will fail not because of this Constitution but because those of us—who have been charged by destiny to represent those who are not here, those who are hundreds of miles away from us,—do not really represent them.

With these words, Sir, I will again say that the success of a constitution depends upon not only those who work the constitution but also upon those for whom it is worked. This Constitution is a real test of our national character and I hope that we will do nothing to hang our heads down in shame.

A lot has been said about civil liberties and such like things. I am not concerned with those things. Civil liberty in the abstract sense does not appeal to me. If the country does not exist, where is the civil liberty? What we find today is a handful of persons trying to misguide people. We call them Communists and we call them by other names, but they try to misguide a large number of the people of this country. Fighting for civil liberties at this stage will be endangering the very life of the State. We have got various problems knocking at our doors, some from Pakistan, others from the Western world. At this stage civil liberties of the type envisaged by jurists and written in the books which we have read in the colleges will not do for this country. If the educated people want to have civil liberties of the best type, they will have them in spite of the hedges town around by this Constitution. The sedition law was there but it was changed in course of time. A few words said twenty-five years ago used to come under the Sedition Act, but in 1942 even the 'Quit India' slogans and all the other criticisms were not considered seditious. So, it does not depend upon the cold letters of a book, it depends on the growth of a nation, upon its ability to grow and overcome all these diseases. So, I am not very much apprehensive about the civil liberties about which so much has been said.

I have only one more thing to say and it is about the Provinces. It is all right to have the political power in the Centre, but the Provinces, at least those agriculturally backward Provinces like Bihar, C.P., Assam and Orissa where the seeds of Communism can grow at any time, have been robbed I will say you will excuse me for saying so, Sir,—of a very large portion of the income which they used to have at least from the sales-tax. We find in the Constitution guaranteeing the freedom of trade, freedom of commerce and other things in order to sanctify and perpetuate the existing economic structure of society. In matters of sales-tax we find that the Provinces have been deprived of their due share of collection. The benefit has not gone to the Centre but given to the middle classes who try to purchase a thing and sell it at another place. Take the case of Bihar. We will lose more than Rs. 2 crores by this amendment relating to sales-tax. You want to have a welfare State, not a police State because police States will not do in these days. If you want to have a welfare State, if you want to have schools and colleges and education for the children of the mazdoors and *kisans* and the downtrodden, hospitals and medicines for them, where will the money come from? You will have to run to the Provinces for that. But their budgetary position will be uncertain; the budgets of these Provinces cannot be framed with any amount of certainty. These financial difficulties for the Provinces should not have been created. They should be allowed to be economically free, to raise money at least from sales-tax so that they can function as a welfare State.

Sir, with these words, I again commend this Constitution for the acceptance of the House.

Shri Gopal Narain (United Provinces: General) : Mr. President, Sir, during last three years when the Constitution was on the anvil I remained a calm and silent observer except twice when I broke the monotony. But at this final and Third Reading stage I wish to record my views plainly, openly and courageously.

At the outset I congratulate Dr. Ambedkar, the Chairman of the Drafting Committee and the members thereof for producing such a voluminous Constitution in which nothing has been left out. Even price control has been included in it. I venture to think that if they had the time they would have

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even prescribed a code of life in this Constitution. A word more for Dr. Ambedkar, Sir. There is no doubt he is lucidity and clarity personified. He has made a name for himself.

Some months back the Honourable Shri Sampurnanand, who came here in connection with a Conference, asked for my opinion about this Constitution. I had told him plainly that it was more or less based on the Government of India Act, 1935 with certain additions taken from the Constitutions of America, Canada, etc. Taking that cue, he has described this Constitution in his Convocation Address to the Agra University as a 'Scissors and paste affair'. I fully agree with him. But I do not agree with my Friend Seth Damodar Swarup who has called this Constitution as a Constitution for jagirdars and capitalists. My opinion of this Constitution is that it does not come up to our standard. It does not even touch the mark. Those Congressmen who have been fighting the battle of freedom for the last thirty years

Shri Jaspat Roy Kapoor (United Provinces: General) : We wish you had given us a timely warning.

Shri Gopal Narain : I was calmly listening when Shri Jaspat Roy Kapoor was delivering his speech. I never interrupted him. I hope he too will not interrupt me. I know more of the Congress than Shri Kapoor. I was saying that this Constitution does not come up to the mark. Those Congressmen who have been fighting the battle of freedom for the last thirty years had a different picture in their minds. They envisaged something different. It has not come up to their expectation.

There is no doubt there are some good points in it. There is bound to be some good points in a voluminous text. I shall refer to them presently. Certainly they have done away with separate electorates. They have included adult franchise. They have also included prohibition. These are very good points no doubt. Also certain amenities have been provided for the backward classes. Their status has been raised. I congratulate the members of the Drafting Committee for providing these good things. These are very good points in the Constitution. But there are certain bad points also.

Articles 21 and 31 are instances of bad points. Article 21 which concerns the life of a man has been made non-justiciable while the right to private property has been made justiciable. These are very bad points that have been included in the Constitution.

One more point I want to emphasise. There has been over-centralisation. The local legislatures have been reduced to the status of local bodies, municipalities, local boards and the like and, as a necessary corollary, the provincial legislatures will turn the local boards and municipalities to nullity. Though Panchayats have been given some powers, I fear they will not have any scope for working. This, in my opinion, is not good.

One more point I wish to stress. There is no room in this Constitution for amalgamation at some future date of this divided India. The doors have been barred and banged against such a possibility by the adoption of Hindi as the official language. This bangs the door against Western Pakistan amalgamating with our country. Though this has been done, let us hope that Hindi will be such that it will leave some room for this amalgamation at some future date. Otherwise there is no room in this Constitution for the amalgamation of the two countries. This is a very battle aspect of this Constitution.

In conclusion, Sir I congratulate you for so ably conducting the proceedings of this Assembly. You have been very accommodative. You have not given any Member a chance to say a word against you. I conclude.

Shri Ajit Prasad Jain (United Provinces: General): Mr. President, Sir, it is but once in life that a nation decides to give a Constitution unto itself, and we who have participated in framing this Constitution have a good reason to be proud of our lot. In the history of India there have been periods of greatness and glory, there have been periods of great empires and expansion and of benevolent and good kings, but never did we have a Constitution framed by the people for the people. Before proceeding further it is necessary that we offer our thanks to Dr. Ambedkar and the Drafting Committee who have sat day after day incessantly and worked hard.

About three years ago this Constituent Assembly started to function under very different conditions than those of today. India was then undivided, but the Muslim League which was then a rival political party to the Congress had refused to participate in constitution-making. Everybody was asking, "Could we frame a Constitution with the Muslims absent almost *en bloc*?" Then came the Partition which we had to accept with a heavy heart. None among us can be happy with a partition of the country, but nevertheless it must be admitted that this has smoothed our work of constitution-making. In particular the question of minorities which had been our headache and which thwarted all our efforts for the solution of national problems has ceased to be a live issue. Maybe that we have not so far succeeded in establishing a fully united and harmonious society, but much of the old rancour has disappeared and we are on the path of achieving a real national unity.

The Constitution which we have framed cannot be, on the political or economic side, said to be a revolutionary measure. It has not only accepted the general framework of the Government of India Act of 1935 and repealed its phraseology, but it has continued the old laws and institutions. All the laws in force immediately before the commencement of this Constitution, except those which come in conflict with the Fundamental Rights enumerated in Chapter III, shall continue to be laws under the new Constitution. The Federal Court will function under the new name of Supreme Court with some additional jurisdiction which had hitherto vested in the Privy Council. The Judges of the Federal Court will become the Judges of the Supreme Court and the Provincial High Courts and their Judges will be the High Courts and High Court Judges in the corresponding States. The Advocate General, the Comptroller and Auditor General shall perform the same functions and be the same persons as were discharging those functions before the new Constitution. The Federal and the State Public Service Commissions will have the same personnel and essentially the same constitution. The services appointed by the Secretary of State or the Secretary of State in Council under the Government of India Act shall under section 314 "be entitled to receive from the Government of India and the Government of the State, which they are from time to time serving, the same conditions of service as respects remuneration, leave and pension, and the same rights as respects disciplinary matters or rights as similar thereto as changed circumstances may permit as that person was entitled to immediately before such commencement." Thus, it will be seen that it is not even the case of pouring old wine into new bottles, but of old wine and old bottles. Both the laws and the administrative machinery, under the new dispensation will not be much different than the old.

Economically one has to look to article 31 of the Fundamental Rights. It says, "No person shall be deprived of his property save by the authority of law and that no movable or immovable property..... shall be taken possession of or acquired for public purposes..... under the law provided for compensation for property taken possession of or acquired." Except for the exception provided in the case of zamindari rights in certain provinces and a few other comparatively minor changes this article reproduces section 299 of the Government of India Act. It maintains the capitalistic structure of

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society with its inequalities of wealth and income. Perhaps under the existing state of our economic plight much of it is inevitable, but in the ultimate analysis this state of affairs cannot continue for long. As the Honourable Mr. Gadgil said the other day, we shall have to make a fundamental change in the constitution of our society. We shall have to nationalise many industries which today are held by private enterprise. Without that, there cannot be any solution of our economic problems of national well being.

Sir, the Britishers had left us in a highly precarious condition. Overnight on the 15th August 1947 more than five hundred Indian Princes, big and small, became Their Majesties. Travancore and Bhopal were showing truculence. Junagadh had acceded against the wishes of the people with Pakistan and Hyderabad adopted an attitude which might well be termed hostile towards us. Under these conditions, the spectre of disunity which has been a remarkable feature of our history, as also the history of many other Asian countries, was staring us in the face. It is no small achievement that within the brief space of less than two and a half years we have attained complete geographical unity, the Indian States disappearing as political units. A glance at Part B of the First Schedule will show that what was formerly known as Indian India, and divided into more than 500 States, has been transformed into nine States. Chapter VII, in my opinion, is the brightest feature of this Constitution as it places the States constituted of the old Princely India *pari passu* with the States in Part A which represents the Indian provinces. Nevertheless, we should not forget that what we seem to have achieved thereby appears more on paper.

The public opinion, the political parties and electorate, the administrative machinery and institutions which constitute essential features of a modern democracy and which exist in much more realistic shape in the States corresponding to the provinces, are not to be found in the States constituted of Indian States. They have yet to make up a great leeway and our real achievement will be judged by how far we have been successful in achieving factual equality between States in Part A and Part B of the First Schedule. Let us hope that under the wise statesmanship of Sardar Vallabhbhai Patel, it will not take too long to achieve in reality what we have achieved theoretically on paper.

I have said that mostly the new Constitution is not much of a departure from the existing Constitution, but in some respects it has inaugurated what may be rightly called a revolutionary era. In future every adult, man and woman, who has attained the age of twenty one shall enjoy full and equal franchise. Our political institutions, Parliament and Legislatures of States, will be elected on the basis of adult franchise. This indeed is revolutionary. We are going to have the biggest electorate in the world, bigger than that of the U.S.A. and U.S.S.R. Such an experiment cannot be free from danger but let us hope that with the inimitable leadership which India possesses, we shall steer clear the ship of the State.

In Part II, which defines citizenship, all persons born in India or who are *bona fide* residents of India or who have migrated from Pakistan and made India their home have been given equal recognition as citizens without distinction of religion, race, caste or class. Citizenship constitutes the rock foundation of our Constitution. All the rights in the Constitution are equally guaranteed to all citizens. Every citizen of India shall have the right to freedom of speech and expression to assemble peacefully and without arms, to form associations and unions, to move, settle and acquire property in any part of India and to practise any profession or trade or business. It must be admitted

that these rights to freedom are fundamentally restricted by certain clauses that follow. For instance, the right to assemble peacefully and without arms is restricted by that infamous section 144 of the Criminal Procedure Code. It is bad but perhaps not too bad to have this kind of restrictions until we the citizens of India have learnt the virtues of self-control which flow from the exercise of true freedom. Nevertheless our success will be judged not by the frequent use of these restrictions but by the infrequency with which we make use of these sections.

Every person has also been given a guarantee of equality before the law. No person shall be deprived of his life and property except according to the procedure laid down by law. There is a provision for preventive detention; perhaps it is a necessary evil under the present conditions, but I must repeat again that our success will be judged by the infrequency with which we use this provision for preventive detention.

Our Constitution provides that there shall be no discrimination against any citizen on the ground of sex. Women have been given equal rights with men to get services and offices under the State and no one shall be debarred from employment or office on the ground of religion, race, sex or descent. It is one of Directive Principles of State Policy to secure equal pay for equal work for both men and women. In our history there have been women who have attained glory and greatness, sometimes outshining men, but there was never a formal recognition of the equality between men and women in the sense that this Constitution has established. Untouchability, which has disfigured the entire history of thousands of years of this country, has been abolished and its practice in any form has been forbidden. It has been declared a penal offence. Everybody has been guaranteed equal rights of access to shops, public restaurants, places of public entertainment and to the use of tanks, bathing ghats, and places of public resort. We have already achieved reasonable success in removing untouchability under the inspiring leadership of the Father of the Nation and these provisions in the Fundamental Rights will accelerate that process. But untouchability is essentially an economic disease. In order that those who have been left behind in social and economic matters, more perhaps on account of the oppression by others, may come up to the general level, the Scheduled Classes, Scheduled Tribes, and other backward classes have been given reservation of seats in Parliament and Legislatures of States and Services until they attain a status equal to others. This protection will in the first instance extend to ten years.

The question of minorities has been another difficult and perplexing question for us. In future no minorities shall be recognised either for reservation of seats in the Legislature of Services except the Scheduled Classes. Scheduled Tribes and other backward classes, which again is not a concession based on religion or caste but on the comparative backwardness of those people. The minorities have been guaranteed freedom of religion and freedom to develop their culture, language and script, but in matters of political rights, there is no discrimination either in their favour or against them. The minorities therefore should have nothing to fear or be apprehensive about their future. It is in that sense that we have established what is popularly known as a secular State.

The Fundamental Rights guaranteed in the Constitution are mostly justifiable, that is, any person who feels aggrieved can have resort to a Court of Law. But it is not always easy to go to law courts and I am not sure whether the spirit which has inspired the Britishers to preserve the rights and privileges secured under Magna Carta, actually informs our people. External vigilance is price of liberty which nations as well as individuals have to pay. And, therefore the responsibility of the State is even greater in our case. It must in practice secure for our citizens rights conferred upon them by law.

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A great achievement of this Constitution is the agreement on the question of language. India has for ages been a multi-lingual country with 13 or 14 major languages and numerous minor ones, some having the scripts and others none. Under the British rule our languages had been neglected and English was forced upon us. In free India English could have no place, but to come to a common agreement about one language and one script all at once was not an easy matter. Fortunately for ourselves, we have arrived at what may be termed to be a happy compromise. Hindi in Devanagari script shall be the State language of India but for the first fifteen years English shall enjoy a privileged place and be the State language for official purposes of the Union for which it was being used immediately before the commencement of the Constitution. Power has, however, been given to the President to authorize the use of Hindi language in addition to English language for any official purpose of the Union even before the expiry of fifteen years. Article 351 provides that "it shall be the duty of the Union to promote the spread of the Hindi language, to develop it so that it may serve as a medium of expression for all the elements of the composite culture of India and to secure its enrichment by assimilating without interfering with its genius, the forms, style and expressions used in Hindustani and in the other languages of India specified in the Eighth Schedule." The law about language thus laid down is elastic and it will depend upon our efforts as to how soon or how late within these fifteen years English is replaced by Hindi. But now that we have taken a decision to substitute Hindi for English the sooner we do it the better. Yet we must be cautious that those who speak languages other than the languages of Sanskrit origin should have no feeling of oppression or depression, for Hindi will thereby suffer more at the hands of its supporters than others. Hindi has come by the Goodwill of all and with goodwill on all sides, let us hope that Hindi will soon become the medium of expression not only for the Union and for the purposes of communication between the Union and the States and in between the States, but also the medium of culture and higher education and training.

Permit me to say a few words about the general make-up and drafting of the Constitution. It has been a general complaint that we have taken too much time and have made the Constitution too cumbersome. I share that opinion and many things which could have been provided for by ordinary laws made by Parliament and rules and regulations have found a place in the Constitution. May be that the Drafting Committee was too much obsessed with the idea of giving too much and too many safeguards, but let us not forget that paper safeguards would come to nothing unless the future generation is prepared to respect them. I have yet to come across a Constitution of a free country which provides safeguards for the services as we have done. I do not mean that we should break any of the guarantees that we have given to the services but surely Constitution is not the place where those guarantees should be provided. We could as well have left the law-making on the comparatively less important matters to the good sense of the generations to come and I am sure that none would have been the worse for it. But at this late stage it will not serve any useful purpose to lay too much stress on that aspect of the question.

Finally, there is nothing novel or striking about this Constitution. It has freely drawn upon the experience of others, and whatever my other friends might think, in my opinion it is essentially bad to be conservative in the matter of Constitution-making, provided the Constitution does not bar or block the passage to progress and new departures. I think there is ample scope for development in this Constitution as will be seen from the various articles giving Parliament the power to make laws even against some express provisions of the Constitution without amending the Constitution. In fact there are parts

of the country, particularly the States representing the Indian States, where the constitutional and political progress and the administrative machinery have not attained a stage fully in conformity with the conditions laid down in the Constitution. I am told on good authority that great efforts will be needed before those parts are ready for the first general election. Naturally, therefore in a constitution made for units in the various stages of progress, some justification exists for a halting manner of approach. Then there is nothing sacrosanct about the Constitutions. At any time when the conditions are so changed, we can have a new Constitution. There will be nothing to stop us from doing that.

Before I conclude, I must thank you, Sir, for the patience and forbearance with which you have conducted the business of, this House even when things became dull and listless. But 'Or your vigilance and guidance the progress of this Constitution may have been slower. Yet you have given no opportunity or occasion to anybody to feel that he has not been given the fullest opportunity to express himself. With these words, Sir, I conclude

Shri S. V. Krishnamoorthy Rao (Mysore State) : Mr. President, Sir, I deem it a great privilege to have had an opportunity of being associated in the framing of this Constitution under your able guidance and I stand before you to add my humble meed of praise to the Chairman and members of the Drafting Committee for making an excellent job of the work that was entrusted to them. Sir, I submit that under the heavy stress and strain of time and circumstances under which they had to undertake this task, no other committee or no other body would have given us a better Constitution.

Many are the charges that are levelled against this Constitution. I would like to enumerate some of these charges. One of them is that the Constituent Assembly has taken too long a time, nearly three years. Let us not forget that the American Constituent Assembly took nine years to frame the Constitution. Australia and Canada and Africa took more than two years. Another objection is that it is too lengthy, that it is three times the length of the Soviet Constitution and nine times the length of the American Constitution. Some Members said that the civil liberties embodied in this Constitution are a farce, that this Constitution is a jumble of the various sections from various other Constitutions of the world, that the Centre is too strong and the States have been crippled, that adult franchise that we have embarked on in this Constitution is a great risk under the circumstances prevailing in the country that the Gandhian ideals have been given the go-by, that this is a capitalist constitution and that the socialist principles have been sacrificed. Some constitutional pandits have objected that the Directive Principles embodied in this Constitution like prevention of cow slaughter, encouragement of village industries, establishment of gram panchayats, abolition of untouchability, separation of the judiciary from the executive, these are all administrative matters and need not have been burdened in a Constitution like this. Objection has also been taken that no provision for referendum and initiation has been included in this Constitution.

As against this, what are the things that we have provided for a this Constitution ? For the first time, after a dependence of more than 1,000 years, India, Bharat has emerged as a Sovereign Democratic Republic. We have embodied justiciable Fundamental Rights which any citizen, when they are violated, can take up to the Supreme Court and have his grievance redressed. We have embarked upon the great experiment of adult franchise and nearly sixteen to eighteen crores of the population of India will be going to the polls when we hold a general election. We have adopted parliamentary democracy. Take any section we find that the supremacy of the Parliament has been embodied

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in the Constitution. For the first time in the history of India, there is integration, political integration, financial integration, economic integration and judicial integration and also defence integration. Today, under this Constitution, there will be no more petty armies; we had a bit of that army in Hyderabad. Under this Constitution, there will be only one army and that will be under the command of the President of India. As regards political and economic integration, I would only quote from the London Times. In a leading articles on 7th February 1949, the London Times wrote :

“The operation by which Bismarck unified the German Reich were on a much smaller scale than those by which the Government of India in a short time has transformed the patchwork of State jurisdictions that made the political map of India a crazy quilt. The transformation has been profound but peaceful.

Sardar Patel can look back with pride and satisfaction at the achievements of his Ministry and the nation pays its homage to the great leader. We have done away with differentiation between the States and Provinces; today, under the Constitution all are States. I am glad, Sir, that much of the sting that was contained in the original article 306-B which is now article 372 has been taken away and article 365 is made applicable to all the States. Nobody likes this article 365; much less do I. But, I hope that this article will remain a dead letter and there will be no occasion to make use of the provisions of this article. Under this Constitution, the words minority and untouchables have been abolished. Separate electorates have been abolished. Untouchability has been made an offence. The fundamentals of socialism have been embodied in the Directive Principles of the governance of the State and all titles have been abolished.

As regards the discretionary powers, Sir, I have gone through the Constitution as carefully as I can and I hardly find any discretionary power vested in the Governors except when he has to make a report to the President regarding the proclamation of an emergency or under Schedules V and VI regarding Scheduled Tribes and Scheduled Areas. As regards the emergency powers these emergency powers are subject to parliamentary control and the, least period possible, namely, two months has been prescribed during which this emergency can last and it has got to be brought before Parliament at its earliest session. Even these emergency powers can be exercised only under very limited circumstances when there is a threat of war or when there is external aggression or internal disturbance, or when the Governor or Rajpramukh reports that the Government cannot be carried on According to the Constitution, or when the financial stability on credit of a State is, in the opinion of the President, in jeopardy. Even then, Sir, these emergency legislations have to come under the review of Parliament and if the Parliament passes a resolution that the emergency should cease, the proclamation becomes void.

Under this Constitution inter state trade and commerce is free. Special, provisions have been embodied in the Constitution for the independence of the judiciary, for the independence of the Auditor General and of the offices of the legislatures. Elections are placed above executive interference. We have all India Commissions like the Finance Commission, Inter-state Council, the Public Service Commission and the Election Commission which can function without any interference from the Executive. I submit, Sir, that these provisions which have been embodied in the Constitution are no mean achievement.

I submitted that the Drafting Committee had to work under very great stress and strain. If we can find any parallel at all, we have to go back to

the history of constitution making in America. I would like to quote a passage from a book called the Great Rehearsal by Carl Van Doren. In his book he has stated:

“State loyalties were deeply entrenched in the hearts of the people of America of those days. Loyalty to a new central authority was not easy to create. Many compromises were necessary and many political gadgets had to be invented before a general measure of agreement could be reached, among the delegates to the convention in regard to the shape of the new constitution. With the return of peace, the States had drifted apart. Many of these States could hardly resist the temptation to tread the path of narrow self interest. If the financial interest before the country was grave, the chaos which had overtaken it in the domain of commerce was graver still.”

Mr. Justice Benjamin Cardozo observed:

“that the people of the several States must sink or swim together and that in the long run prosperity and salvation are in union and not in division.”

Washington, in 1786 had written:

“There are combustible materials in every State which a spark might set fire to.”

Carl Van Doren opens his book with the, Chapter, “Commander and Philosopher”. The Commander was George Washington who had led his country to victory. The Philosopher was Benjamin Franklin whose signal services to the nation had made him a legend in his own time. He says:

“The dignity and poise of the Commander, the broad humanity and mellowed wisdom of the philosopher contributed in no small measure to the Success of the convention.”

Speaking of the two great leaders, Carl Van Doren says :

“They had borne the two heaviest burdens of the revolution, Washington at home, and Franklin abroad, each of them too honest to feel Suspicion, too great to feel envy.”

I submit that these remarks of the author apply to India with hundred times greater force. The two great leaders who have been piloting the affairs of the State have borne a very heavy burden and this Constituent Assembly has also functioned as a Parliament during this interim period.

We have crossed many hurdles these two years and under the stress and strain of the stupendous problems that the country had to ‘face, I submit the time that we have taken is too small and in other Assembly placed under similar circumstances could have taken lesser time.

As regards the limitations that have been placed on the Fundamental Rights. I would only submit against the charge that we have, borrowed freely from’ other Constitutions. After all no written Constitution is final in this world. We have to borrow from the experience of other nations. If we take either the pre-war period or the post-war period or the period during the war, and study the working of Federal Constitutions we find the trend towards a strong Centre in every Constitution. The Centre is being made strong today because we are in an atomic age. Let alone a drought in Gujarat or a in Andhradesa—today if there is a drought in Canada or a bumper crop in Australia, the economic set-up of the world is upset and we hear the distant echoes even in our country and when we had to face them stupendous problems in the country and we are still in the midst of them—to be blind to them is, I would submit, nothing but the height of folly. If these provisions were embodied, it is by way of an abundant caution. I do not think even the members of the Drafting Committee like these provisions. I am sure, though, no occasion will arise when these limitations in the Fundamental Right of the Emergency Powers will be used in working this Constitution.

Then there was a charge that Gandhian principles have been sacrificed. I already submitted that we have embodied provisions for removal of untouchability, for national language, for communal harmony and for goodwill and

[Shri S. V. Krishnamoorthy Rao]

guarantees to minorities, encouragement of Gram Panchayats and village industries and for protection of milch cattle. These are the planks on which Gandhism flourished in this country and it created a non-violent revolution in this country. If these principles have been embodied in the Constitution, I want to ask how Gandhism has been sacrificed in this Constitution. I submit that enough provision has been made for the carrying out of the programme that was enunciated by the Father of the Nation. This Constitution is a harmonious blending of the best Indian traditions the political and constitutional experience of other countries and the Gandhian ideals. A great sense of reality pervades the whole structure of the Constitution. Given the goodwill and the will to serve the country and the spirit of self-sacrifice that prevailed in us when we struggled for independence, this Constitution can bring happiness to this country. It is time that we settle down to constructive work and I hope under this Constitution if we have the sense of goodwill that has prevailed in this Assembly in solving many problems like the language problem, minority problem, the citizenship problem, compensation clause etc., I am sure this Constitution will usher a new era in this country.

Regarding the language question, I may bring to the notice of this Assembly that we are already implementing the Resolution that was adopted in this Assembly. I am glad to inform the House that the Government of Mysore has passed an order making Hindi compulsory in all High Schools in the State but I am sorry to find a similar response is lacking from some of our Hindi friends. The Hindi Sahitya Sammelan has criticised the agreed resolution that was passed in this Assembly. I appeal to our Hindi friends to work in the same spirit of give and take and to take us with them so far as the language question is concerned. Given the goodwill I submit once again that this Constitution will pave the way for the happiness and contentment of this ancient land of ours.

Shri Upendranath Barman (West Bengal: General) : Mr. President, this Constitution has been criticised by many Members on account of this defect or that I shall not enter into any controversy over the arguments advanced by them. As I Judge it from the point of view of a common man, I find that this Assembly has given enough for the common man to develop and to rise out of the present hopeless state of affairs. There is no doubt that most of the articles in this Constitution have been taken from the 1935 Act but there is one fundamental change that has been made by this Assembly and that is the adult franchise. It is this right that has changed the whole outlook of the 1935 Act, in this sense that the real democracy will today, tomorrow or the day after come into power. Today the underprivileged class of our country, in spite of all the provisions made in the Government of India Act, 1935, cannot have any power in their hands because of the fact that many of them have not got franchise. They have really no voice in the administration of the country but when this Constitution will come into operation and first election held under this Constitution, I dare say that the whole aspect will change. The 1935 Act gives power to the masses only to a certain extent but because our masses are ignorant, even that part of it cannot exercise it because of class domination and domination by those who are propertied, or who are now in the upper strata of intelligence. But tomorrow when this Constitution will come into play and throughout the length and breadth of this country the masses of the country who form 85 per cent. of the population of India will have the final say or a greater say in electing our legislatures and ultimately in the constitutional heads, the cabinets in the Provinces and also in the Centre. I dare say that their voices will be heard. Otherwise they can choose the next time their own friends. So There is that fundamental

difference which has been introduced by which, though the provisions of the Constitution might be in many parts borrowed from the Constitution of 1935, the conditions will be entirely different.

Now, Sir, it has been said that we have taken too long a time in framing this Constitution. I do not know, but my honourable Friend who has just spoken said that the American constitution making had taken nine years. May I ask the honourable Members who have criticised this Constitution to remember one thing. What was the condition of 'the country before the commencement of the work of framing of this Constitution ? What were the pledges that were before the framers of this Constitution those who had guided the destinies of this country, and what were the problems that they had to tackle? I should like to mention two things. First of all there were five hundred and sixty two native States, and when the British Government had been withdrawn, they were really besides the provinces, five hundred and sixty two parts of India. If this Constitution had been framed in a hurry, would the Constitution have been the same as we have it now ? We can very easily realise that our Constitution would have been quite different from what it is now. and we owe gratitude to the Honourable Sardar Vallabhbhai 'Patel and to other leaders of our country for the way they have tackled this problem of the States. They have tackled it in such a way that in spite of the fact that India was left by the British in such chaos, they have merged India into one within the course of this short period, and for the whole of India we have got one Constitution. There is some little difference here and there, but we must remember the success that we have achieved by this time, and when we do that, we are left in no doubt that these differences also will soon disappear.

The second point, that I may mention is that within our body politic, whoever may have been responsible for it, our country was divided into several communal divisions, and when the British left India, so far as my impression goes, the British before transferring power, took solemn words from our leaders that all the privileges of the minorities would be honoured by them. Our leaders have honoured those pledges and in spite of that, we find that our Constitution today is free from many of the evil things that existed at that time. It is not that the majority has, by the simple force of the majority simplified this matter, and removed those evil things from this Constitution, but it is the minorities themselves who have willingly consented to it, when they found that there is really no cause for any apprehension and that for the good of India they should give them up. As regards my own community, I confess that we thought that at least for some time to come, we should be given some privileges, and I with gratitude thank the Members of this Constituent Assembly and also the leaders for conceding those privileges for a certain period. Now, I would ask, if our Constitution had been framed hastily, do you think this Constitution could have come out in its present state ? Therefore, though there has been some delay,-but as I have said, I do not admit it-yet this delay has been all for the good of the country as a whole.

Coming to the point of view of the common man, as I observed at the very beginning, I find that the common man, or the masses of this country, will be having a great voice in the future administration of our country. After all we are wedded to democracy and there are no two opinions that we should have adopted any other system of Government. Having accepted that the only system of democracy that we find successfully working in the world is the parliamentary system of democracy. We have, therefore, necessarily to look into the constitutions of those 'democracies which are working successfully and

[Shri Upendranath Barman]

in my opinion, the genius of India has accepted the best parts that it could gather from all parts of the world wherever the parliamentary system of democracy works in this very system, I would stress again, the regeneration of the masses, the down trodden part of humanity, lies. According to the parliamentary system as we have accepted it here, the country is to be governed by an elected House, and though there are two parts, two Houses at the Centre, it is the House of the People that has the final say in matters of money Bills, in matters of expenditure and in matters of ways and means Budget, which concern the masses of the country vitally. They are the economic ills that really lie at the bottom of all ills of the masses of this country. In the proper working of this Constitution that we have framed, the masses must be alert, and if they are alert enough or wise enough, they will choose the right leaders who will raise the masses, and they will be masters in this House of the People and also in the legislative assemblies in the Provinces. It is for them to devise in what way the conditions of the masses could be bettered. What more can be done under the parliamentary system of democracy I cannot imagine. If there is any defect in the Constitution, as many honourable Members have already indicated, there is enough scope within the Constitution itself to amend any of the provisions that require to be amended.

Coming next to the actual structural part of the government, that will be set up in the near future, I would only ask the honourable Members of this House to take note of one Directive Principle that has been inserted in this Constitution, I mean the Village Panchayat Organisation; and along with that the directive principles of educating our children up to the age of Fourteen by giving them free and compulsory education. If these two directives are properly observed by our future Government, then I think the condition of this country will be bettered in the near future and that will be to the good of the whole country. A centralised system of Government in a country like India with thirty five crores of people and with a vast area which is perhaps more than Europe will be no remedy for these evils. No centralised Government, with an administrative machinery more especially the one that has been handed over to us by the British, will be able to remove these evils that are now eating into the vitals of the rural areas and of the under privileged. When we have given adult franchise when we have trusted each and every adult citizen in the country to be the masters in the forming of the Government, it would be a folly if we delay even for a single day the constitution of these panchayats. When you have trusted them to the extent of giving them a voice in the composition of the Government, it is but natural that you should trust them with some responsibility. Once you do this, that will relieve us of a lot of burden of administrative responsibility, at least in regard to day to day affairs. So long as you expect the Government servants to take charge of the masses, the masses will remain irresponsible and will go on complaining against the Government. But once you entrust them with certain responsibilities for local administration, they will be keen on taking charge of their affairs.

Of course criticisms have been made that the village panchayats cannot work, because our villagers are ignorant, and that there will be scramble for power. But, a glance at the daily papers will convince us that in most of the provinces there is a scramble for power even on the part of provincial leaders. So, it would be an absolutely silly argument to say that the masses are not yet fit to govern even in their local administration and the interests that concern them the most. My only submission is that as soon as possible we should form these village panchayats and transfer the bulk of the powers that concern the villages to these village panchayats, so that many of the problems of governing this country will be solved.

Last of all, I have to pay my homage to the great Mahatma whom I remember with gratitude. It was in the year 1938 that I had the privilege of meeting him at Calcutta and of discussing with him several problems about the under privileged Scheduled Castes. Amongst many other points, I agreed with him that so long as the British were in power they (the Scheduled Castes) could not expect any privilege by going against them. The Mahatma replied that when the Congress come to power, they would give the Scheduled Caste the privilege they require. After a decade I find that the words of that votary of truth and non-violence have come true. India has become independent now and I with devotion remember those words of the Mahatma. I am also grateful to all Members of this august House for the privileges that they have extended to tile Scheduled Castes of India. I bow down with respect to that great soul who had always the interests of the Scheduled Castes at heart.

Shri P. Kakkan (Madras: General) : Mr. President, Sir, I stand here to support the -motion moved by Honourable Dr. Ambedkar. I also want to express my heartfelt thanks to you and the Drafting Committee for giving all kinds of help to the Harijans by this Constitution. As you know, Sir, Gandhiji, the Father of the Nation, changed the mind of the Caste Hindus and showed a way to abolish untouchability by joint electorate system. Now we have achieved our goal by the joint electorate system.

I believe, Sir, that the Congress Party is the only party which is working for the uplift of the Harijans; not any other party. So from, this august Assembly, I appeal to the Harijans of the Union to join the Congress and work for the uplift of the Harijans. In this connection I would also appeal to Dr. Ambedkar to join the Congress and work for the uplift of the Harijans, with-in the ten years.

I am very glad, Sir, that the Panchayat system has got a place in this Constitution.

I hope that the Government of India will take necessary steps to bring the panchayat system into every nook and corner of this vast country and develop grama swaraj according to the wishes of Mahatma without any distinction of caste, creed or colour.

Lastly, Sir, we have given power to the villagers by the introduction of the adult franchise system. I hope the voters in future will not misuse their voting power. I also believe Sir, the people of India will not forget Gandhism which is not only for India but for the whole world. I would pay my tribute especially to the Honourable Mr. Gopaldaswami Ayyangar, Shri Alladi Krishnaswami Ayyar and Mr. T. T. Krishnamachari who have come from Madras Province because they have done a great service, to this country as members of the Drafting Committee.

Shri M. Thirumala Rao (Madras: General) : Sir, I feel it a matter of personal privilege to add my voice to the chorus of tribute that has been paid to the labours of all the people that have given their time and energy in drafting this Constitution. Therefore I do not stand here merely to derive the satisfaction of speaking something but, with a human frailty that I am also one of those that has played his little part in evolving the Constitution, to say my last word during the last stages.

One cannot but remember with gratitude the great personality that has moulded this nation out of mere clay, enthused it with the idea of freedom fired it with a determination -for action and saw during his lifetime that the ideal had been realised. It may be said that the visualisation of an ideal is, something different from actualisation. The enchantment of distance 'to air ideal which inspired us in those days has gone today, because we have reached our ideal and we are now in a practical position to see what the difficulties are in the actual situation.

[Shri Thirumala Rao]

I thought that the framers of this Constitution and the leaders that have inspired the draftsmen would have incorporated with gratitude the name of Mahatma Gandhi as one of the founders of our nation, the real father of Modern India, who had given a new message to the whole world. I do not know what influenced them not to include his name in the Draft Constitution which would have been in keeping with our traditions, with the traditions of ancient India, for we have always humbly and with gratitude remembered our ancestors from mom till evening on every auspicious occasion. It would have been in the fitness of things if we had incorporated in the articles of our Constitution the name of Mahatma Gandhi but our leaders willed otherwise.

We are on the eve of epoch making events. The West has been in a turmoil It has had its days of freedom for some years and the Eastern nations are now falling one after another for new ideas. India today is at the crossroads between the East and the West and we are now being planted on the road to future selfgovernment in the shape of this Constitution.

I want to say a few words with regard to the merits of this Constitution, because it is a thing that has been inherited partly from past events. There is no use trying to get away from the realities of the situation. In the beginning when this Constituent Assembly was addressed by Pandit Nehru he said that our aim should be to draft a constitution which will give us an independent sovereign republic. The word independent has been given the go by and in its place the word democracy has crept in. This has enabled us to remain within the Empire and not to snap the link with the British Commonwealth. It is the result of the momentum of events and it is the logical inevitability of 150 years of British rule. India has to stay in the British Commonwealth for some more time until we are in a position to discard all sorts of shackles including the Commonwealth. True, the logic of events has compelled us to remain. From a debtor nation we have turned out to be a creditor nation to whom our erstwhile masters now owe to the tune of 1200 crores. Until we are able to recover the amount from Great Britain, until we are able to shed all our previous commitments in the way of the British connection, it will not be in the interests of the country to snap the British connection. That is the only consideration I think that has influenced our leaders and that is the only consideration that has influenced this House to agree to remain within the British Commonwealth for the minimum period that is required.

With regard to the Constitution itself it is a piece of achievement of which our leaders may be justify proud. The British had established their hold firmly on this country by having a strong unitary government and at the same time dividing the country into compartments in which the people had no control. They had created 630 native states called Ulsters, kept them in a most backward condition and they always dominated their policies from the Centre. They had created vested interests in the Muslim community and given them separate electorates. They had allowed them to join hands against Indian nationalism They had created an all India administration whose loyalty was purchased at every turn, at the cost of Indian freedom watch many of us know to our cost. With these three weapons in their armoury the British had founded a unified centrally controlled government in this country which they thought would last as long as their empire. It was perhaps Lord Morely who said that within the purview of human ken he could never imagine the day when the British Empire would be dissolved. The British statesmen have carried on but they never thought that between them and their destiny rose a humble man in this country (who was derisively called the 'Naked Fakir' by the prince of imperialists Mr. Churchill) to upset all their plans and dissolve the empire with the breath of his Satyagraha. With the legacy of a divided India left to us it is the practical wisdom of Sardar Patel which saw through the game and he rose

to the occasion and met it with an equally powerful strategy. The British had left and therefore we have to act exactly as the British had acted in dealing with the situation. When the British left they thought that the States would rise against the Congress Government. But Sardar Patel and his adviser rose to the occasion with the strength of the Congress and the country behind them. He has worked the miracle of dissolving all the States and given them a new shape by incorporating them with provinces or creating unions. My friends from the Native States need not feel any inferiority complex that they are being treated as inferior brothers. Not at all. History tells us that the Native States have been the happy hunting ground of reaction, oppression and backwardness. To overcome all these difficulties in a year or two is not an easy task, but the Constitution has ensured once for all that their status is not inferior to those of the 'British Indian' Provinces that have had experience of the political leadership under the Congress for the last 70 years. Therefore, the Native States have been brought on a par with the Provinces.

With regard to separate electorates, Sardar Patel had again played a notable part by being the Chairman of the Minorities Committee. With the able assistance of a genuine patriot, a selfless patriot like Dr. H. C. Mookerjee who has been our Vice President and has filled the place with equal worth as you yourself, Sir, with his assistance and selfless devotion to the united nationalism of this country, Sardar Patel has been able to abolish the separate electorates for all the minorities and once for all erased from the pages of the Constitution that last canker of British imperialism.

With regard to another item for bringing about the unity of the country, we have been able to integrate the whole of the army into one single Army. Also, we have maintained the tradition of an all-India service in the Indian Administrative Service which will be able to uphold certain standards of conduct, rectitude and incorruptibility so that this country may carry on its policies through this efficient service. By these three agencies which have been created under the able guidance of Sardar Patel, this country has been unified and all those questions dealing with these matters have been incorporated in this Constitution.

The Indian National Congress has been responsible for winning freedom and it has been responsible mainly, if not chiefly for drafting this Constitution. The Constitution has got the indelible impress of the Congress ideology on this. Many friends have complimented you, Sir, that you have risen to the occasion of parliamentary practice by presiding over these deliberations. Perhaps they were not in the Congress, perhaps they have not had the personal experience of your leadership, being the President of the Congress twice and conducting more boisterous meetings of the All-India Congress Committee several times. The efficiency, the capacity, the patriotism and the parliamentary caliber of the All-India Congress Committee is reflected in this House and, Sir, when you were the President of the Congress we need not specially compliment you because it is no new task for you in conducting this Body efficiently as its President. Nor are our statesmen new to the task of Government because our Prime Minister and our Deputy Prime Minister and several other Congress Ministers have more than justified their existence as Ministers owing to their experience as public men and leaders of public opinion.

Sir, I want to say one or two things with regard to the Andhra Province for which I should like to express my gratitude. I want to draw the attention of the House to this fact. When we went in deputation to the Congress Working Committee in 1938 when Babu Subhas Bose was the President, led by the late lamented Deshabhakta Konda Venkatappayya Pantulu, the deputation consisting of some other Congress leaders, the Congress Working Committee solemnly assured the Andhras that they will get the Andhra Province as soon

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as the question of Indian independence was solved. We have not hitched our wagon to the star of reactionism. The Andhras have always implicitly trusted Mahatma Gandhi's leadership and the Congress leadership. They had not flirted with the Simon Commission, they incurred the greatest displeasure of Lord Simon for having boycotted him at every stage of their stay and the British Government thought that we were severely punished by not creating the Province. But we have always trusted Congress and Congress leadership and we are grateful today for having received fulfilment of the promise made by the Congress Working Committee in 1938 in their resolution. Do not understand that the question of the Andhra Province is any 'depressed class or any subsidiary movement. It is an essential movement of our nationalism. They say the administration should be carried on in the mother tongue or in the regional language, but in Madras the administration has to be carried on in English because the Province consists of four different linguistic areas. If every Province in India were to develop fully and our democracy is to work effectively, then you must remove this artificial importance of the English speaking man Between the so-called man in the street, the real taxpayer and the Government.

With regard to adult franchise, I am not very enthusiastic about it. I am afraid it is a weapon which cuts both ways; but fortunately or unfortunately our leaders were committed to it in their earlier stages of agitation asking for a Constituent Assembly based on adult franchise. Adult franchise enfranchises nearly 17 crores of our people and all of them have to be put on the rolls. Without proper education, without the proper development of patriotism in this country, I am afraid this is a dangerous weapon. The Gandhian satyagraha movement has not really permeated the masses. It has touched the fringe of the villages. After all, only four to five lakhs of people have gone to jail, that is, the intelligentsia and the intellectual middle class have been the mainstay of the Gandhian movement and with that experience we must see how far the sense of patriotism has gone down. You saw the spirit of narrowness in one of my honourable Friends, a Member (if this House when he stated that his vision does not go far beyond Orissa. He loves his home, his village, his district and then his Province. His vision does not go far enough to assess the real worth of the leadership of Pandit Jawaharlal Nehru or Sardar Patel. If an enlightened Member of this House has not got a patriotic vision extending beyond the frontiers of his Province, what about the uneducated millions who are led to think by interested politicians in the name of their communities and sub-communities? During the last District Board elections the leaders of our Provinces had come out with statements that sub-communal feelings have been exploited in the elections and people must be careful about it. As a matter of fact, when these constituencies are being divided, interested leaders are already scanning the constituencies to see whether a particular constituency contains the majority of the voters of his own community or not, whether a political adventurer will be able to come out and succeed in that particular constituency by raising slogans against the interests of the country. That is my genuine feeling about the adult franchise. Not that I am less enthusiastic than any of our friends here who are swearing by adult franchise. By all means have it, have it within the next four or five years or within the next ten years on a graded basis. Today the total voting strength is about $3\frac{1}{2}$ crores; make it ten crores by the next elections and 17 crores in the elections after that. But when you are playing with this so-called democratic weapon, it presumes two sides to the question. It is not merely the question of the electorate, it is not merely the question of the members of the legislature that are returned on that adult franchise, but it is also a question of leadership. The country must be able to provide leaders of sufficient calibre experience patriotism and disinterestedness in carrying out the real principle of this Constitution.

Situated as we are, we wanted to have a federal Constitution but we have produced a Constitution that is mostly unitary. We have delegated all the residuary powers to the Central Government and we are trying to make it as strong as possible. No doubt, with all the States—with a cancer like Hyderabad in the stomach of this country—recently eliminated, with a danger zone on our frontiers in Kashmir, with the Communists trying to grab power by any means and all means at their disposal and with the R.S.S. people with a popular slogan of Indian culture and Hindudom on their lips trying to capture political power, it is a dangerous thing to trifle with the Central Government. Seeing all these things our leaders with a foresight born of experience, of the past and a proper appraisal of the future, have said that the residuary powers of this nation should rest with a Government which is strong in the Centre. Not only that; there is another personal element on which the whole effectiveness of this Constitution rests, namely, the Prime Minister of this country is made all-powerful. You have given every power to the leader of the majority group in the Central Legislature to work this Constitution, to work this democratic Constitution which you have prepared and it all depends on the personality of the Prime Minister exercising enormous powers. The Congress, though it obtained independence for this country, though it is the majority party running the Government of this country, it was not mean or had the intriguing, nature to incorporate in the Constitution any provision that would perpetuate its power for some time to come. They have divested themselves of such selfish motives and created an instrument in which any party that has got the largest support in the country can take power and run the administration of the country and fashion it as it likes. But still we believe that the personality of our Prime Minister and our Deputy Prime Minister are indelibly impressed in the Constitution and it is the fond hope of millions of people that they will be spared to us for many years to come to see that the power that is gained by our Nation is consolidated in the best interests of the poorest man in the street whose protection this Constitution envisages.

With regard to Fundamental Rights I need not say much, since every right is not an absolute right. Every right wherever it is enjoyed is always hemmed in by considerations of public policy and public conduct and also by the safety of the State. If every man wants to exercise his right and take advantage of it without taking any responsibility for the welfare of the State, he must be shown the place to which he should rightly go. That is the only exception. Where with regard to Fundamental Rights has this Constitution not made full provision? This Constitution enables all loyal citizens to carry on their avocations and professions peacefully and gives them a guarantee against the meddlesome elements in the country who want to exercise undue and absolute rights at the expense of others.

In this connection one happening has to be mentioned. I was surprised sometime ago to find a reputed ex-Judge of the Patna High Court presiding over a Civil Liberties Conference held in Madras and attacking all the Congress Governments from the Centre down to the provinces. He almost ran amuck in his attack of the Governments in the name of civil liberty. His speech was full of abuse of constituted Governments and it was quoted by communists.. Even the communists would not have indulged in civil liberty in a more extreme manner than that ex-Judge of the Patna High Court. That is not civil liberty. Every citizen must have some sense of responsibility for maintaining tranquility in the country. That alone will enable the people of the country to enjoy the fruits of freedom. Under the cloak of civil liberty, you should not allow even these champions of civil liberty who retire after a lifetime of service under a foreign slave-master and now come in full glory and vigour in support of civil liberties to speak as they like. It must be pointed out to them that they have a responsibility to the State.

[Shri Thirumala Rao]

Sir, I do not want to take much of the time of the House, though I want to say one other thing. Situated as we are, we are in possession of a Constitution which can be turned to best account by the persons that work it by the legislators and by the Ministers that these legislators would choose. I say that it depends mostly on the Prime Ministers for the next few years of this country to see that the greatest benefit is derived from this Constitution. We have rightly selected, Sir, the Chakra as our emblem, as the historic reminiscence of the period of Asoka. Describing the meaning of this Chakra, Rhys David the famous Orientalist has said that this Chakra is intended to send rolling the Royal Chariot wheel of universal empire of truth and righteousness. If any country which departs from the essential moral principles on which it professes to stand it has no future. But this country in keeping with the ancient traditions and ideals has rightly chosen that Chakra which is called the Dharma Chakra of Asoka and Mahatma Gandhi has blessed this Chakra. With his spirit hovering over this nation and with this emblem on our flag, it is the duty of this House and the leaders of the future to uphold the Congress principles and fulfil the destiny of this Nation.

The Assembly then adjourned till Ten of the Clock on Wednesday, the 23rd November 1949.
