

Saturday, 19th November, 1949

Volume XI



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14-11-1949  
to  
26-11-1949

# CONSTITUENT ASSEMBLY DEBATES

## OFFICIAL REPORT

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THE CONSTITUENT ASSEMBLY OF INDIA

*President:*

THE HONOURABLE DR. RAJENDRA PRASAD.

*Vice-President:*

DR. H.C. MOOKHERJEE.

*Constitutional Adviser:*

SIR B.N. RAU, C.I.E.

*Secretary:*

SHRI H.V.R. IENGAR, C.I.E., I.C.S.

*Joint Secretary:*

MR. S.N. MUKHERJEE.

*Deputy Secretary:*

SHRI JUGAL KISHORE KHANNA.

*Marshal:*

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## CONSTITUENT ASSEMBLY OF INDIA

*Saturday, the 19th November 1949*

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

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### DRAFT CONSTITUTION—(*Contd.*)

**Mr. President :** We shall now continue the discussion. Mr. Kamath.

**Shri H. V. Kamath :** (C.P. & Berar: General); Mr. President, I rise to extend my limited and qualified support to the motion moved by Dr. Ambedkar. We, Sir, the people of India have come to the end of a long journey which is, however, the beginning of a longer, a more arduous and a more hazardous one. Through several decades of struggle we have reached the goal of freedom. During those decades we passed through many vicissitudes of fortune and were guided by leaders many of whom are not among us today. True to the Indian genius our struggle, our awakening, began with a spiritual renaissance which was pioneered by Ramakrishna Paramahansa, Swami Vivekananda and Swami Dayananda. In the wake of those spiritual leaders came the political renaissance and the cultural renaissance of which the torchbearers, the leaders, the guides were Lokamanya Tilak, Aurobindo and Mahatma Gandhi and, last but not the least, Netaji Subhash Chandra Bose. Thanks to Providence, leaders of those days, leaders like you, Sir, and Pandit Nehru and Sardar Patel, are still with us to lead us to the goal which Mahatma Gandhi had in view. The goal that Mahatma Gandhi had in view has not been reached and to lead India to that goal is the mission, is the task of this Assembly and of the people of India today.

The whole of India took part in that glorious struggle for freedom. In the extreme North, in Kashmir, my honourable Friend, Sheikh Abdullah took part, and a valiant part, in that conflict. In the North-West of India, which unfortunately has been severed from us today, Khan Abdul Ghaffar Khan and his brother Dr. Khan Sahib were in the forefront of the national struggle. That part of India is no longer with us, but our hope and our faith is that whatever the differences between the part that has gone from us and the part that still remains to us, those differences will be removed, will be smoothed and our relations will become happier day by day, and Pakistan and India will live on the most cordial terms as years roll by.

It is unfortunate that this Assembly is still not a complete Assembly. Two of the units of our country, Vindhya Pradesh and Hyderabad, are still unrepresented in this Assembly. I hope that the Members from those two units, Hyderabad and Vindhya Pradesh, will take their seats in our midst before this Assembly winds itself up in January.

The Constitution that has been settled by the Assembly, I may describe as a centralised federation with a facade of parliamentary democracy. We have drawn up a very elaborate Preamble, but without the invocation of God, to me, Sir, it is like sounding brass and tinkling cymbal. We have proclaimed the immutable principles of justice, liberty, equality and fraternity in the Preamble but if we turn inside, if we go through the Constitution we will find to our chagrin, to our sorrow that these principles have been watered down to a considerable extent. Many of my friends here tried to improve the Constitution according to their best lights and some of us did succeed in some degree.

[Shri H. V. Kamath]

God did ultimately find a place in the Constitution though only in the form of the oath to be taken by the various dignitaries of State. My friends whom I would like to particularly mention today, Prof. Shibban Lal Saksena, Dr. P.S. Deshmukh, Shri R.K. Sidhva, Shri Mahavir Tyagi, Pandit Thakur Das Bhargava, Mr. Naziruddin Ahmad, Prof. K. T. Shah, Pandit Hirday Nath Kunzru and Shri Brajeshwar Prasad and lastly, my humble self, all tried in our own way to make the Constitution conform to the Preamble; but I found that the horoscope of the Drafting Committee was strong. I found, Sir, besides the nine planets and also the tenth Dasagraha दशग्रहः, there were two in one which obviated the malefic influences of the other planets and those planets were Pandit Nehru and Sardar Patel. There is an astrological sutra which runs किं कुर्वन्ति ग्रहाः सर्वे यस्य केंद्रे बृहस्पति Kim Kurvanti grahah sarve yasya kendre Brihaspati. On account of the presence of Brihaspati in the Kendra', the effect of the other planets came to very little, It did not amount to much.

**Pandit Balkrishna Sharma** (United Provinces: General): Who were the Rahu and the Ketu?

**Shri H. V. Kamath** : I leave it to Pandit Balkrishna Sharma to decide who they were.

I was saying that this Constitution is a Federal Constitution with a facade of Parliamentary democracy. Mahatma Gandhi wanted India to be a decentralised democracy. He told Louis Fischer, the eminent American publicist some years ago that "there are seven hundred thousand villages in India each of which would be organised according to the will of the citizens, all of them voting. Then there would be seven hundred thousand votes and not four hundred million votes. Each village, in other words, would have one vote. The villages would elect the district administration; the district administrations would elect the provincial administration and these in turn would elect the President who is the head of the executive. Louis Fischer. to whom he propounded this plan, interjected": 'That is very much like the Soviet system'. And Gandhiji replied: ' I did not know that. I do not mind.'

Sir, for good or for ill,—I hope for good—we have deviated from his plan and we have evolved a different plan, partly because we are passing through a difficult transition period. A time will arrive when India is stabilized and strong, and I hope we will then go back to the old plan of the Panchayat Raj or decentralised democracy, with village units self-sufficient in food, clothing and shelter and interdependent as regards other matters. I hope we will later go back to that Panchayat Raj Sir, to my mind the only system that will save India and the world is what I may call spiritual communism; I have in mind not the communism of the materialist brand. I have in mind spiritual communism. That is what Gandhiji had in mind when he based his conception of the future form of Government on the spirit of Divinity controlling human affairs. This meant spiritual communism. That alone will save the world. Today, in the conflict between the atom bomb and the *atman* "आत्मन्" it is only *atma shakti* "आत्मशक्ति" that will prevail.

Now to go back to the preamble and the Constitution, I find that so far as justice is concerned, the Constitution amply provides for those who adorn the seats of justice. They are better provided for than those who will resort to the Temples of justice. The Drafting Committee had a soft corner for those eminent dignitaries who will preside in those Temples of justice and not to the humble votaries in the temple. As the Constitution was drafted by lawyers, perhaps it was inevitable that it should be so, as in the Sanskrit sloka नीलकागत मपि कुटिलं न भवति सरलशुनः पृच्छम् Nalikagatamapi kutilam na bhavati saralam

shunah puchham. The lawyers' bias could not be avoided and therefore it is that in the Constitution the judges have been unduly pampered.

Again we and the emergency provisions and article 22—1 do not know how the latter found a place in the Fundamental Rights,—the right of a person to be detained without trial for three months or more. These provisions water down the principle embodied in the Preamble regarding individual liberty. They have fettered individual liberty. Let me make it clear that I am not a champion of absolute individual liberty. I want individual liberty only in so far as it does not jeopardise the security of the State. With that end in view I moved several amendments. They were not accepted. Then as regards equality, we find that there are some provisions which confer the same equality as we find between a cat and a mouse, or a horse and an ass. As regards fraternity, I feel that we have shown fraternal love and regard for the permanent services, especially the higher services as well as the high dignitaries of State to whom I have already referred. I do not think I am exaggerating when I say that we set out with good intentions to make a vinayaka, but it turned out to be a vanara as in the Sanskrit proverb:

विनायकम् प्रकुर्वाणो रचयामस वानरम्

Vinayakam prakurvano rachayamasa vanaram. The Vinayaka that we have made resembles the image of a monkey more than the image of God Ganesh.

With all that, there are some very good features in the Constitution. That is why I welcome it partially.

The provisions regarding the integration of States for which the credit goes entirely to Sardar Patel, and the provisions regarding minorities which are there mainly due to his efforts are all very welcome. Then there is the provision regarding property. We have not made it absolutely justiciable. That is again another good feature of the Constitution. We have guaranteed religious freedom. This is another important thing. We have settled the language question satisfactorily. Then, as referred to by me already, there is the question of the oath. God has been invoked in the oath to be taken by the dignitaries of the State. Then there is provision for village panchayats in the directives of State policy. Though Dr. Ambedkar at first stigmatised the villages as sinks of superstition and ignorance or something like that, it is good that we embodied in the Directive Principles the salutary provision for village panchayats. These are all good features and I welcome them wholeheartedly. Then we have abolished titles,—those vulgar distinctions. Untouchability which has been a canker on Hindu society has been abolished. But other features are there which mar the harmony and the beauty of the Constitution. As I said, we are going to have parliamentary democracy in this country. I hope it will work. Unfortunately we have several handicaps in our country; our fissiparous social system with divisions based on caste and sub-caste, creed and religion and notions of superiority and inferiority and strong antipathies and jealousies which form an integral part of our psychological set-up. These impede the cultivation of a democratic outlook, and permeate the very air we breathe. These factors operate sub-consciously rather than consciously. Again, Sir, of the innumerable points of contact between the citizen and the State, each a battle-ground of democracy, only a microscopic proportion will fall within the jurisdiction of the courts, though vastly extended in the Draft Constitution. They, to my mind do not furnish the complete mechanics of democracy. They do not solve the problem of taming power, I hope, Sir, that the democratic spirit of the people who work the Constitution will be adequate to the task. The Constitution itself is only dry bones. After all, it is we, the people of India, who will have to infuse life into these dry bones of the Constitution. I hope it will be worked in a spirit of co-operation, in the spirit of making India, a great nation, making it great beacon light to the whole world, under which

[Shri H. V. Kamath]

will gather all the nations of the world to learn the ancient yet ever new gospel of India, the gospel of peace, harmony and love, bathed in the refulgent light of a Himalayan dawn. I would like to make a suggestion about the ceremony we are going to have on the 26th January 1950. I would suggest, Sir, that the Republic should be proclaimed not at midnight as was done in August 1947, but just before sunrise as is the custom in our Indian tradition, sometime during the first prahar (प्रहर) before sunrise which is called Brahmi Muhurta. Between three and six that morning we should proclaim the Republic and inaugurate the Constitution. If we do it just before sunrise, I think it will augur well for the future of our country.

I would only say one thing more, Sir and that is this: that we the people of India, will not forget our spiritual genius and our ancient traditions. It was Swami Vivekananda who said that the day India forgets God, the day she discards spirituality, that day she will die, that day she will cease to be a force in the world. I hope we will keep alive our traditions in spite of the fact that we lightheartedly forgot to invoke the name of God in the Preamble. Yea, let us work this Constitution in the spirit of divine guidance, under divine grace and blessing. It was Mahatma Gandhi who all in his prayers prayed.—

‘Sabko sanmati de Bhagawan’

सबको सन्मति दे भगवान

Swami Vivekananda exhorted India to rise and chanted the Vedantic Mantram.

उत्तिष्ठत् जाग्रत प्राप्य वरानिबोधत

Uttishthata jagrata prapya varanmibodhata

Awake, Arise and Stop Not Till the Goal is Reached

We have reached our goal. Yet we have got to reach a higher goal, and let us address ourselves to that task and bend our energies to the attainment of that goal, so that in this ancient land of ours the common man—after all a Constitution is only for the good of the common man that is its touch stone,—the ordinary man may have his life and have it more abundantly. It does not matter how many Ministers you have, how many Governors you have, who you win have as President. These do not matter ultimately. A Constitution will live or die in so far as it caters to or hinders the happiness, the life and the liberty of the ordinary man, the common man. It is in his name that we have framed this Constitution; it is in his name that we have struggled for freedom, achieved it and assembled here. Let us work this Constitution in his name. Let us go ahead in his name under the blessings of the Almighty and under His guidance, and with the full co-operation of the people of India. Let us strive to reach the goal envisaged by Mahatma Gandhi and all our prophets, sages and seers, the goal. I would not call it, of Sadhunam-Rajyam or the Kingdom of God on earth; I would simply call it Panchayat Raj. We who are assembled here, let us resolve that we shall not rest till we have achieved that goal which has animated the whole nation for the last sixty years or more, and which I hope will continue to inspire us during the difficult days to come. Jai Hind.

**Maulana Hasrat Mohani** (United Provinces: Muslim): Sir, May I know if there is any chance of any of the points raised in the speeches of different honourable Members being accepted and introduced into the Constitution now? if there is no chance, then the whole thing is a farce and I do not find any use, at all of this general discussion.

**Mr. President :** I may inform the Maulana that under the rules there is no room for any further amendments at this stage. I shall have to put the motion at the end to the vote.

**Shri Mohan Lal Gautam** (United Provinces: General): May I know whether the Maulana is a party to this farce or not?

**Maulana Hasrat Mohani** : I am not. I have not given notice of any amendment on this occasion. I shall simply oppose the whole thing.

**Mr. President** : I thought you were not going to speak.

**Dr. P. S. Deshmukh** (C. P. & Berar: General): May I draw your attention to the word used by the honourable Member and request you to ask him to withdraw the word he has used.

**Mr. President** : He said he was not moving any amendment. Did he say anything else?

**Shri S. Nagappa** (Madras: General) : The word "farce" that he used is objectionable.

**Mr. President** : Maulana, that word is objectionable, Members object to it. This is not a farce anyway.

**Maulana Hasrat Mohani** : Very well, I withdraw the word.

**Seth Damodar Swarup** (United Provinces: General): \*[Mr. President, the Second Reading of the Draft Constitution has ended and the Third Reading is going on which will also conclude in three or four days. After that the inauguration of this Constitution will be held over till the historic day of the 26th January. All this is good and for that the Honourable Dr. Ambedkar and his other colleagues of the Drafting Committee deserve the congratulations of the whole House, because they have drafted this Constitution with great skill and labour.

Sir, ordinarily it would be expected of me who is a Member of this House that I should have a feeling of satisfaction for the successful completion of our labours. But Sir, permit me to say that at this moment when I am speaking on this Constitution in this House, far from having any sense of satisfaction I am feeling extremely depressed. The fact is that it appears to me as if my heart were sinking at this moment and a slow palsy is overtaking me. This is due to my realisation that in spite of the fact that the British rule ended more than two years ago, the misfortune of the country and its people is that they have not yet perceived in the least any improvement in their conditions as a result of this change. I am afraid that the masses instead of finding any improvement in their lot are beginning to suspect that their lot is becoming worse as a result of this political change. They are unable to perceive as to where all this will end. The fact is that the general public, in whose name this Constitution has been framed and would be passed, sees only despair and darkness around them.

Mr. President, some of our friends thought that so far no change has been apparent in the condition of the general masses, because so far the Constitution and the laws framed by the British Government are in force. They believed that when our Indian constitution is ready, the masses would definitely feel that they are on the way to progress.

But, Mr. President, I wish to be excused for placing the hard reality before you. The people of this country would not at all be satisfied or happy even after this Constitution is completed and enforced. Because what is there for them, in this Constitution, as it has evolved now, and is soon going to be enforced? You may go through it from the beginning to the end, you will not find anywhere in it any provision for bread for the poor, starving, naked and oppressed people of India. What attempt has been made in this constitution for solving their day to day problems? Besides this, it does not contain any guarantee of work, or employment for them. Far from ensuring to them wages according to their work, there is no guarantee in it even for a living wage even for a minimum wage and payment for subsistence.

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\*[ ] Translation of Hindustani speech



[Seth Damodar Swarup]

In these circumstances, Mr. President, even though this Constitution may be the biggest and bulkiest constitution in the world, may even be the most detailed one, it may be heaven for the lawyers, and may even be the *Magna Charta* for the capitalists of India, but so far as the poor and the tens of millions of toiling, starving and naked masses of India are concerned, there is nothing in it for them. For them it is a bulky volume, nothing more than waste paper. It is a different matter whether we accept this fact or not, but we would have to admit that even if we ignore the views of the public, we would have to pay attention to the opinion of the great people.

I wish to invite your attention to the opinion of the honourable the Speaker of our Indian Parliament. He says that constitution that has been framed does not at all contain any shade of Indian genius, and is quite contrary to that. If I am not mistaken the General Secretary of the Congress, Shri Shankarrao Deo has also expressed We views about this Constitution in this House. He says that this Constitution is bound to be rejected if a referendum is taken. So even he leaving aside the views of the general public about this Constitution and only taking into consideration the views of such respectable people how can we claim, that the public will be satisfied with it?

Mr. President the reason is clear. This Constitution has been framed by the people who are not the true representatives of the general masses. I have stated previously that the framers of this Constitution at best represent 14 per cent. of the Indian masses. This is a bitter fact. We, who are here in this House as the representatives of the public have failed to fulfil our duty for which we had assembled here due to various reasons and causes such as party politics. It is for this reason that the people of India are particularly faced with disappointment again, as they had seen after the change of Government. Then, we have to consider, what is in store for us? There is no doubt that the Indian masses will never accept this Constitution in the words of respected Shri Shankarrao Deo. This Constitution cannot work permanently in this country.

We have seen that there are some good things too in this Constitution and some nice principles have been enunciated in this, e.g. there is a mention of general franchise and joint electorate, abolition of untouchability. But so far as the principles are concerned, they may be, quite all right. But how far they would be enforced in practice, will be seen when they are put into practice. We see that the mention of Fundamental Rights in the Constitution is a significant matter. But Mr. President, have we really got some Fundamental Rights through this Constitution? I can say emphatically that the grant of Fundamental Rights is a mere farce. They have been given by one hand and taken away by the other. We have been told in plain words that this guarantee about the fundamental rights will not apply in the case of the Acts at present in force, and in respect of libel slander, or contempt of court and the Government is authorised to enact such laws even in future. Besides this, so far as the right of association or the right to go from one place to another is concerned, the Government will have the right to enact any law to take away these rights in the name of public interest so the grant of Fundamental Rights is a farce.

Then, Mr. President, we see that the law regarding property is identical with that contained in the Government of India Act of 1935. The result would be that it would be impossible to nationalise property and there would be many obstacles in effecting such economic reforms as may be in the interest of the public.

Mr. President, it is a matter of surprise, of pain indeed, that while speaking on the Objective Resolution our Prime Minister had said emphatically that he was a socialist. He had also expressed the hope that the Constitution would be of a socialist republic. We listened to all his speech, but when the amendment seeking to add the word 'socialist' with the word 'republic' was moved in the House, it was rejected.

Mr. President, on the one hand we desire that today's social structure should be maintained without any alteration, and on the other hand we also wish that, poverty and unemployment should vanish from this country. Both these things cannot go hand in hand. While in America our Prime Minister said that socialism and capitalism cannot go hand in hand; it is surprising as to how it can be expected to maintain *status quo*, to maintain capitalism and also to remove the poverty and unemployment of the masses. Both these things are quite incompatible. It is felt therefore that starving, naked and oppressed people of India would perhaps continue to be in the same misery as they are today. Besides this even viewing this from other points of view too we do not arrive at any happy conclusion. Nowadays there is a lot of talk about cooperative commonwealth in our country. But what is the actual fact? It is no direction to say in the Directive Principles that the Governments would establish any such thing. To give directives in round about words is different from giving a clear directive for establishing such an order. Still the Congress President wants us to cherish the hope that a classless society will be established in this country within five years. A layman like me is however unable to understand as to how to reconcile the two statements, the one that we hate socialism and want to maintain the *status quo* the other that we wish to establish a classless society in our country while preserving the exploiting group. I cannot see how these two objects which are mutually opposite can be realised. Besides, this there are several minor things which could be accomplished but have not been done.

The demand for the separation of the executive and the judiciary is a very old one—perhaps as old as the Indian National Congress is believed to be. But this Constitution does not contain any definite plan, any adequate provision to separate the executive and the judiciary as soon as possible.

Looking at States, I can say that no decision has yet been taken to end the Jagirdari system. The result would be that millions of peasants of the States would continue to be slaves, of the Jagirdars. Besides this, the farm labourers would continue to be the slaves of the money lenders. Along with this we see that this Constitution contains so many things which are far more reactionary and backward than the provisions of the Government of India Act of 1935. It was provided in the first draft of this Constitution that the Governor would be elected direct by the voters. Later on another proposal was made saying that the Governor would be appointed by a panel. But now the President has been given the right to select the Governors and also to fix their tenure of office himself. It is right that the President will as far as possible use his right properly, but this may lead to a tug of war between the provincial Government and the Governor. It is just possible that the provincial government may have a different ideology from that of the Central Government and that conflict in ideologies may lead to conflict between the provincial Government and the Governor. Besides this the discretionary powers of the Governor are even more reactionary than those contained in the 1935 Act. The Act of 1935 gave the power of individual judgment to the Governor but it was essential for him to consult the cabinet. But now the Governor need not consult the cabinet regarding the discretionary powers and he has a right to regard any subject as coming within his discretionary powers. So we see that in respect of Governor and their too we have gone backward instead of advancing forward

[Seth Damodar Swarup]

Again the President has been given greater powers than necessary in the name of emergency powers, and the centre too has been given greater powers to interfere in the provincial affairs more than necessary. Our Constitutional structure is federal in name, but so far as the administrative sphere is concerned, it has become a completely unitary structure. We do realise that centralisation is to some extent essential, but over-centralisation means more corruption in the country. Mahatma Gandhi advocated decentralisation throughout his life. It is surprising that we have forgotten that lesson so soon after his departure, and are now giving undue powers to the President and the Central Government.

Mr. President, the structure of a modern State is generally based on division of powers between two compartments—Provinces and the Centre. This system is already over-centralised. If we wish to end corruption, bribery and nepotism, the system of two compartments does not seem to be appropriate. For this we needed a four-compartment system. As I had once proposed, there should have been separate village republics, separate city republics and separate provincial republics and they should have federated into a central republic, that would have given us a really democratic federal structure. But as I have just said we have framed a unitary constitution in the name of a federation. This would essentially result in over centralisation, and our Government, which ought to have been the Government of the people, would become a fascist Government. So from this point of view as well, Mr. President, we arrive at the conclusion that the Constitution framed for our country will neither lead to the welfare of our country nor to the protection of those principles on the basis of which we have ostensibly proceeded. This seems to be the reason why the socialist party of India has declared that if and when they happen to capture power, the first thing they would do will be to set up a new Constitution Assembly on the basis of general franchise and that Constituent Assembly would either change this whole constitution totally or would make necessary amendments in it. Mr. President, I would therefore not take any more time of the House and would only say that from the point of view of the interest of the people, high constitutional principles, this Constitution does not deserve to be passed. We should reject this Constitution. But Mr. President we may do it or not, I would submit, and fully believe in what my respected Friend Shri Shankarrao Deo has said, that even though we may accept this Constitution, the people of the country will never accept this. For them this Constitution would not be of greater value than other ordinary Law books. The hopes of the people for the Constitution would remain unfulfilled just as they had remained fulfilled, by the change of Government. If therefore, we wish to retain the confidence of the people, there is still a chance to do so, but if we do not succeed in this task, I am sure, Mr. President, the masses of India and the posterity too will not remember us by any good or respectable name.

**Shri T. Prakasam** (Madras: General): Mr. President, Sir, this is not the Constitution which I expected for the people of our country, the Constitution which I was expecting along with many others who have been labouring for attaining the freedom of this country, the constitution planned out by Mahatma Gandhi, not only planned out, but also endeavoured to be put into practice Panchayat Raj was the one which he Planned out and recommended to the nation. Before his advent and before his programme was placed before the country, nobody ever dreamt that the people, divided as they were in every respect, would come together under one leadership, under one banner and carry out the orders given by him and the Congress. He was the one man who should have been framing a Constitution, a simple Constitution for the people of this country

that would give relief to all, to the millions. His plan was to educate the millions and to make the fight carried on by them to attain freedom ever since he set his foot on this country after coming from South Africa. You know more about Mahatma Gandhi than myself or than anybody else in this country and you, Sir, were good enough to send a reply while the drafting of the Constitution was in progress, to a letter written to you by one ardent constructive worker, an advocate, an educated man who has spent his time in the villages for a good time. In that letter he suggested about this Panchayat Organisation of Mahatma Gandhi and you replied to him in detail and you were impressed by that because you were one of the foremost followers of Mahatma Gandhi and a copy of that letter was given to me by that friend and that letter was referred by you to Shri B. N. Rau, the Constitutional Adviser. I raised that point elsewhere when we were discussing and everybody was impressed there, but I myself found it difficult to introduce the Panchayat Constitution—the framework of that—into the Constitution that had made considerable progress. So we dropped it and the leadership then suggested that there would be the directive principles introduced into the Constitution. We have got that here now. Therefore the Constitution which I was longing to have was that Constitution. It is only that Constitution that would give really food and cloth and all the necessaries of life to the millions. The millions were ignored during the British Raj and they were ignored in our country even after the British left and we also ignored them and we are proceeding with this Constitution.

The Constitution is a great document and the friends who have been in charge of this framing of this—Dr. Ambedkar is a great lawyer, is a very able man. He has shown by the work he has done here, how he would be competent to be a King's Counsel of Great Britain, to be perhaps competent to sit on the Woolsack only; but this is not a Constitution that we, the people of this country wanted. Mahatma Gandhi when he took up the organization of this country in the name of the Congress at once saw how this country could be helped and how the millions could be helped. Therefore he decided that the whole country should be divided on linguistic basis so that the people of each area would be competent to develop themselves. He not only laid that down as a rule for preaching purposes but he put it into force, carved out the whole country into 21 linguistic areas and he made the people work under that Constitution. As a matter of fact after he had been taken away from us and after we have been enabled to send away the English people from our country to their own country, we should not have discarded the basis on which this country had been educated by him, not only educated but the people of each area had been enabled to carry out the work. What about the Congress work which had been carried out under his direction and under the direction of the Congress and under your leadership and other leadership? The whole thing, how to make their own cloth, their own food and carry out all the items of constructive programme—that had been carried out for 26 years—it is nowhere now. Therefore, I have been sitting here with a painful thought that we had been drifting, avoiding the soul of it as it were.

The Constitution is very carefully drawn up. I have been a student of Constitutional law for a very long time, for over 40 years or 45 years. I have understood the principles of the Constitutions of the various countries of this world. The legal expert here and the Chairman of the Drafting Committee were referring us so often to the American Constitution. What is there in the American Constitution? We can see the essence of it—how 13 different colonies or units came together and were determined to carry on the war against the British, carried on the war and after completing the war, evolved their own Constitution. When such was the case, what was the fear in the minds of the Chairman of the Drafting Committee and also of the legal expert—who has been a very learned

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man and who has been on the top of the legal profession? Their mind was not there as they were not in it. Therefore this Constitution started on the basis of the English Constitution. The Act of 1935 became the basis of this Constitution. We embodied many provisions bodily as it were. They are not of a very extraordinary character, they are not new inventions for the first time by Great Britain. Why should we have been ready to say that we adopt this Constitution of Great Britain of 1935?

Therefore, Sir, I am submitting to the honourable Members of this House who are all persons who have made great sacrifices to achieve the freedom of our country, that whenever it was pointed out that Mahatma Gandhi's scheme was the proper scheme, the whole House rose in one voice as it were, and they demanded Panchayat Raj system. But because it was too late it could not be introduced into this Constitution that we were making; but every one was for that, and every one is referring to the same thing in their speeches during the last two days also, just as they have been doing in the past. Therefore, the Constitution that I was expecting, and the Organisation that I was expecting, for this country was the division on the linguistic basis, which was chalked out by Mahatma Gandhi, which was not only chalked out, for the mere adoption as a principle or any such thing, but actually worked out, for the past 26 years, now 30 years. Even now that system is continuing. Why should we have abandoned that and come to this?

I may say Sir, one word in this connection. People like myself, Dr. Pattabhi Sitaramayya, Prof. Ranga and others who have come from our province, and who have been agitating for separation of Andhra Province, and have been fighting for it for over 36 years could not succeed until now. At last the Congress Working Committee has been good enough to adopt Andhra separation. I thank the Working Committee, Dr. Pattabhi Sitaramayya, the Honourable Pandit Jawaharlal Nehru, the Prime Minister and also Honourable Sardar Vallabhbhai Patel and the other members of the Working Committee for having accepted this. They have accepted it so that it might be started immediately and the whole thing might be worked out. There was a dispute over the city of Madras which could not be solved. There was the Dhar Commission appointed by you, Sir, and that Commission went into the whole question and toured the whole country and arrived at certain conclusions in their report. Relying upon those findings, we demanded Andhra Province, Sir, without claiming the city of Madras, although there was a demand for a separation and for a division and for constituting it into a separate province. This is a question upon which the Working Committee was not able to arrive at any decision. But they were good enough to put it in such a form that that question was left open. And a boundary, commission also has to be appointed. I therefore, thank the Government and all those who were responsible for doing this much.

I also feel that what has been done with regard to Andhra should also have been done with regard to others also who have been agitating for being constituted into linguistic areas. This would not have taken a long time. But there seems to be some fear in the minds of the leadership which prevented them from thinking of separation on linguistic basis. It is not an impossible thing. It is that work and it is that united feeling of all the people, it is that division that has brought this freedom, and the country together. Why we should try to avoid I have not been able to understand. But the two leaders were too strongly opposed to division on a linguistic basis, at this juncture, and there is no one in this House or even outside who has been taking an opposite view to these leaders, particularly so, when we see how these two leaders had been struggling here ever since they took charge of the administration of this country, under the most diffi-

cult circumstances. Take for instance Sardar Vallabhbhai Patel who has brought together all the States into one Union, as it were, who has made the whole of India into one United Union. There was only one man in the history of the world, similarly great man, and that was Bismarck. But Vallabhbhai Patel has out-Bismarcked or out-distanced Bismarck, outshone him. I am not given to flattery or saying good words at the proper time. But you know Sardar Vallabhbhai Patel was described in the British press, in one of the most conservative presses, as Super-Bismarck. Therefore we are all proud of Sardar Vallabhbhai Patel's work and the labours and the troubles which he has been facing, troubles not only from outside and from inside regarding the constitution of the country, but also physical troubles. We know he has been fighting these physical troubles as he has been fighting other troubles involving or relating to the country.

Take again, Sir, Honourable Shri Jawaharlal Nehru. He has just now returned from America. What has he done now? There in his tour he has carried the message of peace, not to our villages or to our districts or to our provinces, but to the whole country and to the whole of America and all the other nations, as it were. And he brought back an answer, as it were, that they were all inclined towards peace today and not towards war. Even the representative of Russia showed this by his recent proposals before the United Nations Organisation. Of course, he was very much distrusted by others, they would not take his words at their face value. But I believe he was quite sincere in asking for peace, and when it comes from Stalin's country, one should accept it and make it a complete success.

And so, India following Mahatma Gandhi's principles and with this Prime Minister of India—with whom I would be quarrelling sometimes for not doing things as I wanted—this Prime Minister carried this message of peace to them, and brought back a reply as it were, I mean the principle of peace to the whole world, and he has justified himself as the disciple of Mahatma Gandhi as far as non-violence, truth and peace are concerned.

Therefore, when these two leaders have been striving here, people could not resist them and press them to understand that the division of this country on a linguistic basis would bring unity and not disunity. It would not create trouble. On the other hand it would give strength and create the power to resist those forces that are raging themselves against our Government or any government in this country. Take for instance the American States. Thirteen States united together and carried on a war, and after the war they made their constitution. but not in the manner in which we are doing it, Sir.

I feel very strongly that we have constituted the Constituent Assembly and carried on the work of framing our Constitution, under the direction of the Secretary of State for India and the Cabinet in Britain. Look at the Independence of India Act of 1947. It is under that Act that we do all this. Of course they had to pass that Act. I do not dispute it, because they wanted to declare publicly through their Parliament that they had severed their connection with India, that they would not be responsible under those sections in the latter part of that Act—the Act consists of only 20 sections—they declared. "We have handed over India to the Indians and we shall not be responsible from this date for anything that may be done by the Indian Government, by the Indians, who take our place. They must also take these responsibilities". If that be the case, they should have asked us to frame our own Constitution after forming our own Constituent Assembly. But instead of that, they wanted to keep it to the very last minute, as it were, under Parliament and so got it under the name of the Indian Independence Act. What is it that they have done? Pre-

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viously they appointed a Governor-General. The Governor-General would be vacating his place when the President is appointed here, and when we pass this Constitution. But he is the Governor-General of King George, and not the Governor-General appointed by us. He has been put there to watch the interests of Britain. Of course I do not . . .

**An Honourable Member :** Nothing of the kind.

**Shri T. Prakasam :** No use saying, "Nothing of the kind." I am talking of the Constitution. What has been done here? He has been there carrying on whatever he has to do, as any other Governor-General was carrying on before the British left. So, I say, Sir, I am pointing out the weakness in this Constitution which is being drafted under the auspices of Britain in pursuance of the provisions of the Indian Independence Act. I am pointing out how Britain was interested in keeping a hold over this country even until the day the Indian Independence Act was passed. In section 17 of that Act they say that the Secretary of State should not be made liable for anything that had been done while the English people were carrying on the Government. It was also stated there that the British Exchequer should not be made liable for anything that might have been done by them when they were in office. I have been at this point for the last two or three years. I have been anxious to point out that Britain had done the greatest wrong to the people of this country when it contracted certain loans under Section 315 of the Government of India Act, 1935 and these loans were contracted by the issue of currency notes without any metallic backing. The total amount in circulation before the war started was Rs. 714 crores or so. By the time the war ended when we came to 1948, the total amount came to Rs. 1,214 crores of currency notes. I say, I have been saying, and I said in my budget speech in Parliament the other day that these currency notes that were issued by them during the period of the war without having any metallic security, are not worth the paper upon which the currency notes were printed, and the people of this country who accepted the currency notes and paid the cash into the hands of the British Government should not be made liable. That is my point and it is a point which I wanted to raise. I am not taking you by surprise. Dr. Ambedkar, is the Chairman of the Drafting Committee and the legal adviser of this Constitution-making body,—I wrote to him and gave him notice of a resolution two years back. In that note I pointed out the whole of this business and asked them to have that resolution tabled and placed before the House. I got no notice of it and I could not attend for some time. Afterwards a note issued from Shri Satyanarayan Sinha saying that those who were sitting there should not come here. I have come here on a special/requisition made to Pandit Jawaharlal Nehru. This is the notice of the resolution given by me on 14th August 1949:

"I beg to give notice to move the following resolution on an urgent matter of public interest for consideration and decision before the sovereign body of the Constituent Assembly can proceed to further consideration and further drafting of the Union Constitution."

The Resolution reads:

"This Assembly hereby declares that the huge unconscionable burden thrown upon the people of India by Great Britain by its currency law and currency policy and the resultant so called public debt and liability of crores of rupees created by the issue and expansion of paper currency without any metallic security to be *ultra vires* and further that all such currency notes, so issued are of no value whatever as against the people of India in view of long and protracted struggle by the people of India for their political and economic freedom."

Well, Sir, when this notice was given, can the President of the Drafting Committee, or can the Legal Adviser, or can anybody say that this matter was not before them? I brought it to their notice: I also said that this matter must be considered before the Constitution Act of this Constituent Assembly was proceeded with. Therefore, I am submitting that in drafting this Constitution we have been drifting, drifting and drifting, without knowing exactly where we were going. This Rs. 1,214 crores of currency notes were printed by Britain just before they went out of this country, making a provision in the Indian Independence Act that they should not be made liable for all that they have done. Would that be *intra vires*? I have been considering that it is *ultra vires*. If they had contracted it on the eve of their departure they are liable for it. Even after this Constitution is passed they will stand liable for this. What has been the effect of this? I am requesting you and the honourable Members of this House to consider a while. This printing of Rs. 1,214 crores of currency notes without metallic security, making the people of this country liable has brought about inflation and has been responsible for the increase of prices in this country. Experts have been saying that they will decrease the prices and that they will do this and that, without touching upon this point-without cutting away this Rs. 1,244 crores of liability cast upon the people. It is a matter of life and death for the people. That is what happened.

I would like to point out in what a difficult position we have been while we have been going through the completion of this Constitution and we have come to the last stages. Now, I have been waiting here to tell the House and to tell you, Sir, how we have been omitting to do certain things which will seriously affect ourselves. What is the good of framing a Constitution which will not take a matter of this importance into account and do something to relieve all this burden? Who else can relieve the curse of inflation that has brought this increase of prices, which in turn has brought about all kinds of troubles? This Government has been taking ever so many other steps to get rid of this inflation. How can they get rid of this inflation if they do not touch the bottom rock of that Rs. 1,214 crores. All these English people, while they were ruling they introduced these currency policies. They introduced this inflation and also devaluation. So many currency commissions have been held and at the end of each Commission they have invariably passed orders to suit the convenience of the British people.

When currency notes to the tune of one thousand two hundred and fourteen crores of rupees were printed unauthorisedly, there should be some arrangement for their withdrawal. In fact, this has been done in some countries. But nothing to that end has been done here and that is why I am apprehensive that we are in for trouble. How has this devaluation come upon us, Sir?

**Mr. President :** I do not wish to interrupt the honourable Member. But I am afraid that he is speaking on points which are not germane to the Constitution we are discussing today. These are points which could very well be raised, for Government to take up (and Government might be blamed, or whatever else the House would like to do it could do to Government) in another place, but not here.

**Shri T. Prakasam :** Sir, I do not want to wander about and want to confine myself to the scope of the discussion on the Constitution. The point which I was referring to just now arises in this way. The Constitution which we have drawn up ought to have removed the anomaly of continuing the exchange ratio of the rupee at Is. 6d., adopted by the Indian Government a long time back. That has, unfortunately, not been done. That is how the point I was making is germane to the discussion.



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Now, Sir, I come to another point regarding the provision on freedom of person that we have adopted. We made a provision after such consideration and discussion that for three months a person could be detained without trial. It shocked me and it shocks me now that we should have made such a provision. We cannot justify our position in the face of the world. It is strange that we who had been trained and disciplined for over thirty years by one person, the great leader who had given peace not only to this country but also to the rest of the world, should make such a provision. Why should it be, Sir, that for three months a person could be detained without trial? I am sorry that we have adopted it.

One great service that this Constitution has done is by way of removing untouchability and making Harijans and Scheduled Castes feel that they are brought on an equal footing with the rest of the population. For that we do deserve some credit.

I am also glad about the introduction of the village panchayat system in the directive principles. The execution or the fulfilment of it depends upon you and others, who would be in charge of this country and the Government. I understood that in the United Provinces, Pandit Govind Ballabh Pant's administration has set up panchayats and Assam had established them even before that. If this example is followed by the provinces of India the day of redemption of the millions of India would not be very far off.

Then another matter, Sir, about which I should like to say a few words is about adult franchise. I am glad that out of any fear or suspicion adult franchise has not been modified in any way. When we started framing this Constitution, it was the idea that the Governor should be elected. I felt glad about it. But unfortunately this provision has undergone a thorough modification. People may agree with me or may not agree with me. Unless you trust your own people and take them into your confidence they will not be able to deliver the goods. In fact our country has stood firm now for three years since the work of drafting this Constitution began and even before that they have been honest, straight and loyal to the Government. We should not, therefore, do anything which would lead them to think that we are not trusting them.

I should then like to refer to the introduction of the new article 365 by the Chairman of the Drafting Committee. According to that article if any province is not ready to obey and carry out the orders of the Government here that province may be declared as not fit to be within the Constitution. This is only an adaptation of section 93 of the Government of India Act under which the administration of a province could be taken over by the Governor. This is no good for us. This is not a provision that we should introduce after we have fought for the freedom of this country in the clearest possible manner. This is not the way in which we should develop democracy in this country. Whatever defects there may be in provinces, you must allow them to be corrected by themselves.

You must not interfere for this and that and fall upon them and ask them finally to get out because they are not willing to obey. That is not the way in which democratic constitutions can be built up or worked nor the people's position sustained in the country. If we wish to carry the people with us, give them freedom. I am one of the sufferers with regard to this provincial autonomy also, but I do not complain that for the sake of that you must take away the right of carrying on the administration in their own way. It is a retrograde step-which we should have avoided altogether.

Another point which I should not fail to point out on this occasion is centralisation. Government was anxious, and this Constitution-making body was also anxious to make everything central, to give every power to the Centre. What happens to the units? What happened to the units in the United States? Fifty three or fifty-four units were separate and they declared themselves sovereign powers and carried on the war; they established their own constitutions. Similarly in Switzerland you have got 22 Cantons. Switzerland is one of the most model countries in the world. During the last two world economic distresses Switzerland was the only country which had not been affected. It was a country which was divided into 22 units each one having sovereign power, carrying on the administration in a perfect manner, in a most admirable manner for the defence of the country and for the betterment of that country. It is a flawless country today. Similarly is the United States for which our Prime Minister had so much to say. He gave a warning to us that America is a perfect country, that it can defend itself against anything. At the same time he said that you must not go on merely repeating the slogans about America but must adapt yourself. In the same sentence he pointed out, as a contrast to it, the Gandhian technique. He is a person who could take the Gandhian principles, who could take the other principles, combine them, go to America and give them the peace message and to the other countries also, and, do his best to bring about peace. But he has not been able to give attention to the Gandhian technique of the constructive programme and of the Organisation of the country or a division of the whole country on a linguistic basis.

Thank you, Sir.

**Prof. Shibban Lal Saksena** (United Provinces: General): Mr. President, Sir, this is an historic occasion in India's history when this August Assembly is about to conclude its labours. Free India will now have its first free constitution after unknown centuries. India is an ancient land and its history goes back to times immemorial. There is much ancient literature extant. But I do not know of any written constitution framed in ancient India providing for the governance of the whole country available today. We know of the codes of Manu and all other great law givers of ancient India, still no elaborate democratic constitution providing for the governance of the entire sub-continent from Cape Comorin in the South to Gilgit in the North and from Ledo in the East to Peshawar in the West was probably ever made. There were great Emperors of India whose empire comprised the entire sub-continent as, for example, Asoka. We have details of certain departments of his Government, but we do not possess the written constitution of the country in those days. So after, a lapse of innumerable centuries and probably for the first time in known history, chosen representatives from every part of the country have assembled together in a Constituent Assembly and given themselves a Constitution.

But we cannot forget that this Constitution is a constitution for the partitioned India which comprises only about 4/5th of territories comprised in our motherland known as Bharat about which Gurudev Rabindra Nath Tagore sang:

*Jan-gana mana- adhinayaka, jaya He Bharata-bhagya-vidhata  
Punjaba-Sindhu-Gujrata-Maratha-Dravida-Utkala-Banga  
Vindhya-Himachala- Yamuna-Ganga Uchchhala-jaladhi-Tiranga*

The partition of the country is the greatest tragedy that has occurred in India in recent times. It was the price that we had to pay for our freedom. The British did not leave our country because of any sudden, love that they had developed for us by a change of heart; they were compelled to leave by the force of circumstances by world forces combined with the strength, of the national movement and its marvellous leadership under Mahatma Gandhi. What followed is well known. That most unnatural division was forced upon the country.

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I am convinced that so long as this division lasts, neither India nor Pakistan can be at peace. In the re-union of the two parts of Bharat into one single Sovereign Democratic Republic lies the ultimate salvation of both the parts. The dream of free India which I dreamt during the last 30 years will only be realised when this Constitution becomes the constitution, not only of partitioned India but of the whole of India prior to partition. That I believe is the natural destiny of our motherland.

My thoughts go today to the millions of my countrymen, those unknown heroes and martyrs in our freedom struggle during the last 92 years since the first war of India's independence was fought in 1857. It is because of the sacrifices of these millions of our countrymen that this day has dawned. Among those heroes and martyrs, we cannot forget those great patriots who have been now left in areas known as Pakistan. My heart is heavy when I remember the figure of Khan Abdul Ghaffar Khan and his thousands of Khudai Khidmatgars who spilled their blood for India's freedom and who are today languishing in the jails of Pakistan. I was one of the staunchest opponents of partition and I feel we are guilty of betrayal of the Khan Brothers and the millions of Khudai Khidmatgars, whom we left in the lurch by agreeing to partition. We cannot also forget the millions of our countrymen in Eastern Bengal, the home of Bengal revolutionaries who first lit the fire of freedom in our country. India shall not be truly free until those parts which have been cut as under are reunited. Here also we must not forget the millions of refugees, who either died or lost their all and became destitutes as a result of the partition which we accepted as the price of our liberty. They are certainly martyrs of our freedom. Above all, we cannot forget on this occasion the Father of our Nation. Mahatma Gandhi, who lighted in most of us the torch of freedom and who did not live to see the fruition of his labours. I cannot also forget today other great leaders like Lokmanya Tilak, Lala Lajpat Rai, Deshbandhu Chitranjan Das, Pt. Madan Mohan Malviya, Hakim Ajmal Khan, Pandit Motilal Nehru and others who lighted our path. I particularly wish to remember Netaji Subhash Chandra Bose who fondly hope is still alive somewhere and whose Indian National Army and its glorious exploits in South East Asia fired the Indian Army and the Indian Navy and the Indian Air Force with patriotic and national sentiments and drew the day of freedom nearer. I wish to pay my homage to to all these patriots, heroes and martyrs of the nation on this momentous and historic occasion.

I am very sorry that the House did not agree to accept my amendment, by which I had wished to pay homage to the heroes and martyrs of our freedom struggle and to the Father of the Nation in the preamble at the very commencement of this Constitution. I feel that the House was not wise in doing so.

Coming now to the Constitution, I just say at the outset that it is a compromise and has all the defects of a compromise. It is a compromise between men of various views, both conservative and radical, inside the Congress Party. In the transitional period from slavery of a thousand years into newly won freedom, it was probably natural that we should go through this present stage which is reflected in this Constitution. I cannot call it the constitution of the free India of my dreams. I can, therefore, support the motion of Dr. Ambedkar for its adoption only in this spirit. I am convinced that very soon when the period of transition is over, representatives of the Indian people, elected by a conscious electorate on the basis of adult suffrage, will recast this Constitution and frame a constitution which will realise our dreams. I would have wished that my amendment for an automatic revision of the Constitution by simple majority once at the end of ten years from the commencement of the Constitution had been accepted by the House under the limitation of the prevailing circumstances, I am sure, that a better

Constitution could not have been made. For this achievement, therefore, I congratulate all those responsible for it, particularly the members of those committees, who under the chairmanship of our leaders evolved the principles of the Constitution in the reports submitted by them of the Union Powers Committee, the Provincial Constitution Committee, the Minorities Committee and numerous other Committees. The principles enunciated by these committees were accepted by this Assembly during the First Reading and the Drafting Committee then put them into legal shape. I would have very much wished that this Draft Constitution had been discussed by the House by going into the committee stage, so that all amendments could have been discussed threadbare and decision could have been taken by a majority of the whole House and not only by the majority of the Congress Party.

Under the procedure adopted, the Drafting Committee could not get the advantage of the free opinion of the whole House and decisions of the Congress Party alone became binding upon it. I personally feel that the constitution has very much suffered on this account. Out of about 10,000 amendments which appeared on the order paper from time to time during the course of the last one year, I think this House had opportunity for discussing hardly a few hundreds. The rest were all guillotined inside the Congress Party and were not moved in this House because the Party did not accept them. Congress Party meetings became meetings of the real Constituent Assembly, and this real Assembly became the mock Assembly where decisions arrived at the Congress Party meetings were registered. But by their very nature these Congress Party meetings could never be a substitute for meetings of this whole House going into the committee stage and coming to free conclusions on the various amendments tabled.

There has been some criticism of the length of time taken by this Assembly to prepare the Constitution. I think the criticism is most unfair and unjustified. So far this Assembly had only II sessions, the duration of all of which was about 200 days. During these sessions, the Assembly usually sat only five days in the week. So the working days had been only about 120 in all. The expenses incurred on the Constitution during the last three years are less than a crore of rupees. I do not think either that this time is too long or this expense is too great for framing the Constitution of Free India. I personally feel that parts of the constitution have been hustled through and due attention could not be paid to them. If, in spite of this, we have been able to produce a tolerably good constitution, I think the credit must go to the wisdom, the ability and the untiring efforts of the Drafting Committee and its learned Chairman. Credit is no less due to Shri S. N. Mukherjee and his able staff. I think India must be proud of the able draftsmanship and the capacity for infinite labour of Mr. S. N. Mukherjee. We have really discovered him during the framing of this Constitution.

Coming now to the provisions of the Constitution, I regard the provision of adult suffrage to be its greatest merit. The common man in India will now be the maker of his own destiny. I cannot understand the apprehensions of those who fear adult suffrage. We must have confidence in the common man. Adult suffrage has been one of the main demands of the Congress throughout the period of its struggle. We must, therefore, be proud at the dawn of this day when that dream has been realised. After adult suffrage I give importance to the Fundamental Rights. In the Fundamental Rights, equality between man and man has certainly been ensured in our Constitution. There shall now be no untouchability recognised by law. The abolition of untouchability has been compared to the abolition of slavery in America, but I think untouchability is a greater curse than slavery. Equality before the law of every man has also been guaranteed. But liberty has been a casualty in our Constitution. I think Sections 21 and 22 are the darkest blot on this Constitution. I could never have conceived that in the Constitution of free India, detention without trial will be permitted under the fundamental rights of the people. Having been convicted

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to total penal servitude for some 31 years in six trials on six different occasions during the Freedom struggle and having passed 10 years of my young life in prison dungeons and condemned cells in the days of our slavery under the British rule, both as a detenue and as a convict, I know the tortures which detention without trial means and I can never reconcile myself to it. An equally great blot on the Constitution are sections 358 and 359 which provide for the suspension of the Fundamental Rights and the methods of their enforcement during an emergency. This is, I think, a mockery of Fundamental Rights. I also regard Article 31 about property as the charter of capitalism in this country. I am sure, the representatives of the people elected on the basis of adult suffrage will change this Article which makes all socialisation of the means of production for the community impossible. The Directive Principles of State policy which have been so beautifully described in Part IV cannot be realised so long as Article 31 forms part of this Constitution. I would have wished that these Directive Principles had been incorporated as Fundamental Rights in the Constitution. I know it was not possible to give effect to them from today but we could have said that at the end of 10 years the Directive Principles would automatically become Fundamental Rights. I had sought to achieve this by my amendment No. 559 in Volume I of the List of Amendments, with regard to the four rights of Economic freedom which are guaranteed to citizens in the Soviet Union. I wish within 10 years India should be in a position to guarantee these same fundamental rights to its citizens. By my amendment No. 773, I had wished to provide for obligations of citizens. These obligations are contained in the Soviet Constitution. At present our constitution does not provide any such obligations and I think, this is one of its weaknesses

Another Article on Fundamental Rights which I consider to be most unfair to the people is Article 28, where it has been said that no religious instruction shall be provided in any educational institution wholly maintained out of State Funds. I consider religious instruction, by which I mean instruction in true religion and its eternal principles, to be the most important part of a child's education. Ban on religious instructions in State schools may result in the Prohibition even of the teaching of books like the Gita and the Ramayana in schools. I am sure peoples' representatives will not tolerate this ban and the article will soon have to be amended. This is an instance where secularity has gone too far.

The chapter on Directive Principles is, I think, the most hopeful chapter in the Constitution. I fondly hope that the principles enunciated in it as the ideals to be striven for in free India will be given effect to, and incorporated in the laws of the country at no distant date. Prohibition of cow slaughter throughout the country can by itself fire the imagination of the common man in India. I wish the ban on the slaughter of cow, which is the Kama Dhenu the mother of plenty, had been made absolute, and given a place in the Fundamental Rights

With regard to the machinery of administration, I would have very much preferred the President of the Republic to be directly elected. I would have also liked single chamber legislatures. I have also opposed throughout every interference with the powers and the independence of the Supreme Court and the Auditor General. I regard the Supreme Court as the guardian of the liberties of the people and the Auditor General as the watchdog of the finances of the State, I have also opposed through the arbitrary powers of the President which means the Executive, and I would have desired ultimate authority in such matters to vest in Parliament. I also do not like the powers given to the President to issue Ordinances. I only hope that when the Constitution is recast all these undemocratic features of the Constitution will be removed.

My criticism of the Constitution does not mean that I am blind to the achievements which we have made during these three years. I consider, this framing of the Constitution has by itself been the greatest single achievement .of ours during the last three years. The barriers to the dawn of freedom which the British Government had erected by the artificial creation of the problem of minorities, the problem of Princes in the Indian States and the Heaven-born Civil Service, have all been wiped of as if by magic in the short space of the last 2 years. The delay in the framing of the constitution has enabled us to incorporate in this Constitution similar provisions for the administration of the 566 Indian States which have now been transformed and integrated into nine provinces and put on a par with the other units of the Union. This single achievement will be regarded as the greatest task ever accomplished in any Country. Our beloved leader, Sardar Vallabhbhai Patel has earned the gratitude of the future generations by this momentous achievement through a bloodless revolution. Here I cannot hide my disappointment at the attitude of Kashmir Government which has insisted on a separate constitution under Article 370. But Kashmir is not Sardar Patel's responsibility. Sardar Patel's second greatest achievement has been his solution of the problem of minorities in his capacity as Chairman of the Minorities Committee. I cannot here forget to mention the name of Shri H. C. Mookerjee, the great Indian Christian leader, who can be regarded as mainly responsible for the happy solution of the minorities problem. He infected all the minorities with his sturdy spirit of nationalism and the nation shall never forget the debt it owes to Wm. Another great achievement of the Constitution is the solution of the language problem. I am not at all happy at the compromise arrived at and I consider the period of 15 years fixed for the full fledged adoption of the Hindi language ,as the national language of the country far to long, but I do hope that in actual practice, the people will force the pace and the present love of English and everything English will soon become a thing of the past.

I am also sorry that the authorised version of the Constitution should not have been passed in the national language. I would have very much wished that the Hindi translation which you will send out under your authority as the certified translation were passed by this Assembly as the authoritative version of the Constitution. I am afraid when the supremacy of English from this country is gone, our countrymen will be put to difficulty in interpreting this English original of our Constitution. I am almost certain that very soon the newly elected representatives of the people will insist on passing the authoritative version of the Constitution in the national language.

Lastly Sir, I cannot forget to voice my bitter disappointment at our decision to maintain our link with the British Commonwealth of Nations. This I consider to be derogatory to our Sovereignty. I do not believe that the leopard can change its spots overnight, and I feel our association with the British . Commonwealth can never be of any real use to us. Disastrous devaluation of our currency is the first dividend we have reaped from it. I hope very soon we shall have shaken off our slave mentality and this infatuation of everything British will then be a thing of the past, and we shall stand in the world as a completely independent nation holding our head high and ranking amongst the greatest nations of the world.

In the end, Sir, I wish to join in the tribute that many speakers have paid to your patience, skill and independence in guiding the deliberations of this august and historic Assembly. We have all felt that you have given us the fullest liberty to express our viewpoint on every aspect of the Constitution. We have also appreciated your sturdy independence in your rulings on the various points which arose during the discussions, from time to time, I cannot forget your ruling when you permitted me to move my amendment to the resolution for joining the Commonwealth. This was vehemently objected to by no less a person than the Prime Minister. But in a very serene and unconcerned manner, you gave the Ruling.

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“The Rules of the House allow it”. To posterity and future generations, the example set by you will remain a beacon light for guidance and emulation. Sir, I thank you for the opportunity you have given me to express my views on this momentous occasion.

**The Honourable Rev. J. J. M. Nichols Roy** (Assam: General): Mr. President, Sir, I am very glad to come here to give my hearty support to the motion moved by Dr. Ambedkar that the Constitution as settled by the Assembly be passed. I consider that this Constitution is the best that could be produced in the present circumstances in India and in the world. Though there are defects no doubt, though we would have liked to have had some provisions in another form, yet, Sir, I believe that this is the best that could be done under the present circumstances. I am glad, Sir, that I have had a part in the framing of this Constitution, though it may be in a very small way. The whole country has had a part in the framing of this Constitution either by way of criticism or by way of suggestions. The Draft Constitution was placed before the country over two years ago, and everyone of us had a chance either to criticise or to send suggestions, and everyone of us here in this Constituent Assembly has had a part in the framing of this Constitution. Therefore we can say that this is a Constitution for the whole country and by the whole country. While I am speaking about this Constitution to be a satisfactory constitution under the present circumstances of India. I cannot forget the conditions that existed at the ‘time when we first assembled here about three years ago. At that time we were under the shadow of the British Cabinet Mission. We were given the award by the Cabinet Mission that India would form into Groups. There were three Groups to be formed. Assam was to be grouped with Bengal, the North West Frontier Province, the Punjab and Sind were to form into one group, and the other provinces of India were to be formed into another group. At that time we members from Assam were afraid that this group system would be forced upon us, but everybody else there seemed to be willing to come under that group system though in spite of their wish. We were laughed at for being against the group system. We felt that it would affect the very life of the people of Assam if we were grouped with Bengal. Our reasons were known to the members of this Assembly. We were afraid that we were going to lose. In reality our fight was for life and death. We felt that we could in no circumstances be grouped with Bengal. We were in such great difficulty at that time that the Premier of Assam, Mr. Gopinath Bardoloi, had to approach the Working Committee which practically declined to listen to Assam request, and he had to appeal to Mahatma Gandhi and ask him to save us from, this calamity, and it was Mahatma Gandhi who saved us from that situation. We must not forget those days and the members of Assam were almost ridiculed by some people that we were only thinking of Assam, and that we were not thinking of the whole of India. We had to fight for our very life. I am glad to say that it was Mahatma Gandhi who saved us from that situation, when he said to Mr. Bardoloi thus, “if you do not want to be under this group, nobody on earth can force you to be in it”. Think of what would have been the condition of India today, what would have been the Constitution we would be having today, if we had accepted that group system. India would have been a different country altogether. The powers that we possess now would have been different. My friend, Mr. Brajeshwar Prasad, has always pleaded for centralisation, but we would not have had the Constitution that we have now with quite an amount of centralisation but for the fact that we fought against that group system. Whether our fight was good or bad, we had to fight in order to save, ourselves from what we considered to be a bad way for the people of Assam and for the whole country. Sir, Assam is a frontier province. If that province had not been saved, if that

province had gone into the hands of somebody who is riot in favour of the whole of India, if Assam were in the hands of an adverse power, the whole of India would have gone too.

Now, Sir, we are very glad for the Constitution that we have today, a Constitution which will unify the whole of India. Though we have suffered a loss of a portion of the country, though by partition we have suffered a great deal, especially the border areas round Pakistan, yet though unwillingly we have had to choose the lesser evil. I consider that what we have today is the lesser evil than what we would have had if we had not fought against the Cabinet Mission plan. I was one of those who spoke in this House and also in the Party meetings that the Cabinet Mission plan was only a recommendation of a friendly Labour Government, and that we could go contrary to that recommendation, that we could pursue our own course and that we could declare ourselves as the sovereign Constituent Assembly of India that could frame our own Constitution. I am glad that we have done that, that we have had the privilege of framing our own Constitution in our own way. Sir, that opposition has resulted in the division of India, has brought Assam especially under very great distress. Some parts of our province have had to suffer on account of the attitude of the Pakistan friends towards our areas. They are taking a very strong attitude in regard to commerce and trade between the border areas. We have had to suffer on account of that. We look to the Government of India to help these border areas which are today in great distress in view of the fact that the Pakistan people will not purchase the agricultural produce which come from the borders of Assam, which are hill districts, and also some parts of the plains districts, and this has caused a great deal of trouble to our people in these border areas. We are hoping that the Government of India would do something to relieve the people of this distress.

Now, Sir, I want to speak regarding the financial position, the relation between the States and the Central Government. We were of the opinion that there should be a definite percentage mentioned in the Constitution for the allotment of finance to the States especially the Producing States, from the revenues derived from the excise and export duties on tea, on petrol and on jute by the Central Government, but we were not successful in our attempt in this direction. The States have been placed in the position that they are at the mercy of the Centre. The Centre shall now have to help the States, at least some of the States which are financially deficit, especially the provinces of Assam and Orissa. On account of this financial distribution, we in Assam shall be in great difficulty indeed. When the 26th of January comes, India will be declared a Sovereign Democratic Republic but what will be the condition of our poor province Assam? Unless the Central Government comes to our rescue it will be impossible for Assam to carry on. Even now, Sir, Assam is in deficit. By over 2 crores of rupees we shall be in deficit and unless the Central Government comes to our help and utilise the power which has been given to them by this Constitution, to come to the help of our Province which is in financial difficulty, it will be impossible for Assam to carry on and there is going to be a financial collapse altogether. It is very important, therefore, that the Government of India should attend to this immediately. I know that I am speaking to this Constituent Assembly which is making the Constitution, but not to the Parliament, but, Sir, there are many here who are Members of Parliament, who will no doubt be interested in the Province of Assam and in those provinces which are in financial distress. When we have made the Centre strong, we have made the President powerful to act in an emergency, it will not be to the credit of the Central Government or to India to leave this one Province to collapse. I trust, Sir, that Parliament as well as the Central Government will attend to this immediately; otherwise Assam will collapse financially. There must be some way by which our Province should be



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helped in these difficult times. I am speaking of this here because I feel distressed on account of this. Had it not been for the fight Assam had had at the commencement of this Assembly we would have not been able to get the Constitution as we have got today. After Assam had been the cause of turning the course of events in India, and this Constituent Assembly has had the freedom of making this Constitution as it is today, I believe this country will not leave Assam in a state of financial collapse. India must come to our rescue immediately.

The next point I wish to speak about, Sir, is regarding citizenship. In the matter of citizenship we have made man and woman equal. A man who marries an alien still holds the citizenship and a woman who may marry an alien also must have her own citizenship kept. There should be no difference at all. If there is no difference between man and woman in all other aspects, why should there be any distinction between man and woman in respect of citizenship? Sir, Parliament is given the power to make laws regarding this; it must take this into consideration and must not allow a woman to be differentiated from a man in this matter. I believe that our women—in the whole of India would agree to this, and would rise up and fight for their right. There is a country which I know that does not make woman lose her citizenship by marrying an alien. India must not fall below such a standard.

**Shri Brajeshwar Prasad** (Bihar: General): What about the children?

**The Honourable Rev. J. J. M. Nichols Roy** : The Children will be citizens of that country where they are born.

Sir, we have had great difficulties to overcome in making this Constitution. We have had the problem of minorities and I am glad that this problem has been solved. I must congratulate our Christian leader. Dr. H. C. Mukerji for a move that there should be no reservation on the basis of religion. I also was in favour of this of reservation. For Assam Sir, I said there should be no separate constituency for the Christians and afterwards all the Christian representatives in this Constituent Assembly agreed to the same proposition, for we felt that no one should be differentiated from another on the basis of religion. Religion must not be the basis for making a difference between one man and another man. We are glad for that, that this reservation of seats for any community on the basis of religion has been abolished. The difficulties in regard to the Indian States have been wonderfully solved. The credit goes to the Ministry of States which has done wonders in this respect.

Now, Sir, I want to speak about another thing and that is regarding the Sixth Schedule. I myself am personally indebted to Mr. S. N. Mukerji, the Draftsman, Sir. B. N. Rau and Dr. Ambedkar for giving special attention to the drafting of this Sixth Schedule. I am also indebted to the members of the Drafting Committee who gave us a chance to speak before them. Also I am indebted to our own Premier of Assam who has had a very sympathetic feeling towards the Hill-people of Assam. The Sixth Schedule concerns the hill-districts of Assam in which the hill-men in Assam live by themselves in their own territories, who have their own language and their culture and the Constituent Assembly has rightly agreed to the recommendation of the Sub-Committee of the Advisory Committee in which my honourable Friend, Mr. A. V. Thakkar also was a member. The Sub-Committee agreed that there should be councils for these different districts in order to enable the people who live in those areas to develop themselves according to their genius and culture. I am glad also. Sir, that the Khasi States have been incorporated in the Sixth Schedule, for that will enable the same people of the district of Khasi-Jaintia Hills and the Khasi States to have one administration. I am very thankful to all those who have helped us in this matter, I must speak a word in regard to the criticism of my

honourable Friend. Mr. Chaliha who has twice in this House criticised the powers given to the District Councils under the Sixth Schedule. I think he is mistaken in doing so. If he thinks that the people who live in the hill districts of Assam are not capable of running their administration and utilising the power given to them by the provisions in the Sixth Schedule, he should come and help them, as a brother to help his own brothers in the Hill areas and in this way contribute his intelligence to them in order to enable them to carry on according to their own ways, and that is the thing that will give them satisfaction and help them to remain peaceful. The people of the Hill areas are afraid of exploitation and that is the reason why they demand that there should be District Councils by which they can make their own laws to some extent and also develop themselves according to their own genius and culture. I am very glad that there are many Members here who have realised the desirability of such an administration and I am very thankful to the Constituent Assembly for not opposing this Sixth Schedule which contains very good provisions for the people of these Hill areas. I am sure if those friends who live in Assam who are interested in the progress of these Hill areas which are really the frontiers of India, will help them, there will be no difficulty in having an administration there which will be very good to the people and might in some way be a model for panchayats in other parts of India. There are today, Sir, financial difficulties and distress in these areas which are in the frontiers of India. The Government of India's help is immediately necessary.

Just one more word before I sit down and that is with regard to article 48 in the Directive Principles. Here is a provision regarding the prohibition of cow slaughter. I was wondering whether this provision would mean the prohibition of cow slaughter at all times and of every kind of cows and cattle. I thought in my own mind that that was not the meaning. If that be the meaning of this provision which I do not think it is, it would place a terrible burden on the State. Think of the millions of cows that will float round the country without any fodder, and sickly, and the amount of money that will be spent on them and the terrible burden it would be on any country. Hundreds of them will die in the fields without being taken care of. It will not be economic at all for any State to prevent the slaughter of cows under all circumstances. I consider that this article would only prevent the slaughter of cows which are milch cows and draught cattle, which will be of benefit to people. If it be otherwise, I consider that that would be a blot in this Constitution and an oppression also to some of the people, especially to the Hill people of Assam, who eat beef and who keep cattle for the sake of eating. It would also be an oppression to the people who slaughter cows in sacrifices like the Moslems; even the Hindu Gurkhas of Assam sacrifice buffaloes at the time of the Durga Puja. There would be a great deal of disturbance and unrest if this article would be interpreted to mean that all cattle should be prevented from being slaughtered at all times and under all circumstances. This would act against the fundamental rights. I think that this is not the meaning of this article.

I thank you, Sir, and all the honourable Members who have contributed to the making of this Constitution and I congratulate you, Sir, for the way in which you have conducted this Assembly. I also congratulate the Drafting Committee for the laborious work that they have done and also all the officers who have had a share in its drafting and the taking down of speeches of members. I was very gladly surprised to see the efficiency of the reporters in taking down the speeches. They have done very well indeed. I thank you, Sir. May God's blessings be upon our country in working this Constitution.

**Dr. Raghu Vira** (C. P. & Berar: General): \* [Mr. President, we the people of this country have secured our independence and freedom. We are going to have a Republic of our 'now as also a Democratic State. We have been assured that during our present life we shall be provided with economic prosperity and social progress. But, Sir, a question yet remains still unsolved. I do not find

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\* [ ] Translation of Hindustani speech.

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in this Constitution any reference to the position of our ancient culture. Whenever any nation, such as British in India sought to consolidate their rule by striking deeper the roots of their domination into the heart of the subject nation, struck at the very cultural bonds of that nation and thereby infeeblled it altogether. They take three steps to reach this objective—an attack on the language an attack on the religion and an attack on the historic ideals of the subject nation. This was what England also did with us. It brought our religion into contempt. But I need not go here into the question of how it was done. But it is sufficient to say that they gave no place to religion in the sphere of the State. Moreover this significant word of the Sanskrit language was equated by them the Englishmen and their camp bearers to religion which is much narrower and restricted than the former. The fact is that *Dharma* never meant and can never mean religion. I think the word Panthe may properly be translated as Religion but I do not think that Religion can ever be taken to connote Dharma. But the Englishmen made a deliberate use of this for their own ulterior purposes.

The Englishmen imposed their language on us in place of our language. In order that our language be restored its due place and the constitution be framed in it we felt necessary that all things which the English people had deliberately destroyed in order to consolidate their rule here should be restored, so that our country may recover its soul again. But I say with regret that the word 'Dharma' does not find any mention in this Constitution. When I raised this point with a friend here he replied that the Constitution was a law and it could contain only those matters which could be subjects of interpretation in law courts. But, Sir, my submission is that this country is not eager to have new laws alone, it wants earnestly to rise to higher planes than that of the laws.

There was a time, Sir, when our country had glorious place of its own and had a Dharma of its own. At that time Sir, we were high in the scale of nations—as a matter of fact we were the teachers of the world. But the Englishmen reduced that glory of ours to dust and ashes. The Englishmen, specially the English members of the Indian Civil Service wrote histories of India in which they shoed our countrymen to have been primitive and insignificant, to have always been victims of division and dissensions and to have always been defeated in battle. It was all the more necessary, that we should have made some effort to provide avenues for the expression and development of genius in the sphere of culture. But this has not been done. I think, Sir, that it was absolutely necessary for us to have put this glorious word in our Preamble. We have the phrase the glorious triflet of words—Liberty, Equality and Fraternity from the political slogans of the French resolution, but it is my submission Sir, that these words have or never had a revolutionary appeal in this country, and so far I can Judge these words would not be able to promote a revolution in this country. I do not suggest that we should not take anything other countries. We can borrow from other countries but only those things which are likely to prove of use for our country. But when we could give a place to these three words in our constitution, could be not have given a place also to sum of the ancient words of our own country. Could we not for example use the expression Ram Rajiya in this constitution—an expression which even our children in village understand and appreciate. Again we have in our literature the expression 'Matsa Nyaya' which suggests that the bigger fish should not swallow a smaller fish. It was a duty laid on the King that the rich should not be permitted to exploit the poor—that is to say there should not be exploitation of the people, nor the exploitation of the poor by the rich nor even the exploitation of the weak by the strong. But this significant word Matsya Nyaya—this ancient word which has come down to us since thousand of years—which connotes all these has not found a place in our Constitution. I may refer here to a suggestion which I made during the course

of my conversation with the President of the League of Nations which I visited to in the year 1931. I told him that the motto of the League of Nations should be '*Ma Gradhat*' (do not covet) which is to be found in the Ishopanished and the Yajur-Veda. But such expressions and others which stand for ideals regarding the conduct and spiritual upliftment of men and which satisfy their physical and spiritual needs do not find any place in this Constitution. This country was the originator of the Republican system of government. Again it was this country which spread this system to the other parts of the world. Besides it had the biggest democratic Organisation which was engaged in a system propagation of a new ideal. Its principal mottos were '*Dharma Shamam Gacchaimi*' (I submit to the commands of Dharma) and '*Sangham Sharnam Gachami*' (I surrender myself to the Samgha or Order). These in effect that I dedicate myself to my duty and that I shall not and cannot run away from it. I ask "should not such a motto have been included in the Constitution of this country?" It is my submission that this motto is to be found in our country from the Rigvedic time down to the present age. I feel that we have suffered from the malady of division and dissensions—the malady of internecine conflicts. I think that it is regrettable that in view of this malady the ideal of San Gachaothwam '*Sam Baddivam San Vo Manasi jantam*' march together bound together are consciousness of Jantam has not been placed before us here. Another ideals we find in the assertion of King Ashwapati. He said

नमेस्ते नो जनपदे नकदर्यो नमद्यपः नाना हिताग्नि विद्वानः

which means that there is no thief or robber, no coward, and no drunkard nor any ignorant person in my State. But these ideals do not find any place in our Constitution. I therefore ask you, Sir, whether the mere fact that a statement is made in Hindi or in our language robs it of dignity and gravity, when we say in Hindi that two plus two are equal to four we lose their mathematical significance and we can retain the mathematical significance by expressing this idea in English. If not I fail to see why we could not have expressed in our language the ideals which we have put in this Constitution in terms of English language, of an alien history and a foreign syntax.

There was another ideal, Sir, which was also followed in our country. It is contained in the verse which says:

कार्षायणं मवेद् दण्डेयो यत्राचः प्राकृतो जनः  
तत्र श्रीमान् मवेददण्डय सहस्रमिति धारणा

It meant that where a common person could be fined for an offence one hundred Rupees a king or a rich person should be fined for the same offence one thousand Rupees. The offence committed by a rich man was thus decided by a fine which may be a hundred times or even one thousand times than that awarded on a common man. But I do not find any such thing in this Constitution. If the facts I place before you from the history of our country are not to your tastes you may not accept them. But I do ask that if Sir B. N. Rau our constitutional adviser could go to Ireland, Switzerland or America to find out how the people of those countries are running their governmental system, could you not find a single person in this who was well read in the political lore of this country who could have told you that this country has also something to contribute, that there was a political philosophy in this country which had permeated the entire being of the people of this country and which could be used beneficially in preparing a constitution for India. It is a matter of deep regret to me that this aspect of thought was not considered at all by us.

My time is running short and I would therefore conclude my speech after making three points. I am very glad that in the matter of language which always is the repository of civilisation a decision has been taken in favour of Hindi. All the friends here and all the provinces have voted for its adoption. I am very

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glad that some one of our languages has been adopted as the official language of the Union. I, however, feel sorry that even in accepting it, it has been provided that it will become the official language only after fifteen years. It is not only I who had felt sorry for this but also several other friends also have felt the same. My sorrow and humiliation, however, folded hundred times when I come to have a talk with a few foreign ambassadors and diplomatic representatives in our country. They twitted me by remarking that for many years the Imperial sway of English will continue in your country. I would appeal, therefore, friends here not to forget that Englishmen are still having their hold in this country. I know that not a single diplomatic representative of any other country liked this decision of ours for they know well the deep inter-relationship between language and Politics. The decision with regard to nationalities in Europe is always on the basis of language, and therefore they are well aware of the political significance of a language in the life of a country. When you give a place to English in your country you come logically to be bound up with the English People. Some French friends, who came to this country, often asked me why there was no arrangement for teaching French or Spanish in the Universities of this country. I am sure that if there had been arrangement for the teaching of French and Russian in our Universities that would have given considerable satisfaction to our French and Russian friends because then they could have been sure that you would study their literature and value their friendship. I, therefore submit Sir, that it has not been desirable for us to have retained English for another fifteen years. The fact is that Hindi had been kept so far away out of fear that it may not enter the seat of government. As against this English has been given a position in our Constitution which it did not have even during the British regime so much that not only the rule to be made by the Parliament would be in English but even a rule made by the Delhi Electric power Authority to the effect that their tram service would function from 5 A.M. to 11 P. M. that would also have to be made in English under the provisions of this Constitution. This injustice to Hindi was not considered sufficient in itself. Even the alien form of numerals has been imposed on it. The fact is that we are being treated even worse than children. We are told that the form used in Roman is the international form of the Indian numerals. This is in fact adding insult to injury. I am sure that if Gandhiji had been alive he would never have accepted the retention of English by a provision in our Constitution for another fifteen years.

Besides I find that real masters of this country still continue to be the Bureaucrats who should as a matter of policy be its servants only. Nor have we made any effort to eliminate litigation from this country. I am afraid that in the next fifteen years the roots of English influence in this country would have become twice as strong as the English people were able to make in their rule extending over a period of hundred and fifty years. The effect of all this is that the reins of power would remain in the hands of the English knowing classes. I am however hoping that after elections on the basis of adult franchise many people who do not know English would be returned to the Parliament and they would certainly dethrone English from its ruling position. I am convinced that that boycott of English is absolutely necessary for the progress of the country.

I would also like to say a few words about the boundaries of India. We have absorbed and assimilated the Indian States of the country. But we had permitted the division of our country and I do not find any limit in this Constitution that this country would become one again. Those who have been students of the culture and history of India know fully well that the natural boundaries of our country were on the Vakshu which in greek is termed Dkhum and which the Englishmen termed as the Oxus. But that boundary has now received back to the Ravi. Even in the days of Moghuls Afghanistan was a part of India. Besides a big slice has been, cut from our heart—I refer to East Bengal being cut

off from the midst of Bengal and Assam. I ask you, Sir, could we not strive to unite these again. I do not know how this unity would be brought about—whether by means of war or by peaceful means. Future will reveal the means to be adopted. But I am afraid this is not an objective today. We do not dream that India that is now partitioned and fragmented would become one again, and that it shall not be further divided.

I feel that our indifference to our duty to the nation has been much greater in the matter of Kashmir. The Maharaja of Kashmir offered to accede to India. The people of Kashmir also desire to accede to India. More particularly the people of Jammu Province of that State want to accede to India unconditionally. Again the people of Ladakh desire that they should be permitted to accede to India irrespective of the decision taken with regard to Kashmir. But in spite of all this we find that in this Constitution our Parliament still have no power to make any laws for that State. Our soldiers went to Kashmir to drive the invaders from there. They have shed their blood there and have undergone untold sufferings and hardships. Even then the flag of India does not fly in Kashmir. Side by side with it and their flag has to be kept flying there. But I fail to see the reason for flying another flag there. It is a matter of deep regret to me that even after having spent so much money and shed so much blood we have not yet succeeded in making Kashmir our own. Even today in our politics Englishmen continue to wield great influence. We have no doubt sent the-Englishmen away from our country but they continue to rule over our minds even now. I am reminded Sir, of the famous words of Lord Macaulay which he had recorded when the education began to be imparted in English. He had said that as a result of western education a race of persons would arise in India who would be English in every thing except their skin. Alas the proof of the truth of the prophecy is before our eyes today. It is only foreign ideals that have been incorporated in this Constitution. It has nothing Indian about it. I however, hope that some years hence this Constitution would not remain in the form in which it has been passed, and that it will come to acquire a genuine Indian character, and would fulfil the basic and fundamental requirements of the people of this country.]

**Shrimati Renuka Ray** (West Bengal: General): Mr. President, Sir, we are at last reaching the final stages of our Constitution-making, in three years. Three years, naturally, may appear to be a long time to frame a Constitution. But it must be borne in mind that since this Constituent Assembly first came into existence, swift-riding changes came in our country. With the partition of the country, the territorial orbit of the constitution-makers was circumscribed, while with the transfer of power, this House became a Sovereign Body, drawing up the constitution of a free country, and acting also in the dual role of Parliament. Thus, the first seven months of its labour were largely wasted as changes had to be made. Much of the time of the Constituent Assembly was also spent in dealing with emergency situations and the day to day problems of Parliament. Again, Sir, with the integration of the Indian States, even changes which were not contemplated a year ago had to be made. Sir, when this country was partitioned and provinces like my own province and the Punjab were dismembered, those who were not our friends thought and expected that the further Balkanisation of India was imminent. Who could have thought at that time, which of us conceived, that in two short years, all the Indian States, including Hyderabad, would be come a composite parts of the coordinated whole, and that for the States and the Provinces in a common measure, we would be drawing up a constitution for the entire Indian Union? Sir, living as we do in close proximity to these events that have taken place, it is difficult for us to realise the full significance of the bloodless

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revolution that has taken place and which stands as an eloquent testimony to the genius of Sardar Patel. I feel that it is only posterity that can give due appreciation to these events.

Sir, turning now to the Constitution, I must say that it is a very voluminous constitution that we have drawn up. It is perhaps the most voluminous in the world today. I was one of those who had believed that it would have been better not to have entered into such a welter of details, but to have drawn up a constitution on more general lines. Sir, a written constitution, however, elastic, must, to a very large extent, be a rigid constitution. It would have been better, I think, to have eliminated as far as possible rigidity, by not going into too many details. But the argument that held with this House was that we were concerned with numerous complex problems, that living conditions in this country differed so much and so widely that much detail was necessary. But for the life of me, I cannot understand why we had to go to such details as to put in the salaries of high dignitaries of the State, like the President and the salaries of Judges, in the Constitution. Why should the Constitution thus usurp what are really the normal duties of Parliament? Apart from any question of the amounts of salaries that have been put in, I should like to point out that in the modern world, where money is always changing in value, a sum of Rs. 5,000 today may tomorrow be worth only 500 or 5. So in the Constitution what purpose can be served by prescribing the exact amount of the salaries?

Sir, turning to the Constitution as it stands, in broad outline, though there may be many flaws, and one very major transgression against the very objectives of our Preamble, I feel on the whole this Constitution can fulfil the objectives for which we have drawn it up.

It has after all been drawn up by men and women who represent this country but who belong to very diverse cultures, different outlooks, with varying ideas on many subjects and thus the constitution had to be drawn up in common agreement and as a matter of compromise: and therefore it may be said—though each of us individually may have much to say on a great many of the clauses—on the whole we have been able to achieve a measure of common agreement.

So far as the fundamental rights of this Constitution are concerned, I think in the case of the majority of them, if they are properly explained to our people there is nothing that will not win their approbation and the approval of all. I should like in particular to refer to one fundamental right which makes a tremendous difference and really does bring in equality: “The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.....”. This right is a justiciable fundamental right today enforceable through courts of law, and if there are any laws, social and which remain as a contradiction to this principle of a justiciable right, those laws will have to be overridden.

It is very unfortunate that although the political rights are in these fundamental principles, the economic rights of citizens have not been able to be put in as justiciable rights today. Conditions in our country are such that it has not been possible for us at the present moment to have them as fundamental rights which are enforceable through courts of law. They have been put in as directives of State policy. Sir, it is also all the more unfortunate that among these directives of State policy, are some of the most vital rights of citizens and along with them are lumped many matters of much lesser moment. At the same time, I do not think there is anything to despair because it is possible for the Parliament and the Government of the future to bring these rights which are now directives as economic rights, and as fundamental rights, in the near future.

Sir, the content of democracy is not political democracy alone, and although it is quite true that we have laid down a Constitution which with adult suffrage has brought political democracy to this country, it is equally true that this Constitution has not been able to provide as effectively as possible for the economic rights of the citizens, although there is no bar in attaining them.

I said a little while ago that there is one great flaw, one great transgression, in the Fundamental Rights which is a blot on this very Constitution. While every other economic right is in directives of States policy, the right to hold and acquire private property alone remains as the fundamental justiciable right. Not only is it there in article 13(f) but it is further entrenched because of article 31 of the Fundamental Rights. It is entrenched in such a manner that the Parliament of the day has not the final authority to even determine the amount and value of the compensation that has to be paid when property is acquired in the national interest.

Sir, the very exemptions that have been made in article 31 show how firmly these rights are entrenched. These exemptions are in regard to zamindari property in certain provinces and even for these there is a time-limit. So that in the case of all other forms of property as well as in the case of zamindari property which cannot be legislated for in the prescribed time-limit, Parliament will have little voice. There was a great deal of confusion on this matter, I feel. There were many who seemed to think that if it was Parliament who had the final right to lay down the manner of compensation it may so happen that no compensation at all would be paid. Sir, I am sure you will agree with me, and the House also will agree with me, that no constitutional authority could ever have laid down any such principles in which no compensation whatsoever was paid. Therefore, I consider that there was a great confusion of issues when this point was raised and I feel, and I would humbly submit, that many of us did not quite realize what we were doing when we allowed this clause in the present form to be included in the Constitution.

Posterity may well say of us that here, we did try to lay down the economic structure of future times, for all time, perhaps there is only one compensation, one consolation that we can by amendment of the Constitution change this, and I am sure Sir, that very shortly it will be necessary to bring in such an amendment.

After all, a Constitution is but a paper document. It is the way in which it is worked that will determine its success or its failure. We are the framers of this Constitution and in our humble way, as a compromise amongst so many, we have done the best that we could have perhaps, although we must consider that there are many flaws left. But it is the architects who will actually implement this Constitution, who will give it life and breath, who will really determine what manner it will be worked. It will be to them to make of it something worthy and worthwhile and also it may be that they can mar it, distort it, maim it and make those very fundamental principles and rights which are meant for the security Of citizens be used in such a way as to bring about the detriment of the citizen. it is really the architects of this generation and the next we are going to put this Constitution into working, on whom will depend a great deal, its success or its failure. It is not for us to say whether we have done our job well or badly. Is is only posterity that can really judge of us. There will be, as I have said, need for amendments which some of us feel must come in the near future. In the light of the experience of the working of this Constitution, there will be need for many other adaptations to bring it into conformity with and adapted to the need of the genius of our race.



[Shrimati Renuka Ray]

Sir, before I conclude, I should like to join with those who have expressed their gratitude to you for the fortitude and the patience and the sweet tolerance that you have shown to the Members of this House.

I would also like to express my thanks to the able members of the Drafting Committee and its Chairman, and particularly I should like to say a word about Mr. T. T. Krishnamachari who has put in as much effort and as much energy as this galaxy of brilliant lawyers amongst whom he has on more than one occasion brought to bear a humanising touch. Our deep gratitude is also due to Sir. B. N. Rau, the Constitutional Adviser who without prejudice, explained legal intricacies to us and made them clear.

Sir, finally I would like to say that may it be given to us to be able to work this Constitution in this generation and in the generations to come, in such a manner, that the lofty ideas that the Father of our Nation laid down may indeed become a living reality for the people of this land. May Gandhian socialism be a practical contribution of this country to the world of man.

**The Honourable Shri K. Santhanam** (Madras: General): Mr. President, Sir, on many an occasion during the last three years I was feeling impatient at the slow process of our constitution-making. I was apprehensive lest something should happen, to delay indefinitely our Constitution. It would have been an irretrievable disaster. We all know what happened in China when constitution-making was unduly delayed and when finally attempts were made to implement that Constitution it broke down. It is, therefore, fortunate that we have concluded our labours.

Looking back, I feel that these three years have not been too long. In fact, it has enabled us to draft a better constitution than it would have been possible if we were able to finish it a year ago. Many criticisms have been made about this Constitution. My honourable Friend Mr. Naziruddin Ahmad has complained about drafting. But reading it as a whole, if we apply the criteria of clarity and precision, I think we have made a very good constitution indeed.

Sir, my honourable Friend Mr. Pataskar, with some justice, criticised the inroads into Provincial Autonomy that have been made. I agree that in some matters unnecessary provisions have been introduced, making it appear as if the Provincial Autonomy under this Constitution is much less than that even under the Government of India Act of 1935. But, again, I would suggest that we should see things in a proper perspective. I do not think that the quantum of Provincial Autonomy under this Constitution has been diminished and this quantum is justiciable. It is protected by the Constitution and the courts have been even strengthened in the process. In fact, the drifting of power from the original draft to the final draft has been from the Executive to Parliament and from Parliament to the Judiciary. I am not sure that it has been wise, but that has been the drift and as a result we have got a Constitution which is federal in character and the federalism of it is so well protected by the Judiciary that it cannot be broken except by a change of the Constitution. Therefore, I do not think that Provincial Autonomy, as such has suffered materially.

Sir, the one great thing that we should appreciate in our, Constitution and which forms its bedrock is that the entire Constitution rests upon the will of the people of India as a whole. It is the Union aspect that is very important in the light of our past history. Sir, if we made the residuary powers rest with the provinces, then it may mean, that the sovereignty rests more on sections of the Indian people, not on the Indian people as a whole. Today it is the Indian people as a whole whose will has been embodied in this Constitution.

In this connection, we have to realise that the Constitution, so far as the Indian States are concerned, does not rest upon the Covenants. The Covenants have value only to the extent they have been embodied or recognised in the Constitution. The integrity of India does not depend upon the covenants which have been agreed to by the States Ministry with the other States. They were only preliminaries to persuade them to come into the Constituent Assembly. When once the Constitution comes into existence, all these Covenants derive their authority only from the Constitution. It is the Constitution that, is the supreme and fundamental law. There is no provision whatsoever for any kind of severance of any part of India as defined in the Schedule except through the process of amending the Constitution itself. Therefore, only the people of India as a whole can allow any part of India which has been included in the Schedule to go out of India. Without that, no part by its own will can ask for any kind of severance or separation. That is a great thing.

**Shri K. Hanumanthaiya** (Mysore State): Nobody has claimed that right.

**The Honourable Shri K. Santhanam** : I do not want the representatives of Indian States to claim any right as accruing from the covenants.

Sir, I was rather surprised to find my honourable Friend Seth Damodar Swarup complaining that this Constitution will not be accepted by the people of India, and that it does not give them what they want. I would like to know what he wants. This Constitution enables the people of India to do anything they like. If I understand him correctly he complains that this Constitution prevents the people of India from doing something. It does not impose upon the people of India anything. There is nothing in this Constitution which prevents the people of India from enforcing a fully socialist republic. But he wants that we should prevent the people of India from exercising their free will by imposing, upon them something from outside. Sir, this Constitution is meant to make the will of the people prevail and there is nothing in this Constitution which will in any way prevent that.

Sir, I do not want to go into the merits of the Constitution. I think we are assured of the fullest democracy that any Constitution can give. How that democracy will work, to what extent it will be utilised to convert it into not only political democracy, but into industrial democracy, into social democracy, that depends upon those who will work that Constitution; upon the general will of the people of India and the leaders who will be produced by the people of India. No Constitution can provide such things. All that a Constitution can provide is that the will of the people shall prevail and I think this Constitution has done it to the fullest extent. Therefore, Sir, it is necessary that, instead of indulging in carping criticism, we should from now develop the idea of the sanctity of this Constitution. It is only by making the people believe that through this Constitution they can achieve all that they want that it will become sacred, that no one, neither military power nor any other power will dare to break the Constitution through force or fraud. That is the great thing that is necessary. The imperfections of the Constitution can be amended in course of time by suitable amendments. I think the amendments which will be required will be very few. No amendments may be required at all for many decades to come. The present Constitution gives as many and as full powers as the people are likely to require in the near future. Therefore, I would like that steps are taken to popularise the Constitution. I would like to make a suggestion, Sir, that every Member of this Assembly should get your autographed copy of the Constitution which he may hand over as heirloom to posterity.

**Shri R. K. Sidhwa** : That is not an original suggestion: the President has already made an announcement to that effect.

**Mr. President :** To what announcement does Mr. Sidhva refer?

**Shri R. K. Sidhwa :** Sir, the announcement to the effect that the Constitution after completion will be presented to the Members with their autographed signatures.

**Mr. President :** I did not make any such announcement; but that might happen.

**The Honourable Shri K. Santhanam :** I have the suggestion to make that a properly bound Constitution autographed by the President should be given to each Member to be kept as a heirloom for future generations. I would also suggest that such copies should be sent to all public institutions. The Universities should also be asked to make the Constitution a compulsory subject for some decades to come and every graduate should pass a test in this Constitution so that the provisions of the Constitution may become universally familiar.

Sir, I would also suggest that as you have already promised early elections should be held and the Constitution should be fully implemented as soon as possible. If there is much delay between the commencement of the Constitution and its full implementation by Parliament, the value of the Constitution may be diminished and it may not gather sufficient influence with the people. Therefore, it is necessary that the elections should be held as early as possible—early in 1951 at the latest. I hope this will be done.

Finally, the work of the Drafting Committee is, to my mind, beyond all praise. Especially during the last few months they have been so hurried, so much pressed for time that it is remarkable how they did their work. I should also mention that it was not only on the open floor of the House that the Constitution has been scrutinised, but much more severely within the Congress Party meetings. I do not want to mention names, but a group of people in the Party took the greatest pains to scrutinise every clause and every article and a great deal of improvement was made in those meetings. But for their scrutiny the Constitution would not have been so good as it is. On the whole we have done a good job and hope this Constitution will go down to future generations as the greatest work done in the present generation.

**Mr. President :** Before we rise, I would like to know from the House if they would like to sit in the afternoon. (*Cries of "no, Sir", and "One hour in the afternoon"*). The suggestion has been made to me that, today being Saturday, Members have other engagements and therefore we may not meet in the afternoon. If that meets the wishes of the House, I have no objection. Do you not wish to meet today at all?

**Several Honourable Members :** No afternoon session, Sir.

**Mr. President :** It seems Members do not want to have a session in the afternoon. If that is the wish of the House—I think the majority are of that view as I can gather now—then we shall meet at 10 A.M. on Monday.

The Assembly then adjourned till 10 of the Clock on Monday the 21st November, 1949.

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