

Wednesday, 23rd November, 1949

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CONSTITUENT ASSEMBLY DEBATES

OFFICIAL REPORT

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THE CONSTITUENT ASSEMBLY OF INDIA

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THE HONOURABLE DR. RAJENDRA PRASAD.

Vice-President:

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CONSTITUENT ASSEMBLY OF INDIA

Wednesday, the 23rd November 1949

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

DRAFT CONSTITUTION—(Contd.)

Shri Ari Bahadur Gurung (West Bengal: General): Mr. President, Sir, I associate myself with my colleagues in congratulating the Chairman of the Drafting Committee for having brought this stupendous task to a successful conclusion. I have only a few observations to make. Firstly, the criticism of the Constitution that it does not provide for the establishment of Socialism is as irrelevant as the complaint that it is likely to open the way to dictatorship is futile. The real test of democracy is to give the right to the people to decide for themselves the nature of the Government they would like to have. The question of dictatorship or Totalitarian Communism will depend entirely upon the manner in which the People will work the Constitution. The Constitution will be subject to a continuous series of modifications, according to the will of the people. Such are the provisions already provided in the Constitution. Sir, I personally feel that a Constitution is something of sacred character which inspires future generations. It is the embodiment of the living faith and philosophy of life of those who framed it. To judge this, one has only to look at the Constitutions of different countries. In other words, a Constitution is the reflection of the supreme will of the people as to the form of government they want. Although the Constitution will become the law of the land, there will be nothing sacrosanct about it because it will be subject to modifications as I said before. For all intents and purposes, under the existing circumstances, this Constitution is a model one to suit the various needs of the people living in India.

I Would now like to refer to article 5 relating to Citizenship. The community to whom I belong consider this of vital importance, and I feel it is my duty to mention here that one-third of the total population of Gurkhas have come and settled down in India. According to census figures, out of one crore, about 67.5 lakhs are in Nepal and the rest have settled down in India and the Gurkhas remaining here are most of them descendants of those soldiers who fought in many battles in India. We claim the same right of citizenship under article 5, provided we fulfill all the obligations laid down therein. Sometime ago in the beginning of the year when I spoke about the Gurkhas, I said that they should be classified as a backward community. My point is that there should have been a special provision for the backward classes of people with regard to the services, but unfortunately under the Constitution such privileges are given only to the Scheduled Castes, the Tribals and Anglo-Indians, even though article 16, para. (4), provides that "Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts, in favour of any backward class of citizens, which, in the opinion of the State, is not adequately represented in the services under the State." In other words, it gives by one hand and takes away by another. This is the greatest injustice done to people who are very backward, though they do not have the privilege of being classed as Scheduled Castes or Tribals. I sincerely hope that the

[Shri Ari Bahadur Gurung]

future Parliament, whose members will be elected an adult franchise, will amend this omission. About ninety per cent. of the total population of India are backward and these people in future, through their representatives, will see how this Constitution works.

There have been strong criticisms about the constitution providing a strong Centre. I feel that under the existing circumstances there is no other alternative than to have a strong Centre.

With regard to article 3 and 4 read with article 391 of this Constitution, I have some observations to make on West Bengal. As you know, Sir, after the Radcliffe Award the two Districts of Darjeeling and Jalpaiguri have been entirely cut off from West Bengal. In view of the defence of the northern frontier India, this is a matter that calls for immediate attention of the Government of India. With the imminent fall of the Kuomintang Government in China, Tibet the next-door neighbour of India is, according to reports, becoming the scene of Communist intrigues. The State of Sikkim and the District of Darjeeling connect Tibet with the Indian Union, and Assam, the eastern-most frontier of the Indian Union, is like with the rest of India by a narrow strip of land consisting of portions of Darjeeling district and Jalpaiguri. These areas as also the State of Cooch Behar, in view of their strategic importance need to be strengthened and consolidated.

The Districts of Darjeeling and Jalpaiguri which are the northern-most districts of West Bengal have no contiguity with the rest of West Bengal, East Pakistan having come in between. This circumstance gives rise to many administrative inconveniences in ordinary times and more so during a period of emergency. Being a Frontier region such inconveniences if allowed to continue longer are fraught with grave dangers. My object in making this observation with regard to these two districts of West Bengal is this that if we look at the map of India, we find that there is only a narrow strip of land, connecting Bihar with Assam, that is the districts of Darjeeling and Jalpaiguri. Pakistan points like a sword towards the heart of India. If there is to be any trouble, unfortunately, God forbid, especially between Pakistan and India, Assam can be isolated within a very short period, the northern parts of Himalayas being inaccessible; and these are the territories that need the immediate attention of the Government.

Shri K. Hanumanthaiya (Mysore State) : Air travel is available.

Shri Ari Bahadur Gurung : Thank you very much for your suggestion but that all depends on the strength we have. As a matter of fact in modern warfare the air has played a very important part in bombardment. The last battle has been fought and won on the land. If you read the history of all wars, especially the first war and the last war, it was actually the infantry which decided the whole fate. In the last war it might be the atomic bomb on Hiroshima that decided the fate but that was a cruel thing and if a war has to be fought, it must be fought on the land. I feel Sir, that should an emergency arise the Commission that is likely to be appointed should look into these matters stated above, because these two districts of Darjeeling and Jalpaiguri have been completely isolated from the rest of West Bengal. Now sending goods to Darjeeling from Calcutta one has to send through Bihar. Due to devaluation another difficulty has arisen, namely the fare (1st Class). From Calcutta to Siliguri is about Rs. 50 but from Siliguri to Calcutta one has to pay Rs. 72 and there is lot of difficulty in the transport of goods from Siliguri down to Calcutta. Within the same province we have such difficulties, I, therefore, suggest that something has got to be done with these two districts; either they have got to be linked with the rest of West Bengal or some separate arrangement has got to be made. These are the observations that I have to make. Thank you very much, Sir.

Giani Gurmukh Singh Musafir (East Punjab: Sikh): *[Mr. President, I endorse the views of my friends without any reserve and hesitation that this Constitution of our free India is undoubtedly a grand document. To me it is an ocean and I believe that it is difficult for every driver to bring out valuable pearls from its depth and to know their intrinsic value. Taking into consideration the circumstances under which this document has been formulated, it is necessary to point out that it was very difficult to frame such a fine Constitution. Many questions had cropped up and it was very hard to solve them. For instance Minorities' problem was of utmost importance. Under the conditions prevailing in the country solution of this problem was an uphill task. But in the manner in which it has been decided is certainly praise-worthy. Separate electorate was a curse which had blocked the path of our country's progress. Whenever the solution of this question was taken into consideration, it created an embarrassing situation and each effort for solution made the problem more and more complex. The disease increased with treatment.

Doctor Iqbal, the well known poet of our Punjab has said:—

*Mazhab nahim Sikhata apas main bair rakhna
Hindi hain ham watan hai Hindustan Hamara.*

It means: "Religion does not teach to quarrel among ourselves. We are Indians and India is our motherland".

But the principle of separate electorate shattered the dream of the poet. Nay even those who opposed it were forced by the circumstances which the principle of separate electorate had engineered in the country—to support the schemes of separatism. In his concluding lines the poet (Dr. Iqbal) being confused and confounded gives an opportunity to the Britishers. He says—

*Nishan-i-barg-u-gul tak bhi na choar is bag main gulchin
uri qismat sai razim araiyan hain baghanum main.*

It means: "O' flower-picker, what to speak of the flowers of our garden, do not leave even a single leaf because you are so lucky that we gardeners are ourselves flying at each other's throat. Therefore you have got an opportunity to make our garden desolate and rob it of all its leaves and flowers". In our country, separate electorate had always been the source of disruption and religious feuds. Now separate electorate has been removed with great courage and to my mind it is one of the fundamental virtues of this Constitution. Separate electorate has been withdrawn from this Constitution and no reservation has been given on religious basis. I think that these steps will help us in making our ideals loftier. I have no hesitation in saying that the solution of this problem appeared to be perplexing because the minorities were suspicious and obviously the solution of this problem appeared to be very difficult. Yet it was solved because of the personal influences and decisiveness of our Prime Minister. Pandit Jawaharlal Nehru. Our Deputy Prime Minister, Sardar Patel and Shri Rajendra Prasad, President of our Assembly. Moreover it is the result of the influence of our Maulana Abul Kalam Azad and all those leaders who have fought for the freedom of this country. Minorities had faith in them and this is the result of their joint efforts in solving this problem. The curse of separate electorate has been removed from our Constitution. Moreover the problem of reservation has also been solved. Sardar Patel was Chairman of the Advisory Committee which was appointed for the solution of minorities problem. Sardarji's influence; his hold; his statesmanship; his firm resolution got the upper hand and the problem of separate electorate was solved. I repeat that this is one of the greatest virtues of this Constitution. It has made our Constitution much more brighter.

*[] Translation of Hindustani speech.

[Giani Gurmukh Singh Musafir]

I would like to add a few words more regarding this Constitution.

It is the Constitution of free India and as such it is connected with the people. Therefore this should not be considered as a mere Constitution; because we have also to raise the morale of our people through the Articles this Constitution; hence the difference between this Constitution and the constitutions of other types is necessary. Englishmen had their way of dealing with such problems. If they did not like to confer a right on the people then in that case, they used to give from one hand and take away from another after making verbal changes here and there. At the end of substantial Articles they used to add such proviso and conditions which rendered them ineffective. If there is any such defect in our Constitution, then it should be removed. Some Members have criticised the Fundamental Rights and their proviso. I think, perhaps due to official reasons certain provisos were considered unavoidable. But I would like to say that such Provisos should not find place in the Constitution. For instance the right of acquiring, holding and disposing of property has been conferred in the main clause but according to the condition which has been laid down in article 5, it shall not affect the operation of any existing law. Whether this clause affects any province or not, but it does affect our Punjab. Land alienation Act is prevalent in the Punjab since a very long time. According to this Act if a man actually tills the soil but does not belong to the zamindar class, he cannot acquire lands. It was proper that this restriction should have been removed. But this has not been done. The proviso attached to this Article has created confusion and it is not clear whether this restriction has been removed. On this point clarification is necessary. Punjab and the zamindars of Punjab have been very much affected by this clause; for those who have money cannot acquire land due to this restriction. The result is that those who want to dispose of their properties do not get reasonable price. Punjab is the home of middle class zamindars. Due to this law there is possibility that small zamindars will become smaller and big zamindars will become bigger. I cannot dilate on this point, because the time at my disposal is short. All that I can say is that this state of affairs is unnatural, and this restriction should have been removed.

There is yet another point. In article 22, clause (3), sub-clause (B), which relates to Fundamental Rights, system of detention has been retained. To my mind, in the Constitution of free India as has been pointed out by Pandit Hriday Nath Kunzru—the system of detention should not be retained. We want to inspire the people with confidence. We want them to feel that the Constitution of free India is quite different. But such steps shall not inspire them with the beliefs that now situation is altered. They shall not believe that they are free and that a Constitution of free India is being framed. To my mind none should be detained unless he has been tried in a court of law. Now, I would like to say something regarding Directive Principles. These are great principles and they are consistent with the high principles of our Congress Government. The pledges which we had been giving to the people, have been incorporated in this Constitution. But in Article 37 they have not been made enforceable in a court of law. If owing to the expediencies of State, retention of Article 37 is essential, then it is better not to include the chapter on Directive Principles in the Constitution. If it is not possible, then I would like to say with all the emphasis at my command that these Directive Principles should be inserted under the Chapter on Fundamental Rights. I would like to say one word, regarding education. The provision for “free and compulsory education for all children until they complete the age of fourteen years” given in the Directive Principles should form the part of Fundamental Rights. There is yet another provision in which

children of tender age for whom avocations are unsuited to their strength are protected. This is important and should be inserted under the Chapter of Fundamental Rights.

Lastly I would like to say something relating to language. The language question was hold over for long. I am glad that at last it was settled and we succeeded in taking a decision. I do not think after this decision, it is proper to retain English for 15 years. To my mind it is the manifestation of our slave mentality. We have achieved our freedom ; but we are like that bird which has lost its sense of freedom due to its long confinement in a cage. Now the cage has been torn into pieces, but as we have lost our sense of freedom, we are still under the impression that we are in prison. I am not opposed to English because it is a bad language. I am opposed to it, because it does not look nice that we should retain this emblem of slavery in our country for long. After we have decided to have one national language, retention of English for such a long time would mean, paying a very high price for the consent of those countrymen of ours who have accepted one national language being compelled by persuasion, reasoning and love. Hindi has already been declared as our national language and duration of 15 years can be regarded as the life of a generation. I agree with Seth Govind Das that our Constitution should be in our national language and it should be regarded as authentic. In this connection Babu Ram Narain Singh has asked a pertinent question "Is this Constitution being framed in India or in England ?". To my mind, the Constitution should be framed in our own national language. We should use this language from now and if it is not possible to do so, then the maximum period for its adoption should be reduced to 5 years. Such a course shall be source of consolation for us and it will help us in getting rid of our slave mentality quickly and it will enable us to do everything through the medium of our national language.

I would like to add one word more. Sardar Hukam Singh and some other friends have said that deletion of the provision relating to reservation in services has created dissatisfaction among the Sikhs. As I have said, the minorities have given their common consent to the abolition of separate electorates but I must confess that the Sikhs and other minorities in some places are dissatisfied because reservation in services has been removed. But to incorporate such a thing in the Constitution would have been contradictory to other Articles. Now when the reservation has been abolished, every man shall be appointed on his merit and thus everybody will be inspired with the desire to make himself accomplished. 'This step has placed a responsibility on the shoulders of the Majority Community, and minority communities also shall have to feel the necessity of acquiring capability and capacity.

One word more and I have finished in preparing the draft, Dr. Ambedkar and members of the Drafting Committee have worked very hard. They deserve our congratulations for preparing this Draft within such a short time and under adverse circumstances. We shall be failing in our duty, if we do not pay our debt of gratitude to our leaders and comrades. I mean greatest leader Mahatma Gandhi and those innumerable unknown warriors who have made sacrifices for the freedom of this country those who have left behind their wealth, their homes and their all in Pakistan and thus did their best for the freedom of this land. I agree with Shri Jaspat Rai Kapoor that attention should also be paid to the refugee problem, the services rendered by them for the cause of the country is praiseworthy. We cannot succeed in enforcing this Constitution unless they are satisfied. With these words, I support this Constitution and I think it will be, acceptable to all. In the circumstances it was not possible to frame a better Constitution.]

Shri R. V. Dhulekar (United Provinces: General) : Mr. President, Sir I am here to support the Resolution that has been placed before this House by Dr. Ambedkar. The Constitution has been discussed at very great length in these three years and therefore it is now too late to point out all the defects and the great points that are in the Constitution. I am satisfied that the Constitution on the whole is a very good one. Everybody knows that milk contains more than 75 per cent. of water and if the balance is good, it maintains our body and strengthens it. It gives a longer life. Therefore I shall not try to dilate upon the defects. They may be more than 75 per cent. I do not mind but I only mind that if the balance left is on the credit side and if the Constitution that we have prepared contains all the substances that are necessary for the living being, that is India, then I believe that it is a good constitution. I shall therefore give attention to the different points that are in favour of the Constitution and I lay on record that these points that I am going to submit before you are sufficient to guarantee to this country a long life of prosperity and happiness in this world.

The first point is this, that we have cleared the ground for establishing a Secular State. I believe that religion as followed in India has always been secular. It may seem contradictory but I shall say that in India we have never followed any person and we have never followed any Book. We have never followed any cult; we have never believed in any 'ism'. The Vedas and Upanishads all declare that never follow any single person or a Book. Even in the Veda, wherever we find Manthras, holy scripts, we find that any person who has ever visualized any great truth—that mantra goes by his name. We have never been bigots in this country and we have never been fanatics. I may say that people say that Buddhism was turned out of India. I say no—Buddhism as an 'ism' only walked out of India but all the good points in Buddhism remain. Animal sacrifice to a great extent had crept in Hinduism. The influence that Buddha left was that animal sacrifice and bigotry disappeared from India. I hope, Sir, that with the march of time, Islam will also walk out of India in the sense that no fanaticism will remain in India, and bigotry will disappear from amongst the Muslims of this country, and so I am happy at the thought that we have laid down the principle that this country will not be governed by any person, religion or cult or any ism at all.

The second point which is a very great achievement is adult suffrage. Every person who is twenty-one years of age, who does not possess any of the disqualifications enumerated in the Constitution, has an opportunity of rising to the Presidentship, the highest honour that this country can give. And that is a great thing. A man walking in the street can rise to the greatest height that India can give him.

The third point is that we are going to have village panchayats, which is an extension of democracy to the lowest ground. For some years we had democracy in India, but the common man never felt that he possessed any democracy. As we extend our democracy to the villages and establish the village panchayats, and ask the common man to govern himself, I believe that India will be far better than England or America.

The fourth point that I am going to say in favour of the Constitution is the introduction of joint electorate. The minorities question has been washed away. There are no separate electorates. Every human-being living in India, who is born in India, is born equal, and because he professes a particular religion or cult, he cannot claim any favouritism from the State. I am happy at the thought that the great blemish, the blasphemy left by the British has been washed away.

Then the fifth point is that the Indian States have been washed away. I am happy that the princes, the ruling princes have been magnanimous enough, and have been great enough to sacrifice themselves. I know that but for that sacrifice, our Honourable Patel would not have been so successful, and therefore, I say that when I praise the sagacity and firmness of Sardar Patel, I also praise those sons of India, the rulers, the princes, who sacrificed themselves and came into line with the common man of this country.

Then, Sir, the sixth point is international peace. We pray for international peace. We have always believed in it, and I am proud of it when I say that India has never invaded any country outside its own boundaries, and I am happy at that thought. Like Alexander the Great or the great robber, no king of India marched on another land. Like Nadirshah or Mahmud Ghazni or Mohammad Ghorī, no king of India stepped out of this country for any conquest or territory. I am happy at that thought. Therefore, when we lay it down that international peace is our ultimate aim, I may say that the whole world must believe us. When England or America says that they want peace, they are not believed. Everybody is suspicious of them, because these people have never proved in their life that what they said was true. England and other countries have gone out of their countries and invaded other countries raided them and robbed them. Therefore, when they say today in the U.N.O. that they love peace, they are not believed. I say, Sir, that India will be believed and every man in the world will believe when we say that we want international peace. When Pandit Jawaharlal Nehru went to America, why was he given such a great ovation? Why did people throng in thousands and lakhs to greet him? It was because he had a great history behind him. They knew that he was coming from a country where Yagyavalkas, where Mahatma Gandhi, Ramkrishna Paramhansa and where Swami Vivekananda and Sir Rabindranath Tagore were born. These men went outside India with the mission, not of the sword, but with that of peace. And therefore, when Pandit Jawaharlal Nehru went to America, and he said that we stand for peace, he was believed.

Now the seventh point in favour of the Constitution is that the residuary powers will now rest in the Centre. That is a very good thing. In the beginning, there were the words "India shall be a Union". I say that that word "Union" is not a happy word. Union always means and connotes that there was previous disunion, and therefore we are going to unite now. I say that it is not a happy word. But when we came to the residuary powers, and our good sense prevailed, we put that the residuary powers should be concentrated in the Centre. This means that we will have a strong centre and India will always remain undivided and strong.

Then, Sir, the eighth point is the adoption of Hindi language as the national language of India. Some people may say that for fifteen years English language is going to rule. Others say, that there has been injustice, because Hindi language has not been introduced from today. But I say that the resolution that has been passed by us, is a great triumph. The British walked away from India although they had remained in India for over two hundred years. Similarly, I can assure all my friends, the lovers of Hindi, that the English language will also walk away from India within one or two years, and after five years it will be very difficult to find a letter read in the mufassils or in the districts written in the English language. I am quite sanguine about it and therefore, I feel that whatever restrictions have been placed, they are not such that Hindi will not rise to its rightful height.

The ninth point that I urge is that some people say that there are no points in favour of socialism or communism. I tell you, Sir, that any 'Ism' however good it may be, creates fanaticism. Every 'Ism' is only a synonym for fanaticism

[Shri R. V. Dhulekar]

and bigotry. If our Constitution had placed that socialism was our aim. If our Constitution had placed that Communism was our goal, I assure you sir, that within four or five years, thousands of fanatics would be going about the country and saying that anybody who oppose this Constitution will be killed and murdered. Why do not you go to Russia and see ? Anybody who opposes Communism stands condemned and he could be killed by anybody. So by not placing any "ism" in our Constitutional aim, we have done a very wise thing; India is no believer in any "ism". Therefore I am happy that we have walked clear of these "isms". We do not believe in any "isms". We believe in our personal wisdom, in our combined wisdom, in our nation's wisdom, in our world's wisdom. We always feel that if we 20, 50 or 100 people sit together, we shall create something which will be better than any "ism"—it may be future. past or present.

The tenth point is this. This Constitution gives a full play for democracy. What is democracy? I define it, in one word. Democracy is accommodation. Any person who does not understand this small definition of democracy, cannot be a democrat at all. Any person who feels dissatisfied after going out of a Committee and harps upon the fact that he was not heard and keeps a grievance going on, I say that he is not democratic. When 10 persons sit together and apply their mind, they either agree or disagree. If they come to a certain conclusion, I think and believe that it is a democratic resolution and it must be obeyed. Therefore, I say, when we 300 and more persons sat together, applied our mind and produced a Constitution—I may not have had my resolution passed and other people may feel that their resolution has not been passed, that is not the point at issue—it is then the result of combined attention and as such it must be obeyed. It is sacred.

Then there is the post of the President. This is a very great thing. In our olden days also and in our religious books we always find that whenever we perform any religious ceremony, we first of all always invoke Ganapati, the Mighty Lord of the Universe and ask him to sit down and watch our functions, guide our deliberations and our religious ceremony. Then we perform the ceremony and in the end we say

गच्छ गच्छ सरश्रेष्ठ
ईष्ट कार्य प्रसिद्ध्यर्थं पुनरागमनाय च ।

Translated it means: You have performed the desired work, kindly so, but come again.

So following that holy tradition, I say, Sir, that you, Mr. President, have guided our deliberations and you have given us this Constitution and now I pray, Sir, that as the President of the Constitution, Assembly you go, but as the President of this Constitution, you please come :

I believe that the whole House is with me that you will be re-elected to this high post.

Mr. President : You had better not to refer to such matters.

Shri R. V. Dhulekar : In the end, I have to place my heartfelt thanks on record to you, Sir, the President and Dr. Ambedkar. The work that was before us was a very great task. Dr. Ambedkar has performed a very great work. I would not say Herculean because that is a very small word. He has performed a task worthy of the great Pandava Bhim and worthy of the name that he has—Bhim Rao Ambedkar—He has certainly justified his name—Bhim Rao—and he has performed the task with clarity of vision, clarity of thought and clarity of language. Throughout, he was very clear. He always tried to

understand the opponent's view and he always tried to accommodate him, and he always tried to put his own views in the most clear language. We are very grateful to him.

I am also very grateful to our Congress President—for some time our Mr. Kripalani and later on our Honourable Pattabhi Sitaramayya. As a Congress party man behind the scenes he had to conduct so many meetings and he conducted them so well that the Congress people could come together and produce a constitution for the acceptance of the whole of this House in such a beautiful manner. Therefore, I am personally beholden to our Congress President, Pattabhi Sitaramayya, and our grateful thanks are also now due to all the Members who have co-operated with us.

In the end, Sir, I wish to place my obeisance to the great Mahatma Gandhi, the Father of the Nation. With these words I shall finish

Om shantih, Om shantih, Om Shantih !

Dr. P. K. Sen : (Bihar: General.) : I feel that I owe it to myself and to this August Assembly to offer a few humble observations at this momentous stage when we are ushering forth the Constitution to the nation and to the world at large.

Up to now, this Constitution has been a paper document and it will remain so until the 26th January 1950. Then will be the moment when it shall spring into life, for it is not the Constitution on paper that will rule and regulate the lives of the nation, individually and collectively, but it will be the spirit of the people behind it that will really regulate, that will really bring about the democracy which we are all trying to attain.

A great many things have occurred on the floor of this House which may seem to indicate that there has been a departure from that spirit of union, which alone can lead to success in democracy. I be to differ. The bitter controversies that have taken place on the floor of the House, the great disputes which have arisen from time to time, only show that there are differences of outlook, of views and opinions, but they do also point to the fact that all have united together in a spirit of mutual understanding "compromise" if you like so to call it and they have evolved together in a spirit of harmony, this Constitution of 395 articles. When it springs to life, when it starts operating, it shall become a live being and therefore as all living organisms are, it shall be subject to growth and development. Let us hope that it shall never be subject to decay, but that this growth and this development will go alongside of the growth and development of the people. The people and the people alone can make good this Constitution, can make it really applicable to the needs and requirements of the people.

A great many things have been said here in connection with this Constitution. But I do feel that at the back of all that, one can find that there is more or less accord and not discord. It has been called a "compromise" Constitution. Well, "compromise" is really the essence of wisdom. If you can see things from the opposite point of view also along with your own point of view, it is only then that you can possibly unite not only to frame the Constitution but to regulate the lives of the nation. Therefore, if it is a compromise Constitution, I regard that as a matter of pride. You feel that there are so many things that have been done which are entirely of a revolutionary character. You feel that you are on new ground altogether and if you have been able to agree on those fundamental points, then the journey will be a triumphant march.

First of all, we have abolished untouchability by law.

Then comes the disappearance of the Princely Order and the wonderful work of integration of all these States.

[Dr. P. K. Sen]

Then comes the abolition of special electorates, the abolition of reservation of seats and the wonderful phenomena of the willing surrender of the rights of certain minorities with a view to abolish reservation of seats. The reservation of seats, no doubt, has been maintained in certain specific cases and for a limited period, but that is understood and accepted by all of us unanimously as a just and good provision.

Then comes the adjustment of the relations between the Centre and the different units or provinces or States, and we find that there again, there is a triumph although there may be differences of view-point; some people are inclined to think that the Centre has been given too much power, that it might really end in dictatorial supremacy; some on the other hand are inclined to think that more power should have been given to the Centre.

But we have, as I understand it and as I submit earnestly, arrived at a point when, again, it is the working of the thing which will really justify the content of the Constitution. One after another, honourable Members have come forward on the floor of the House to testify to their belief and faith in that proposition, namely, that it is not the Constitution alone that can possibly justify itself, but it is the Constitution and the people acting and reacting upon each other that will lead to its ultimate justification or condemnation.

Then, Sir, I shall draw special attention to the determination of this House, notwithstanding certain points of difference, unanimously to adopt a common language for the whole of India, may be with due regard to mother tongues, may be with due regard to other languages prevailing in certain particular tracts of the country; but the determination to have a common language and a common medium of expression for the whole of India is absolutely unanimous.

We come next to adult franchise, and before we launch our bark on the uncharted ocean of adult franchise, we have to be careful as to how to proceed. After all, ours is an infant democracy and we have yet to know the shoals and sand banks and all the risks and perils of the voyage. We have yet to know how to find out our coastline when we are in danger and therefore, it is extremely necessary that there should be on the part of the Members of the Constituent Assembly and also of all others a desire to work in such a manner that this Constitution, based upon adult franchise, may really not only turn out a success but may be an example to all the world.

Reference has been made more than once to the fact that the panchayat system should have been the basis, that the old idea which the Father of the Nation had expressed very explicitly, namely, that there should be the panchayat at the bottom and therefore the democracy broad based in panchayats should rise to a cone and that cone will be the perfection of democracy, that this idea should have been followed. I do not see any reason why that should be barred even now. Adult franchise is a thing, as I have said, uncharted and it is by proper navigation that we have got to find out where the haven of safety lies. Gradually, it is this panchayat system which I doubt not will come, in order that it may be the basis of the democracy that we are going to usher forth.

Lastly, there are several things, a great many details, that come up to my mind, but I know the time is valuable and I shall try to be as brief as possible. What, after all, should be our guiding maximum? What should be the armour of safety with which we shall fight the world on this basis of democracy? There again, the Father of the Nation has more than once, throughout his whole life, in fact in every act, in every word that he uttered has laid down the lines—Truth and Freedom. We cannot be true to ourselves if we are not true to others. We cannot be freely individually unless every individual regards and respects the freedom of his neighbour. If we realise truly the essence of wisdom in this

maxim of truth and freedom, it is only then that we shall succeed, it is only then that we shall be able to make this Constitution a live Constitution. As reference has been made to it, I cannot help repeating that there are, trained soldiers in truth and freedom amongst us. There are men who have sacrificed their all who can be our guides, our pilots, and who can therefore steer us to the right haven of safety. I do not exclude from these those who in name belong to a different party as it were—there is no party here. I include in this band of soldiers the Drafting Committee headed by Dr. Ambedkar. These honourable Members have worked unstintedly and have in every possible way served the Constituent Assembly in a manner which entitles them to our utmost gratitude and I cannot help expressing those sentiments at the present moment. Thanks are also due, Sir, to you, as have been expressed every time by every Member—it may sound a repetition, nevertheless it is unavoidable. The manner in which you have given perfect freedom frankness and opportunity for every man who wishes to contribute to the debate, entitles you to our sincere gratitude.

There is one thing with which I shall conclude. It has often been referred to here as a blot on the Constitution, namely that all contact with God or religion has been as it were abandoned by it, as if it is a godless Constitution, as if by calling it a Secular Democratic Republic it has actually become secular or godless. I beg to submit that this is a misconception. We have not banished religion by which I mean the innermost faith of man in a Providence that shapes our ends and our personal relationship between us and our Maker. It has not banished religion in that sense. It has banished religions, that is to say the conflict between one religion and another. But if once it is believed, once it is truly appreciated that all religions are true, that not only is there an essence of truth in all religions but that all religions are divinely sent and dispensations of God, can there be any difficulty whatsoever, can there be any conflict whatsoever between one religion and another? And if that comes to pass, when the nation realises that, the word “secular” may in due course even be removed from the Constitution. For then it will be no longer necessary in the exigencies of the case in order to imply, in order to proclaim that there shall be no preference given to any religion, any faith, any belief, any form of worship, it has been found necessary to call it secular. But I truly believe that the Providence that shapes our ends is over us and will guide the destinies of the nation through this very Constitution which is called secular only in name. If there is the sense of mutual understanding, of compromise if you please so to call it, of mutual accommodation, we shall go together. If there is difference in fundamentals, it were better that there should be conflict between the two parties—without that perhaps there can be no good coming out of it. And if there be conflict unavoidable on fundamentals, on essentials, on unavoids, if there be conflict we need not worry for even between the fight of the gods and the demons, as we call them Suras and Asuras, even out of that fight came up ambrosia and nectar and the poison that came out was sucked up by Nilakantha in order that he might make his creation poison free. Do we not believe that today when we are on the point of ushering forth this Constitution the same Providence which is hovering over us is present here, and if there be any danger, if there be anything untoward, there is He to take up the poison, to make this nation poison free.

Shri B. P. Jhunjhunwala (Bihar: General) : Mr. President, Sir, there have been various criticisms of this Constitution and one of the criticisms levelled against the Drafting Committee is that they have done nothing more than adopt the Government of India Act of 1935. If this criticism can be levelled against the Drafting Committee, I should say it is most uncharitable. On the other hand, I would say that before adopting any article the Drafting Committee has taken great pains to go through all the Constitutions of the world and looked into all the amendments with great care both from the point of view of theory

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as well as from the point of view of their practical application. If they have not accepted any theories it is not because these were not in the Government of India Act 1935, though those theories were applicable and right, but because they could not be practically applied here under the present condition. I have heard people talk that nothing will come out from the administration under this Constitution because it is nothing but the Government of India Act of 1935, and we have seen the result of its administration. Sir, I want to tell them that such a conception is due to their wrong approach, very wrong approach. Why should we give them up if there are good things in anything the British Government had done? They might have had different objects, but whatever they did, outwardly, there was nothing much to be said against it. We have simply to change our approach and object and then work the Constitution and we shall find that all that is provided in our Preamble will be attained, but if we proceed with some sort of prejudice then it will be difficult. Sir, the Drafting Committee has taken great pains in going through, as I have said, all the constitutions of the world and have presented to us a Constitution under which we can carry on most conveniently as we are accustomed to.

The other point that is being discussed and criticised is that much more power has been given to the Centre than necessary and that all talk of provincial autonomy has been forgotten and power has been taken away from the provinces. This is also very wrong. Under the existing conditions and circumstances of the country and the world forces which are working at present it was very necessary that this much power should have been taken by the Centre. Sir, behind the framing of the Constitution we had our leaders who had effaced themselves and who never thought that in this life they will realise their dream of independence and see that the people of India gained what was necessary for their happiness and future prosperity. Sir, such people are now at the helm of affairs. If they have decided to, give more power to the Centre it is not because of their love for power. They have kept only one thing in view and that is the good of the country and the happiness of the people. Sir, it is not the form of Government that matters. The thing that matters is as to how the country is administered. When we have got such people at the helm of affairs who, as I said before, had effaced themselves, had never thought that in this life of theirs they will have any power or that they will see their country in this prosperous condition, we should have no apprehension that anything will be done by the Centre which will be against the interests of our country. History shows that even under the monarchical form of Government we had monarchs who respected the feelings and liberties of the people. Therefore there is no reason why we should have any apprehension that anywhere in the provinces or in the Centre our liberties will be curtailed. If any restriction is imposed on our liberty at any time I have no doubt that it will be for the good of the people that it will be so imposed and not for mere satisfaction of exercising power.

Sir, I do not believe in the theory propounded here that everything should be centralised and that the whole country should be governed from the Centre. But I agree that powers should be given to the Centre so that in times of emergency they can be utilised for the benefit of the people. Sir, the Centre should have only such power as is necessary and cannot be exercised by its component governing parts, for the preservation of the unity and integration of the whole of India. Every other power should be, as much as possible, decentralised and given to the unit of a village or groups of villages what to say to Province. With that purpose in view, I had given notice of an amendment to the Preamble that 'after the word "Republic" the words "to be worked on the basis of autonomous village Units or groups of villages organised on the principle of self-sufficiency as far as practicable" be 'added. The other thing I had said in the Preamble was that the noble idea of self-restraint, simplicity and selfless work inculcated by the Father of the Nation, Mahatma Gandhi, should be introduced by means of an amendment to the Preamble. The object of the amendment was that when we are

going to have a democratic form of Government we should have as real democracy as possible by giving as much power to as small a unit as practicable so that the individuals composing the unit may have easy and ready remedy which is possible under village republic. By other amendment I wanted to introduce in the Constitution, guiding principles and forms of gratifications for our people to cultivate and possess, in the absence of which gratifications the other objective given in the preamble of the Constitution cannot be achieved. But this was not accepted.

Sir, regarding the village republic, I want to draw the attention of the House to one matter. I do not know whether it is the opinion of the Honourable Dr. Ambedkar or of the Drafting Committee as a whole that Dr. Ambedkar voiced while introducing the Draft Constitution for second reading :

“Another criticism against the draft Constitution is that no part of it represents the ancient polity of India. It is said that the new Constitution should have been drafted on the ancient Hindu model of a State and that, instead of incorporating western theories, the new Constitution should have been raised and built up on village panchayats and district panchayats. There are others who have taken a more extreme view. They do not want any Central or Provincial Governments. They just want India to contain so many village governments. The love of the intellectual Indian for the village community is of course infinite if not pathetic.” Then Dr. Ambedkar has given a quotation.

“It is largely due to the fulsome praise bestowed upon it by Metcalfe who described them as little republics having nearly everything that they want within themselves, and almost independent of any foreign relations. The existence of these village communities each one forming a separate little State in itself has according to Metcalfe contributed more than any other cause to the preservation of the people of India through all the revolutions and changes which they have suffered, and is in a high degree conducive to their happiness, and to the enjoyment of a great portion of the freedom and independence. No doubt the village communities have lasted where nothing else lasts. But those who take pride in the village communities do not care to consider what little part they have played in the affairs and destiny of the country; and why ? Their part in the destiny of the country has been well described by Metcalfe himself who says:”

Then further on, Dr. Ambedkar says :

“Such is the part the village communities have played in the history of their country. Knowing this, what pride can one feel in them? That they have survived through all vicissitudes may be a fact. But mere survival has no value. The question is on what plane they have survived. Surely on low, on a selfish level. I hold that these village republics have been the ruination of India. I am therefore surprised that those who condemn Provincialism, and communalism should come forward as champions of the village. What is the village but it sink of localism, a den of ignorance, narrow mindedness and communalism ? I am glad that the Draft Constitution has discarded the village and adopted the individual as its unit.”

Sir, I only say that nothing can be more uncharitable and unjust to the villagers than what Dr. Ambedkar has said. Sir, it is not only uncharitable but it is not based on facts. Dr. Ambedkar himself admits that they have survived and they have kept the independence of India. He says that mere survival is not enough, mere survival has no value. What is the position today? We leave to go about begging even for our food stuffs. We would have been nowhere even with this Independence, but for preservation of village economy at least in matters of food, and it is only by introduction of village units in matters of economy that we shall be able to keep up our independence in real sense of the term and survive. It is because of the preservation of the villages that we survived and lived happily. This has been admitted by Dr. Ambedkar. Today we cannot

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produce what we want. Whatever wealth in the villages there was has been either taken away or whatever wealth in the form of land or in the form of cattle was there has deteriorated and vanished. The land which was there has become almost barren. Why ? Whatever manure was there, the manure in the form of bones, etc. which used to keep up the fertility of the land, was being exported because of the foreign trade. All the bones and all the dead animals, whatever was there, used to be left in the fields and used to decompose very slowly and keep up the organic value of the land and the fertility of the soil. Regarding cattle, when Lord Linlithgow came, he started a campaign for bullocks breeding, *i.e.* for good breeding. This lasted for about a year or so, but what happened during the war was that all the best cattle of the country were slaughtered for the military, for the preservation of the British Empire. When Dr. Ambedkar says that the villagers and the village republics did not take part in the preservation of the country, I would enquire of him as to whether he has read the history of the non cooperation movement. If he has read, he will know that the villagers responded very well to the call of our able leaders who effaced themselves and who went to the villages thinking that it is the villages who will bring independence to the country. The villagers played the most important part in the freedom struggle. It is most uncharitable to say that the villagers and the village republics have done nothing and that they have brought about the ruination of the country. It is not the village republics who have brought about the ruination of the country, but it is the other way about. It is the centre under the British rule which brought about the ruination of the villages which comprise 90 per cent. of the population of the whole of India; and has reduced the whole of India to a beggar's condition for their requirements. At that time of course at the Centre we were not there. There were other people. They had some other purpose to serve. Now the people of the country are at the helm of affairs and things should be different now. Sir, I would say that if we have to improve the economy of the country, if we have to see that the people are happy, we have, not only from the point of ideology but as a practical proposition, to organise the villages on the ancient basis. The village panchayats should be organised on the basis on which they used to work in the past. The economy of the country should be decentralised in that way. It is not possible under the present world for us to give up large scale production of things, but still our country's economy should be decentralised as soon as possible. The sooner we do it, the sooner we give attention to this, the better it will be for us. Sir, though it is not mentioned in the main part of the Constitution and the Constitution is not based on 'Village republics as units of the Centre; in the directive principles. It is provided that village panchayats should be organised with as much powers as possible, and I would request our leaders that this thing should be given effect to as soon as possible in a way as if it were incorporated in the Constitution itself. It is only then, Sir, that we shall be able to realise our real independence. With these words, I support the motion.

Shri Alladi Krishnaswami Ayyar : (Madras: General) : Sir, in supporting the motion of the Honourable Dr. Ambedkar for the adoption of the Constitution, I crave the indulgence of the House for a short while. This Constitution has been settled by the Constituent Assembly in the light of the recommendations of the various committees appointed by this House and the draft as originally submitted by the Drafting Committee and as revised later. In the course of my remarks, I should like to draw the attention of the House to what I consider to be the salient features of the Constitution bearing in mind the criticisms directed against the Constitution by some of the members. The Constitution as it has finally emerged, I submit, truly reflects the spirit of the Objectives Resolution with which this Assembly started its work and the Preamble of the Constitution which is mainly founded on the Objectives Resolution.

Firstly in spite of the ignorance and illiteracy of the large mass of the Indian people, the Assembly has adopted the principle of adult franchise with an abundant faith in the common man and the ultimate success of democratic rule and in the full belief that the introduction of democratic government on the basis of adult suffrage will bring enlightenment and promote the well-being, the standard of life, the comfort and the decent living of the common man. The principle of adult suffrage was adopted in no lighthearted mood but with the full realisation of its implications. If democracy is to be broad based and the system of government that is to function is to have the ultimate sanction of the people as a whole, in a country where the large mass of the people are illiterate and the people owning property are so few, the introduction of any property or educational qualifications for the exercise of the franchise would be a negation of the principles of democracy. If any such qualifications were introduced, that would have disfranchised a large number of the labouring classes and a large number of women-folk. It cannot after all be assumed that a person with a poor elementary education and with a knowledge of the three Rs. is in a better position to exercise the franchise than a labourer, a cultivator or a tenant who may be expected to know what his interests are and to choose his representatives. Possibly a large scale universal suffrage may also have the effect of rooting out corruption what may turn out incidental to democratic election. This Assembly deserves to be congratulated on adopting the principle of adult suffrage and it may be stated that never before in the history of the world has such an experiment been so boldly undertaken. The only alternative to adult suffrage was some kind of indirect election based upon village community or local bodies and by constituting them into electoral colleges, the electoral colleges being elected on the basis of adult suffrage. That was not found feasible.

Realising in full that the communal electorate and democracy cannot co-exist and that communal electorate was a device adopted by the British Imperialists to prevent the free growth of democracy on a healthy and sound basis this Assembly under the able leadership of our Prime Minister and Sardar Patel, has done away with communal electorates while making some special provisions to Scheduled Castes and Scheduled Tribes on the basis of joint electorates for a temporary period. As Sardarji has rightly pointed out in his memorable speech on the occasion, we have to demonstrate to the world, to the class of people who have flourished and who have been nurtured on communal claims, our genuine faith in the fundamental principles of democracy and in the establishment of a secular state without distinction of caste, creed or class.

Closely allied with the principles underlying the articles of the Constitution dispensing with communal electorates are the provisions in the Chapter on fundamental rights that every citizen shall have equality of opportunity in matters relating to employment or appointment to any office under the State. that no citizen shall on grounds of religion, race, caste, sex, descent, place or birth etc. be ineligible for or discriminated against in respect of any employment or office under the State. I am leaving them out of account the special provisions in favour of backward classes of citizens. In this connection it may be interesting to note that there is no such declaration in similar terms even in the Constitution of the U.S.A. The Fourteenth Amendment in the United States Constitution which was intended to remove the disability of the Negroes, has not, as experience has shown, served the purpose in the United States and the Fifteenth amendment deals only with the right to vote. Therefore, we may well claim that our Constitution is much more, democratic, much more rooted in the principles of democracy than even the advanced constitution of America. The abolition of untouchability is another notable step taken by this Assembly.

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The liquidation of a large number of Indian States scattered like islands over the length and breadth of this land, their merger with the neighbouring provinces, has been effected under the able leadership of Sardar Patel. In the result the States have been considerably reduced in number and either as individual States or as comprising groups of States they have been brought into the orbit of the Indian Union. Their Constitutions have been brought into line with the Constitutions of States in Part I and they have become units of the Indian Union on the same terms as the States in Part I so that we are in a position to say that all the units of the Union occupy the same position in regard to it excepting for certain specific transitional provisions. The Constitution does not permit the States which have acceded to the Union to secede from it. Their association with the Union is inseparable and they have become an integral part of the Indian Union. There is no going back. The magnitude of this achievement cannot be overestimated when we remember that the existence of a large number of such States has been put forward always as an excuse by the British Imperialists for the withholding of freedom from India. The Act of 1935 far from abolishing this distinction served to perpetuate the distinction.

After weighing the pros and cons of the Presidential system as obtaining in America and the Cabinet system of Government obtaining in England and the Dominions, taking into account also the working of responsible Government in the Indian Provinces for some years and the difficulty of providing for a purely presidential type of Government in the States in Part II, (now part IB) this Assembly has deliberately adopted the principle of responsible Government both in the States and in the Centre. At the same time the Assembly was quite alive to the fact that a good number of States in Part IB were unaccustomed to any democratic or responsible Government and with a view to ensure its success and efficient working in the early stages the Union Government is entrusted with the power of intervention while there is a failure or deadlock in the working of democratic machinery.

My honourable Friend Prof. K. T. Shah in expatiating upon the merits of the Constitutional system based upon the principle of separation, did not fully realize the inevitable conflict and deadlock which such a system might result in a country circumstanced as India is. The breakdown provisions in the Constitution are not intended in any way to hamper the free, working of democratic institutions or responsible Government in the different units, but only to ensure the smooth working of the Government when actual difficulties arise in the working of the Constitution. There is no analogy between the authority exercised by the Governor or the Governor-General under the authority of the British Parliament in the Constitution of 1935 and the power vested in the Central Government under the new Constitution. The Central Government in India in future will be responsible to the Indian Parliament in which are represented the people of the different units elected on adult franchise and are responsible to Parliament for any act of theirs. In one sense the breakdown provision is merely the assumption of responsibility by the Parliament at Delhi when there is an impasse or breakdown in the administration in the Units.

In regard to citizenship, the Constitution deliberately adopts the principle of single citizenship for the whole of India and departs from a dual citizenship, a common feature of many Federations. In this respect the Indian Constitution is in advance of some of the Federal Constitutions. It is hoped that that will lead to the consolidation of the Indian Union. The Constitution does not purport to enact a detailed law as to citizenship, but leaves it for the future Parliament of India to frame such a law.

The Constitution has accorded the proper place to the Judiciary as it should in a written and especially in a Federal Constitution. In the language of the Federalist, in America the complete independence of the court of Justice is parti-

cularly essential to the proper working of a Federal Constitution. The limitation on the different organs of State can be preserved in no other way than through the medium of courts and according to President Wilson, the courts are the balance-wheel of the Constitution. The Supreme Court in India under the Indian Constitution, as this House is aware, has wider powers than the highest courts in any other known Federation including that of the U.S.A. where the Supreme Court is not a general court of appeal. The Supreme Court is a court of appeal in all civil cases from every High Court including the High Courts in the States in part IB. It is the ultimate arbiter in all matters involving the interpretation of the Constitution. It has a very wide revisory jurisdiction over all tribunals even if they be not courts in the strict sense of the term. Unlike the United States Supreme Court, it has an advisory jurisdiction similar to that exercised by the Supreme Court of Canada under the Canadian Supreme Court Act. It has original jurisdiction to issue prerogative writs throughout the length and breadth of India. It is an interstatal court competent to decide questions *inter se* as between States. Even in regard to criminal matters, the Supreme Court is in a position to grant special leave and can also exercise criminal appellate jurisdiction in certain specific classes of cases. The criticism, if at all, can only be, not that the powers of the Supreme Court are, not wide enough, but that they are too wide.

The provisions relating to the High Courts are in the main modelled on the existing provisions except for the fact that certain inhibitions on the jurisdiction have been removed. They have henceforward jurisdiction to issue prerogative writs throughout the areas subject to their appellate jurisdiction. The anomaly of the High Courts not having any jurisdiction in matters relating to revenue has also been removed, and the powers of superintendence over subordinate courts and tribunals have been restored. Care has been taken to see that in the matter of selection to the highest court, the President has the benefit of the advice of those most competent to advise him on the subject. With a view to keep the High Court outside the range of provincial politics, the High Courts have in important respects been brought under the jurisdiction of the National Government. While there can be no two opinions on the need for the maintenance of judicial independence, both for safeguarding of individual liberty and the proper working of the Constitution, it is also necessary to keep in view one important principle. The doctrine of independence is not to be raised to the level of a dogma so as to enable the judiciary to function as a kind of super legislature or super-executive. The judiciary is there to interpret the Constitution or adjudicate upon the rights between the parties concerned. As has been pointed out recently in a leading decision of the Supreme Court, the Judiciary as much as the Congress and the Executive, are depending for its efficient and proper functioning, upon the co-operation of the other two.

The criticism in regard to Fundamental Rights has been that the exceptions strike at the very foundation of the rights. This criticism is entirely without foundation. The exceptions and qualifications introduced into the articles reproduce in statutory form the well-recognised exceptions and limitations on the Fundamental Rights dealt with in the article. Similar restrictions have been read by the Supreme Court into the United States Constitution which in general terms provides for these rights. Our Constitution instead of leaving it to the Courts to read the necessary limitations and exceptions, seeks to express in a compendious form the limitations and exceptions. It is common knowledge that freedom of speech and of the Press has been interpreted by the Supreme Court of the United States as not to prevent legislation prohibiting intimidation by speech or writing or preventing the publication of indecent matter, or prevent the enactment of laws in the exercise of the police power of the State if the State can find a sufficient social interest for so doing. Similarly, religious liberty has

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been held not to protect the citizen against unsocial acts. The privilege of Assembly and public meeting does not stand in the way of the United States or the individual States exercising social control of assemblage of people in the interests of the common good. In the final form in which the article has emerged, this Assembly kept in view the need for drawing a line between personal liberty and the need for social control. While not departing from the principle that a person is not to be deprived of his property without compensation, the Constitution has invested the Parliament with the power to formulate the principles in regard to compensation with due regard to the nature, history and incidents of the property concerned. Being fully alive to the need for urgent agrarian reform affecting large a large mass of tenantry, this Assembly, after due deliberation, has inserted certain special provisions to prevent the legality of the measures undertaken being questioned from court to court while at the same time providing the necessary safeguards for protecting the interests of the parties affected.

In the Chapter on Fundamental Rights, there is one other matter which requires more than a passing notice. Clause (4) of article 22 has been animadverted upon as if it were a Charter to the Executive to detain a Person for three months. There is no such thing. The whole of article 22 is designed to secure against any abuse of the provisions of article 21 which says in general terms that "No person shall be deprived of his life or personal liberty except according to procedure established by law." If article 21 stood by itself, it may authorise an indefinite detention if only it conforms to the procedure established by law. Article 22 has been put in to prevent any such indefinite detention. The Constituent Assembly which was quite alive to the dangers confronting the new State could not rule out detention altogether.

The Directive principles of State policy, I should think, are also an important feature of the Constitution. Having regard to the wide nature of the subjects dealt with in these articles and the obvious difficulty in making the subjects dealt with by these articles justiciable, they have been classed as directive principles of State policy. The principles of Social policy have their basis in the preamble to the Constitution and the Objectives Resolution. Article 37 in express terms lays down that the principles laid down therein are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws. No ministry responsible to the people can afford lightheartedly to ignore the provisions in Part IV of the Constitution.

In regard to the distribution and allocation of legislative power, this Assembly has taken into account the political and economic conditions obtaining in the country at present and has not proceeded on any *a priori* theories as to the principles of distribution in the constitution of a Federal Government. In regard to distribution, the Centre is invested with residuary power, specific subject of national and all-India importance being expressly mentioned. A large list of subjects has been included in the Concurrent List to enable the Centre to intervene wherever there is necessity to intervene and override State legislating, though normally when the coast is clear, it would be open to the State legislatures to legislate. The existence of a large list of Concurrent subjects is calculated to promote harmony between the Centre and the units, and avoid the necessity of the courts having to resolve the conflict if there is to be only a two fold division of subjects. In order to meet unforeseen national emergencies and economic situations, special provisions have been inserted providing for Central intervention. In this connection, it has to be remembered that the whole concept of federalism in the modern world is undergoing a transformation. As a result of the impact of social and economic forces, rapid means of communication and the necessarily close relation between the different units

in matters of trade and industry, federal ideas themselves are undergoing a transformation in the modern world. The Rowell Scrore Commission in Canada and the Royal Commission appointed to report on the working of the Australian Constitution suggested various remedies to get over the difficulties in the working of a federal Government. The problem is one to be faced by each country according to, the peculiar conditions obtaining there, according to the particular exigencies of the particular country, not according to *a priori* or theoretical considerations.

In dealing with a matter like this, we cannot proceed on the footing that federalism must necessarily be of a defined or a standard type. Even ill regard to the Constitution of Canada, two such authorities as Lord Haldane and Lord Watson were sharply divided the former holding that the Constitution is not federal and the latter expressly laying down the Opposite view. The crucial question to consider, short of all theories, is, "Are the National and the State Governments related to an another as Principal and Delegate?" So long as they can exercise full authority within the orbit of their established jurisdiction, there is no reason to deny the federal character to the Constitution.

I do not subscribe to the view that the Centre has been made to strong at the expense of the Union. In the legislative sphere there has been not much change in the list of subjects allotted to the units. The units have unrestricted executive power in the provincial field. Even in regard to the Concurrent subjects, the executive power continues to be vested in the units though there is a power of central intervention when the exigencies of the State, demand it. The emergency powers vested in the Union cannot by their very nature be of normal or ordinary occurrence.

In regard to the taxing power while the final allocation is open to further examination as the result of the report of the Statutory Commission to be appointed under the terms of the Constitution, the articles in the Constitution relating to the taxing power take into account the general economic condition and financial position of the different units and the tendency prevailing in most modern Federations of the Central Government acting as the sole taxing agency in the interest of the country while provision is made for the division or the distribution of the proceeds to the different units, as also for the grant of subsidies.

The Constituent Assembly has spent considerable time and attention over the subject of inter-State trade relations. The Assembly while adhering to the principle that freedom of trade between the different units is indispensable to the proper functioning of the Union, has made the inter-State relations much more elastic and flexible in our Constitution than in some of the known Federal Constitutions, to suit the exigencies and economic conditions of a vast continent like India.

The Constituent Assembly being thoroughly alive to the importance of a State language for the whole of India with a view to consolidate and unify the nation and recognizing the importance of regional languages in so vast a country, has evolved a plan for Hindi becoming the State language of India as early as possible. At the same time the Constitution has not lost sight of the need of English for legal purpose for some time and for scientific and inter-national purposes in the world as constituted to day.

The criticism that the Constitution as it has emerged is far too detailed and elaborate does not merit serious consideration. If as in other Constitutions the constitution and powers of the High Court and of the Supreme Court have been left for normal ordinary parliamentary legislation if the provisions, for electoral machinery are dropped out, if the guarantees provided in the matter of salaries to judges and civil services were omitted, if the existing administrative machinery which has been working is ignored, if no special provision is to be made for

[Shri Alladi Krishnaswami Ayyar]

Scheduled Areas and Scheduled Tribes, there would be absolutely no difficulty in cutting down the provisions of the Constitution and reducing the number of articles. But for the smooth and efficient working of a democratic machinery, it was felt that unless these provisions were contained in the Constitution itself, an infant democracy might find itself in difficulties and the smooth and efficient working of the Constitution might be jeopardised. There has been insistence on the part of various interests that sufficient safeguards must be inserted in the Constitution itself and even some of the members of this Assembly who, as a matter of abstract principle, are willing to subscribe to the principle of a few main provisions alone being inserted in the Constitution, not a little contributed to the detailed provisions.

In the course of the discussion during the Third Reading, there has been some reference to the subject of India's position as a member of the Commonwealth. On this subject I have already stated my views when the matter came up for discussion before this Assembly. It is unnecessary to remind the House that there is no article in the Constitution referring to this matter. The membership of the Commonwealth depends on the willing co-operation and consent of the two countries, independent in every respect of each other.

Mr. President, I have omitted one point while I was on the subject of Fundamental Rights and I should like to refer to it. While religious freedom is guaranteed to every individual and every religious persuasion, the State does not identify or ally itself with any particular religion or religious belief. There is no such thing as State Religion in India.

Altogether it may be claimed that the Constitution gives sufficient scope for the achievement by the Indian Republic of all those great objects which are, contained in the Preamble to the Constitution. The Constitution contains within itself the necessary elements of growth, flexibility and expansion. While it is not committed to any particular economic reorganisation of society, the people are free to adjust and would the economic conditions for their betterment in any manner they choose. To a large extent any Constitution depends -upon the people who work it. It is the human element that after all is the most important in the working of any Institution. It is common knowledge that when the final Constitution of America was adopted there was very little enthusiasm for it and several communications had to be addressed in the 'Federalist' to commend the Constitution to the American people. And yet at the present day the Constitution is looked upon with the same spirit and reverence as the Ark of the Covenant in the Bible. Similar is the experience in Canada and in Australia. The experience of other countries has shown that Constitution which have been hailed with universal acclamation have proved utter failures. Our Constitution is much more flexible than many written and Federal Constitutions. An easy and flexible method of amendment has been provided for. But that does not mean that amendment must be undertaken light heartedly. The people will then have no other work to do but mending and amending, the Constitution.

Before I conclude, I would be failing in my duty if I do not express my high appreciation of the skill and ability with which my friend the Honourable Dr. Ambedkar has piloted this Constitution and his untiring work as the Chairman of the Drafting Committee. Latterly I know he was ably assisted by my friend Mr. T. T. Krishnamachari. I would also be failing in my duty if I do not give my tributes to the services of Sir B. N. Rau and to the untiring energy, patience, ability and industry of the Joint Secretary, Mr. Mukherjee and his lieutenants.

In the end, you will pardon me, Sir, if I make some reference to your work in this Assembly as it may savour of flattery. You have given your whole life to the service of this country and this is the crowning act. There is none who is held in greater esteem and in love than yourself and you have showed yourself

to be the worthy President of this Assembly. I am particularly grateful to you because on account of my state of health you have been pleased to permit me to address from my seat and I am also thankful to the Members of this House for the indulgence they have extended to me in that respect. It is some consolation to me that I might have been of some little use in the work of the various committees and in the work of this Assembly. (*Cheers*).

Mr. Hyder Husein (United Provinces: Muslim): Mr. President Sir. I rise to lend my shoulder to the great wheel of progress which is depicted on the National Flag empanelled all round this Hall and which is reflected in this monumental work which is to adorn the Statute Book of free India in a few days' time. It is a landmark in the Indian renaissance, and a symbol of progress in political thought. The French slogan of liberty, equality and fraternity, brought about a revolution in human minds and carried the torch of freedom far and wide. That great nation laid the foundation of modern democracy in their own country and supported it in other freedom-loving countries. Their magnificent gift of the statue of liberty, presented to the American nation bears testimony to their love of freedom. The Americans, with their characteristic thoroughness, have treasured it and installed it on one of the islands on the south of New York, and it has become the object of great attraction to the visitor. The world cannot remain static, and with the development of the human mind, there is the evolution of political ideals as well. We have gone beyond the French conception of democracy and added justice to their trio, and given it the first place in the Preamble to our Constitution. The preamble is the key to the meaning and the scope of a statute and we find the spirit of the preamble pervading all the provisions that follow it. We also find traces of advance in political theories and we can justly claim our Constitution to be an improvement on the existing constitutions of the world, consistently with our indigenous requirements. The mass of literature collected and circulated amongst the Members bears testimony to the wide field of investigation into the constitutions of the countries spread all over the globe. The proceedings of this House constitute an eloquent record of the full use of those materials by the Drafting Committee and the honourable Members of the House. My esteemed and learned Friend Shri Alladi Krishnaswami Ayyar has just before me given further proof of it in his masterly resume of the entire Constitution, and it will be presumptuous on my part to repeat the process again before this House.

It is true that a good deal of criticism has been levelled against the Constitution and I consider it only right that it should have been so. These criticisms and long discussions have resulted in a great improvement on the original draft. Such differences as still exist in the minds of some of us have to be consigned to the cold storage, at least for the time being. We must realise that the time for criticism is over, and the time for implementation has arrived. It is our duty to make a united effort to give effect to it, both in letter and in spirit. It is then and then only, that our country can march forward with long strides.

Our Constitution is fairly flexible and I am certain that it could be worked with any known ideology before the Government. Constitution are not made for any particular party or any fixed programme. A written Constitution is a reflection of the aspirations of a nation, and a message to the world as to what we are about. Our Constitution has given us the base. and we have to build an edifice which would be worthy of Our ancient heritage. Let us all join in this great task. The country demands the services (if every man, woman and child who calls himself an Indian. It is then and then only that the dream of some of us can be realised, the dream of the great Architect of New India who is, alas, no more with us, but whose portrait sheds light on our proceedings.

We have reached the stage after tremendous sacrifices. We should not while away our time in scholastic discussions and parliamentary debates. Our struggle has been long and tedious. The honourable Member from Bengal, Mr. Maitra

[Mr. Hyder Hussain]

mentioned that period to be two generations. He is right in a way. But I would like to take it further backward to the middle of the last century. At that time it took the form of a revolt after century of exploitation by the foreign bureaucrats. It was a part of the great nationalist movement of the nineteenth century. It failed and was followed by such repression that it took a generation for the Indian genius to re-assert itself. This time it took a more systematic and organised shape under the name of the Indian National Congress. This was the beginning of the era to which Mr. Maitra referred. The struggle, was fraught with difficulties and the path was full of pitfalls and the task hazardous. But our great leaders followed it resolutely and courageously. The pace was considerably accelerated by the new turn that the Father of our Nation gave to the Indian politics. Blessed be his name. Within the short space of a generation we reached the stage of acquiring freedom even before it was granted by the foreigner. This Constituent Assembly was formed in 1946 to frame a constitution for the undivided India. Enormous changes took place during This period. With a view to the early recognition of our freedom, our leaders went the length of agreeing even to a partition of the country. But no one at that time realised that this would be a signal for man to turn a wolf to brother man, as the great English philosopher Hobbes said two hundred years ago—*Homo Hominis Lupus*. This is not the place to describe those horrible atrocities; but the misfortune is that some of its baneful effects still persist and affect even our daily life. The country has succeeded in solving much more complicated problems and I am sure it will rise to the occasion and get over this hurdle which stand in the way of national advancement.

This is not the stage, nor the time for criticising the various provisions of this Constitution. There has been a good deal of it, both inside and outside this hall. My answer is that this is the best that the available talent in the country could produce, and if we expect anything more, we have to produce men of greater intellect and scholarship in the land, if that is possible in the near future. I am however, bound to say that the product is one of which any nation can be proud. Let us then, pledge ourselves to give it our unstinted support without any mental reservations whatsoever. We have attained political freedom, and the need of the day is the economic uplift of the country, as for this alone freedom was worth fighting for. This requires greater labour, greater work and greater sacrifice than even the fight for freedom. It is not so difficult to destroy a thing as it to construct it. With the termination of foreign domination in the land, we have fun opportunity for constructive work. Let us then strive to build our India which will be worthy of its past and a pride for the future.

In these days of internationalism we cannot isolate our country from the rest of the world. We have to march forward in keeping with every other nation on the globe and then only our country can occupy its rightful and honoured place in the comity of nations.

Unfortunately my own contribution to the framing of the Constitution has been practically nil. I came in at a stage when nothing substantial could be done. It is my luck to be associated with the Indian constitutional advancement only at the stage of the Third Reading. I happened to be in England on my way back from the United States of America when the Indian Independence Act was before the House of Commons and there also I could attend only the last stages of the Bill. The Bill was passed in my presence and I got the thrill a few hours before my countrymen got it here. I have been treasuring it as a memorable day of my life. Likewise it so happens that I am associated with the framing of the Constitution also in its final stages. I am here on the bidding of one who is held in universal love and affection in my province, and one who forms the most stable Government in the largest province of the country.

I am grateful to him for making the suggestion and I consider it a great privilege and honour. Indeed, to be a Member of this late august Body even at this late stage.

The time limit and the occasion do not permit me to say more. So I have the honour to support the resolution placed by our Law Minister.

Shri B. M. Gupte (Bombay: General) : Mr. President, Sir, this Constitution, made up as it is of a series of compromise decisions, contains certain features of which we may well be proud and others also which many of us would have liked very much to avoid. Because of this attempt at unanimity, the Constitution has perhaps lost something in consistency and coherence, but it has gained in strength and stability. I am sure this Constitution would have been more progressive but for the extraordinary times in which it was framed. The world is out of joint and India cannot escape sharing that fate. The unrest, the unsettlement, the turmoil around us, both in this country and abroad—have materially influenced the framing of the Constitution. Nevertheless, it is a fully democratic Constitution and establishes social equality.

Many critics basing their objection on the emergency provisions, have denounced this Constitution as dictatorial and Fascist. But these detractors forget that even tender and emergency, the House of the People, elected on the widest possible franchise, remains in control of the situation. I do not see how this can be compatible with dictatorship or with Fascism. I know that Provincial Assemblies can be suspended but the franchise of the Provincial Assemblies is just the same as that of the House of the People, and therefore the Provincial Assemblies cannot claim a more representative character. Of course, our Parliament is not as sovereign as the House of Commons in England. It cannot be because in a Federal State it is the Constitution that is Sovereign and not any one organ of the State.

The Fundamental Rights and the small field of provincial subjects impose certain limitations on the sovereignty of the House of the People, but those limitations are not of the dictatorial or Fascist character. Naturally, therefore, the proposition that even in an emergency the Constitution remains fully democratic is, I think, amply justified.

Then the social equality. No discrimination between man and man on any ground is either permitted, or tolerated and untouchability is declared an offence. It is a matter for great sorrow that the Father of the Nation is not alive to witness the inauguration of the new Constitution, but it is some consolation that he lived to see the triumphant constitutional fulfilment of a mission that was dearest to his heart, namely, the removal of untouchability. Another highlight of the Constitution is the abolition of communal representation, a canker that was eating into the very vitals of our body politic.

We have taken nearly three years to complete our task some people wrongly believe that this was an unduly long period. But I invite their attention to the consideration that a hastily improvised constitution in a rapidly changing situation would have ultimately caused greater trouble and cost. Suppose we had finished the work within one or two years: then communal representation would have remained and at least the first elections would have been held on that principle. I therefore think that the delay, if at all it is a delay, is well justified because we have thereby avoided this undesirable thing.

Then coming to the economic side, I must confess that it is not as progressive as it is on the political or on the social side. The Constitution is certainly not socialistic but there are unmistakeable leanings towards socialism; and what is more important there is no bar no impediment to the establishment of socialism if the electorate really wants it.

[Shri B. M. Gupte]

Some of our critics have said that this Assembly is not representative, because it is not directly elected on the adult franchise, and therefore, the Constitution is not as socialist as it otherwise would have been. I contest this proposition. Theoretically it may be correct but I am sure that if at the time when this Assembly was constituted the elections were held on the adult franchise, the Congress would have swept the polls and therefore there would have been hardly any difference in the character of this Assembly. I, therefore, submit that this Assembly is adequately representative and this Constitution substantially reflects the public opinion of the time when it was framed.

Coming to certain defects—of course I can mention only certain defects I can point out that I do not like the provisions about the relations between the Units and the Centre. Speaking on an earlier occasion, I had described that our State was not a Federal State but a decentralized Unitary State. Subsequent provisions, namely article 365 and article 371 have vindicated my description. As far as States in Part B, C and D are concerned, avowedly and admittedly the powers of superintendence and control are vested in the Centre and therefore to that extent the State becomes unitary. The only question of doubt or dispute is with regard to States in Part A. At the time that I spoke on this point, I mentioned a number of marks of subordination to the Centre. I need not repeat them. The domination of the Centre is there. But my grievance is that it is secured by indirect means. I would not have minded it if it was done avowedly, openly and in a straightforward manner. The units are kept completely dependent in financial matters on the good graces of the Centre and it is this kind of semblance of independence with complete dependence upon the Centre for finances that is in my opinion the most objectionable feature.

Then I had also voiced my grievance that the same 'State,' was quite anomalous. The inequality in the powers and functions of the units is one of the unique features of this Constitution. This anomaly about the name is another such feature. The first one was of course due to historical causes and we could not have avoided it; there were already different kinds of units like Provinces, States, Chief Commissioners' provinces and so on. But this uniform name of 'State,' we could have avoided. As I had shown on that occasion it is anomalous, because there is no residuary power in any of the units. The, States in Part B, C and D are, definitely subordinate to the Centre and yet we have given to all the units the glorified name of 'State'. This may result in giving them a very inflated idea of their prestige. Because of this glorified name, they may think they have some independence, but their hopes are bound to be dashed to the around. This name has laid us open to the charge that our label is not according to the contents or that the contents are not according to the label. In my opinion, this anomalous name should have been dropped.

This brings me to the defects of drafting. I certainly think that drafting could have been improved, although as far as verbal improvements are concerned I do not wish to blame the Drafting Committee. We were always running a race against time, setting before us one deadline date after another. The hustled Drafting Committee had no time to look to this aspect. I also do not share the opinion expressed on so many occasions by so many critics that this Constitution is a paradise for lawyers. This is not a novel feature of our Constitution. It is a feature of all modern constitutions and for that matter of every piece of legislation. The world has become so complex that a perfect draft is impossible, and the ingenuity of the lawyer will always outpace the assiduity of the draftsman. Moreover in this Constitution owing to detailed provisions comparatively much less is left for interpretation or convention and nobody can therefore say that the lawyer members of the Drafting Committee, because of partiality to their profession, had created a paradise for lawyers in this Constitution.

My objection to the drafting is, however, more fundamental. In my opinion, there is a very important defect about the convention of responsible government. We have in this matter copied the Irish Constitution though similar provision is not found in the Canadian or Australian Constitutions. In the Constitution of Ireland there is provision that the Ministry shall be responsible to the legislature; we have taken this but at the same time, we have not copied what is provided in it, namely, that the President is bound to accept the advice of the Ministry. We have left that out. I really do not know why. It has given rise to great misunderstanding and many people think that the President is likely to be a dictator. According to convention, he would certainly be a constitutional head only. This was provided for in the Instrument of Instructions. But later on we dropped that instrument also and it has clouded the position in respect to this matter.

Then again, with regard to the President we do not mention any discretionary powers, but with regard to the Governor the discretionary power is mentioned. I do not see why there should be this difference. Of course, there are conventions and the strength of democracy lies in the character of the people and their representatives. If our representatives are strong enough, they will see to it that in spite of the doubtful nature of the provision, the convention shall be observed. But what I say is that I do not like that this important matter should have been lacking in clarity.

After all, a Constitution cannot be judged merely from its text or on paper. The Canadian and Australian Constitutions contain a number of provisions giving powers to the Governor General, but in practice those powers have never been exercised. The Weimar Constitution was said to be a model democratic Constitution, of the time but it was soon wrecked by Hitler and out of its ashes arose a terrible dictatorship which plunged the world into a devastating war. So it is not the Constitution that matters nor the people who make it, but it is the men who work the Constitution and the spirit in which they work it. Any Constitution may be good on paper but its success depends upon the manner in which it is worked.

In this connection many people have apprehensions about adult franchise. Their apprehensions are partly justified, but we must have faith in our principles and faith in the common man. Like other infants, our infant democracy will of course have teething troubles and its adolescence may be marked by mischievous pranks; but in spite of the initial trouble and occasional lapses, I hope generally and ultimately the commonsense of the common man will triumph. It was for us only to fashion the instrument. It is for others to work it. As far as I can see, we can certainly make the claim that we have fashioned it to the best of our abilities and according to the best of our lights. It is an instrument fairly workable and fairly flexible. It ensures security and stability. If we study the provisions of this Constitution, we find that the one dominating concern of the Drafting Committee was the security of the new State. Therefore, this Constitution ensures security and stability without impeding progress. It promotes collective good without stifling the development of individual personality. But in my opinion, the real test of the constitution would be whether it is able to bring about any speedy improvement in the miserable lot under which the common man has been suffering for generations past. If this Constitution brings him some solace I shall certainly feel very proud of my association in the framing of it.

Shri Balwant Sinha Mehta (United State of Rajasthan) : *[Mr. President, I consider it a great privilege that I have got this opportunity to speak in this Assembly. It is the first time I am going to speak here but it is at a time when the free Constitution of free India is going to have an existence of its own after

*[Translation of Hindustani speech.

[Shri Balwant Sinha Mehta]

having been adopted by this assembly. It is a matter of great pleasure for me to be able to say a few words of my own at such an auspicious moment as the present one.

Several friends have already given us their analysis of this constitution. While some have praised it others have adversely criticised it. But so far as I understand it appears to me that their sense of modesty has made the critics adopt this course. Our people are modest by nature. Besides it has been almost a habit with us that we usually underrate ourselves while foreigners by praising us enable us to realise our achievements at their proper worth. I could give several instances to prove my point but I do not think it is really necessary to do so.

The fact is that the Constitution drawn up by us is not only quite detailed but also quite good. I am quite sure, that the foreigners would be wonder struck when they would see how good a Constitution we have been able to give to ourselves. All the Members of this august Body and the members of the Drafting Committee and more particularly Dr. Ambedkar, T. T. Krishnamachari, Shri Alladi Krishnaswami and others have laboured hard for giving a proper shape to this Constitution. I believe these gentlemen deserve all the praise we can bestow upon them. We must also offer our homage to Pandit Jawaharlal Nehru, Sardar Patel and the other Congress Leaders and martyrs. It is due to them that we are today in a position to frame a Constitution for free India. They have also guided us directly or indirectly in framing our Constitution. We owe deep gratitude to you, Sir, for having guided the proceedings of the House with great impartiality and having enabled all shades of opinion to find full expression in this House. The representatives of the nation in this august Body who have devoted their energy and time for giving the fullest consideration, to the Draft Constitution. Those who have criticised this Constitution have used rather hard and bitter words. It is the opinion of some of them that while too many powers have been vested in the President and the Centre, quite a good number of limitations have imposed on the freedom and fundamental rights of the citizens. That is no doubt true and I do not think anyone can deny the truth contained in that statement. But, it is my submission that we were obliged to do so by the existing circumstances, by the conditions prevailing in the country today. Besides it appears to me that in view of the circumstances in which we drafted this Constitution it was but proper that such restrictions should have been imposed. As a free people we are still in an infancy. The national sentiment was also not taken as yet in this country. Both these considerations compel us to accept these restrictions and limitations. You are well aware, Sir, that only some time back there existed too many petty states, too many Rajas and Maharajas and many a regional loyalties in our country. All these events had made their abode in our country and it was necessary to strengthen the Central Government in order to eradicate them. It is my firm opinion, Sir, that this Constitution is fully democratic in Character. It provides for liberty and at the same time it secures equality as well.

Moreover, Sir, the provision for adult franchise which we have included in this Constitution is so important and significant that even if there had not been any other provision in it, it would have yet retained fully a democratic character. The fact is, Sir, that even at considerable risk to ourselves we have included this provision for adult suffrage, and thereby maintained the democratic character of our State.

There are some others who allege that we have not maintained any link with our ancient and historic institutions. But I would urge such critics to remember that today we have only a very dim and incomplete picture of our ancient polity. The fact is that we cannot discern it even in its outlines. But even then we have

included quite a number of the element of our historic institutions whereby our culture world be adequately protected.

But I concede that there is one thing which appears to be a serious defect in it. If this Constitution had embodied the ideal of Gandhiji in this respect as well, if it had embodied Gandhism, in the full sense of the term, it would have been an ideal one—one which would have been an example and a message to these peoples and nations of the world. The world today, Sir, is in a state of turmoil and discord. It is to our Bharat that the nations of the world are looking for securing salvation from this sad state. I, therefore, submit, Sir, that it would have been far better for all concerned if our Constitution had embodied Gandhism and more particularly his economic plan and social ideals. But while I regret this omission I realise that a Constitution also Changes as the nation goes on marching forward. We can today feel a legitimate pride in three features of this Constitution, that is to say the guarantee gives of Fundamental Rights the provision for Adult Suffrage and the elimination of communalism and sectionalism. We can raise our head high for the ideals of which this Constitution is a concrete manifestation. The Constitution of a country is never static and it shall always be open to amendments. The Father of our Nation had secured for us our political independence and I think that that also he did in a unique way. Yet despite the attainment of political independence we have yet to attain economic democracy. Whenever the representatives of the nation feel the necessity of the same. But as it is an instrument which we can use effectively for ensuring the continued progress of our country.

This Constitution, above, all, has come is a message of joy and cheer to the people of the Indian states. The great change that has come over the face of the country today is the total disappearance of the 562 petty states and feudal estates which had been so far tyrannising other large tracts of our country. These have now yielded place to administrations which would have the same political pattern as our Provinces have. It is our achievement which even the greatest constitutional experts cannot but praise. You are obliged for all this to Sardar Patel. In this connection I would draw attention to the fact that we have yet the system of Jagirdari. This system is responsible for the many calamities, pillage and murders which are causing considerable anxiety and terror to the people. I hope, however, that by the time this Constitution comes into force these disorders would have been not only brought under control but also completely eliminated.

Another great achievement in my opinion has been Sir, our decision with regard to our State Language. This is the only thing that can and will keep our country, united. It is a very great achievement, but we have now to convert our official language into our national language. The responsibility for this falls specially on the shoulders of those people whose language is Hindi and the other people can co-operate to make this language so simple and easy that it may become prevalent in the whole of the country as a national language.

It is a matter of regret that our language, Rajasthani has not found a place in the schedule of regional languages. This is a language spoken by 15 million of people and possesses a rich literature and finds a very high place in the ancient and chivalrous literature of Hindi. It is matter of great regret that such a language has not been included in that Schedule. I think our leaders would be able to secure a place for it in the schedule of regional languages through the Parliament at some future date.

One thing that has pained and offended our people in the States and particularly the Rajasthanis is the division of Sirohi by our States Ministry. Sirohi has an important place in Rajasthan. In Rajasthani language the word 'Sirohi' means a sword and it is Rajasthan's sword indeed. Our respected leader Sardar

[Shri Balwant Sinha Mehta]

Patel has realised Maharana Pratap's dream of United Rajasthan, but if that sword is broken, I think every Rajasthan would be pained. Sirohi has all along been connected with Rajasthan. It is connected with Rajasthan linguistically, geographically, as well as historically. At least a thousand years history would testify to the fact that Sirohi is an integral part of Rajasthan. Maharana Kumbha of Abu had constructed the fort of Achalgarh to defend Rajasthan from attacks of Gujarat, and the remains of that fort are still there. Even today the rich capitalists of Rajasthan have made investments running into hundreds of thousands in that state which is our part and parcel historically, traditionally, geographically and in every way. Its division is very painful for the people in Rajasthan. I think all the people of our Indian States would be pained at this. 'This is a division which was neither demanded by the people nor the Raja of that State. Neither the local Congress Committee had made a demand for it, nor the public there had made any such demand. Ever since its incorporation in Bombay, the residents there have been demanding its merger with Rajasthan and identifying themselves with the people of Rajasthan. But the sudden and secret way in which this division has been effected has surprised everybody. When the announcement was made here in the Assembly, I learn, Pandit Nehru our leader was fortunately present here and he as also other members were listening with surprise to that statement about the decision to divide Sirohi from immediate effect. We do not know why the partition has been effected, but so far as we can guess, it has been made in view of the tower of Abu. Abu has been an important part of Sirohi as well as Rajasthan. It has always been a part of Rajasthan and was like a capital under British rule. Its connection with Rajasthan dates back to thousand years. The people there speak Hindi and Rajasthani. There are only a few people speaking Gujarati. They are hardly 3 or 4 per cent. There was no demand for partition from the public nor had the Raja expressed the least desire for it. So many covenants have been entered into so far, but this is the first case of partitioning a region without consulting either the Raja or the people. So I think this is a thing, which would cause a deep pain to the people of Rajasthan. I hope this error would soon be rectified.

Another great achievement of our Constitution is that the great blot of untouchability has been removed for good in our Constitution. This is specially a matter of great pride and pleasure. The credit for this goes to our leaders particularly Thakar Bapa. The whole of his life has been dedicated to the service of aboriginals and Harijans. We have been able to remove this blot as a result of Thakar Bapa's service and Mahatma Gandhi's efforts and renunciation. You must be aware that there are crores of aboriginals in India who live in wild forests. It is our respected Thakar Bapa who has made them politically conscious. He goes to them and inspires them even at this age. I pay my homage to him on this occasion for causing this national awakening. There are aboriginals and Harijans in Rajasthan in great number, and I request that we should have a minister for the welfare in Rajasthan just as Madhya Bharat has a minister for them. Our Premier of Rajasthan is present here, and I appeal to him to make such a provision. These people number 30 lakhs and their condition is very pitiable and nothing has been done for them so far. If these people have to be elevated to our level, we, and all of you should fully co-operate in the matter.

We have made this Constitution as good as we could. It is now our duty to go to our constituencies and explain this Constitution to the people of our country-side, which is our real sphere of work. Sometimes misgivings get currency in the masses due to lack of education and propaganda. For the general masses, independence and Constitution can have the least significance only if they can provide them with food, raiment, shelter and education. But though

there is nothing like this clearly embodied in the Constitution, yet we can by our action work the Constitution in such a way as to provide these things for them, and all their difficulties be soon removed. But this will happen, only when we follow the ideals of Mahatma Gandhi which have been embodied in this. For this we will have to reduce our expenditure too. We will have to level down the standard of living of the people at the top, and to raise that of the people at the bottom. Our administration is becoming more and more costly. I think it is the effect of the British rule. Our constitutional machinery would also be quite expensive just because the present set up is so costly. If any attention had been paid to this reform, it would have been better. Now too this is for the administration to give it such a shape as to benefit the poor most.

With these words, I support Dr. Ambedkar's motion to pass this Constitution and pay my homage to Mahatma Gandhi, owing to whose sacrifice and efforts we have seen this day, when we have completed our Constitution after attaining our independence.]*

The Assembly then adjourned for Lunch till Three of the Clock.

The Assembly re-assembled after Lunch at Three of the Clock, Mr. President (The Honourable Dr. Rajendra Prasad) in the Chair.

Shri Nandkishore Das (Orissa: General) : Mr. President, Sir, having had absolutely no opportunity of participating in the discussion of this Constitution in its clause to clause consideration stage, I avail myself of this last opportunity to make a few general observations on the Constitution as it has emerged in final shape out of our deliberations over the last nearly three years.

I recall to my mind the state of things that prevailed in the country in December 1946 when we met for the first time in the Constituent Assembly. The political firmament in India was at that time full of dark clouds and ominous forebodings and there was considerable doubt and anxiety in our minds as to whether the heterogenous elements and divergent groups that constituted the then Constituent Assembly would be able to evolve an agreed and satisfactory Constitution acceptable to the country as a whole.

The events that followed in quick succession the initial stages of the Constituent Assembly sittings culminating in the transfer of power and the partition of the country removed the uncertainties to a great extent. The disappearance of the recalcitrant elements from the House paved the way for the Constituent Assembly to set about its business under happier auspices and in a more congenial atmosphere. But even then the framing of a Constitution for a country having so many diverse elements and a multiplicity of interests was a task of such stupendous magnitude that there were doubts naturally felt by even the most optimistically minded among us as to the ultimate success of our endeavours.

It is therefore a matter of supreme satisfaction that thanks to the accommodating spirit displayed by our leaders and constitution-makers, the labours of this Constituent Assembly have at last been crowned with success and we have now before us a Constitution which can rank as one, among the best Constitutions of the world both in respect of its size and the inherent worth of its contents. While presenting the Draft Constitution to the House more than a year ago, Dr. Ambedkar had stated that this Constitution with 313 articles was the bulkiest constitution in the world and with the number of articles now increased to 395 the Constitution has become bulkier still. Our hearty congratulations go to our leaders and constitution-makers who in the, midst of their other preoccupations have collaborated in this obviously up-hill task. What can be said as the flesh and blood of this constitutional organism has of course been contributed by our present day leaders and by a long line of distinguished revolutionaries that preceded them but its bones and muscles in other words the actual framework of the Constitution is the fruit of the labours of the Drafting Committee headed by Dr. Ambedkar, who alone of all persons has carried on his shoulders this tremendous burden with conspicuous ability.

There are good many admirable features of this Constitution to which attention has already been drawn by so many honourable Members and I do not think it necessary to refer to all of them. The enfranchisement of the entire adult population of the country is the biggest democratic step adopted in the Constitution. It may interest honourable Members of the House to be told that the number of people which this Constitution has enfranchised is almost equal to, if not more than, the entire population of Soviet Russia. This adult franchise undoubtedly represents the fulfilment of our long cherished and often

declared intentions but its success in the context of present day unsettled state of things in the countryside is a matter which causes some doubt and anxiety. Fundamental rights constitute another glorious chapter in the Constitution. That these rights have been hedged in by many healthy restrictions does not at all undermine their efficacy; on the other hand they make the, rights all the more precious. Care has been taken to see that the rights guaranteed to the citizens do not degenerate into license to do anything one likes in the name of liberty of action miscalled 'civil liberty'. Some friends have complained of the inadequacy of our fundamental rights. My honourable Friend Shri Lakshminarayan Sahu has even gone to the length of saying that civil right enjoyed by people in the British regime have been curtailed by the present Constitution. I present to my friend Shri Sahuji and to others of his way of thinking a P.T.I. news item published in today's *Hindustan Times* under the caption "Students be laboured Railway official."

"Armed with daggers, iron rods and hockey sticks 40 students of a local English High School dragged out a travelling ticket examiner from a guard van at Ghusia Kalau railway station near here and belaboured him. The ticket examiner had charged some students for travelling without ticket in class I.

He was admitted to the Sada hospital to be treated for his serious injuries."

If the conception of civil liberty of my, honourable Friend Mr. Sahu includes unsocial and anti-national activities like these, I am really sorry for it.

Rights must be co-related to some duties. It would have been better if along with enumeration of fundamental rights, the Constitution had contained specific references to duties to be performed by the citizens in order to be eligible for their rights.

The abolition of untouchability, enforcement of disability in any shape or form arising out of untouchability to be treated as a punishable offence in law, the substitution of joint electorate in place of communal electorate are among the other happy features of the Constitution. Articles 36 to 51, contained in part IV of the Constitution, otherwise known as Directive Principles of State Policy represent the quintessence of all that is the best and the noblest in any code of social, political, cultural or economic ethics that prevail in any part of the world. I wonder how in the face of all these distinctive provisions, the Constitution has been cried down in certain quarters as reactionary and retrograde. May I humbly ask these unkind and ungenerous critics to put their heads together, and produce an alternative Constitution which must be a workable Constitution suited to the requirements of the country and not one meant for an Utopian society ?

It has got to be admitted however that the Constitution in spite of being one of the best paper Constitutions in the world has failed to evoke sufficient enthusiasm in that country and a suspicion lurks in the minds of even the most ardent admirers of the Constitution that something is wrong somewhere and things are not proceeding in the way they should. Some friends have complained that the Constitution is not Gandhian in conception and they have felt bitterly disappointed on that score. Speaking about myself personally, I do not at all feel disappointed that this Constitution is not moulded on Gandhian ideal, inasmuch as I least expected a Gandhian Constitution from our constitution-makers. We all swear by the name of the Father of the Nation, but how many of us have been able to assimilate his teachings in our personal activities of the day to day life ? How many of us have that undying faith in the refashioning of our society on the old village self-sufficiency model ? A Gandhian Constitution is not to be produced by a mere mechanical process but must grow out of deepest convictions and a determination to shape our society strictly and meticulously in conformity with his ideals. This determination is to be found almost nowhere in the country. Hence evolving of a Gandhian Constitution out of non-Gandhian brains and

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minds is quite out of the question. Gandhiji throughout his life laid repeated emphasis on decentralisation of powers but our Constitution has proceeded on the reverse line, namely, over-centralisation. Our leaders think and think rightly that without a strong Centre this infant democracy would be in danger of being destroyed by disintegrating forces from all sides. The events happening in the country ever since the coming of independence provide sufficient justification for the type of Constitution that we now have. Therefore, lack of enthusiasm for the Constitution if properly diagnosed will be found to be due not to any inherent defect of the Constitution but rather to the deplorable and gradually drifting situation which has overtaken this unhappy land during the two and odd years of post-Independence period. Under the circumstances no useful purpose will be served by decrying the Constitution for this or that real or fancied defect and the best and the most patriotic course for all sections of people is to unite in order to give the new republican Constitution a fair trial and thereby paying undivided allegiance to the leaders of the nation in their efforts to consolidate the newly earned freedom.

Sir, before I conclude, I think it my duty to give you my humble tribute of respect and admiration for the fair and impartial manner in which you have conducted the proceedings of this House and thereby contributing in no small measure to the success of this undertaking.

Sardar Sochet Singh (Patiala & East Punjab States Union) : Mr. President, Sir, I rise to complement this House on the fruition of its three years' labour and the emergence of the country's constitution in its present final shape. The country should be rightly grateful to its great leaders, eminent jurists, legal luminaries, linguists, grammarians, and men of letters who have all toiled incessantly and worked vigilantly in presenting to their mother land what they in their wisdom and honesty have thought and felt to be best in the interests of the millions of men, women and children who inhabit this great subcontinent and in whom sovereignty and ultimate mastery over the affairs of the country henceforward vests.

Sir, much has been said about the pattern to which the, constitutional structure should conform and the direction to which it leans or does not lean. We did not start with any prejudice in favour of or against any particular pattern. We were not wedded to a federal, unitary or any other type of structure. We had the advantage of having the text and experience of so many constitutions of other advanced countries before us. We have tried to pick and choose the best that was more suited to our own conditions and special requirements, our traditions and experience of governmental institutions during the last half a century. Coupled with the historical generalities of the situation we have had the additional benefit of practical experience of the governance of the country during the past twenty-seven months and the due and realistic appraisal of our domestic problems and social trends in the context of international and world problems and trends, and it is in this setting and background that the merits of our Constitution should be judged and appreciated.

Sir, I am one of those who feel and believe that the interests, consolidation and permanence of our newly won freedom demand a strong Centre consistent with due and free functioning of provincial and local autonomy. We cannot afford the luxury of over-decentralisation simply in order to satisfy mere slogans and catchwords. While a unitary form of Government is unsuitable and impracticable in a vast country with 340 millions of people, having varied local and regional needs and problems, a completely decentralised scheme of Government

is sure to let loose fissiparous tendencies resulting in the ultimate disruption of the country, particularly in view of the regrettable existence in our midst of the hydra-headed monster of provincialism, communalism, lingualism and social and economic imbalance.

Some friends have tried to make a fetish of civil liberty which they say should end only when civil authority comes to an end. Such an assertion is simply amusing, if not ridiculous. It is as if one should consent to the destruction of a deity, but object to the, obstruction in prayers to the same deity. Healthy restraints and restrictions against abuse of liberty must be provided for if we have to prevent the break-up of our country and the break-down of its Governmental machinery.

Some friends have wailed that the right to work has not been provided for in our Constitution. Article 19 clause (g) reads as follows : "All citizens shall have the right to practise any profession or to carry on occupation, trade or business."

If it is not the right to work, I wonder what other language could convey the concept of work more appropriately or unambiguously.

My two Sikh friends from the East Punjab have had occasion to say so much with regard to their reactions to the provisions concerned with minorities. I may point out that the word 'minority' whether religious or racial does not figure anywhere in our Constitution. But the word 'community' which is the root of the ugly outlook called communalism has been allowed to be incorporated in relation to the Anglo-Indians. I admit that the Anglo-Indians are not a religious group, but they are a racial community so much advanced socially, educationally and economically that there is no justification for according them any special or preferential treatment. Surely, there must be something other than their backwardness which has entitled them to disfigure our Constitution by the provision of unmerited and unwarranted favouritism. The safeguards provided for the existing services could have been deemed ample to protect their interests; but any discrimination in their favour for future recruitment can be rightly resented and objected to by other communities. Beyond opposing the concession bestowed upon the Anglo-Indian community, the Sikhs are not justified in demanding any undue discrimination in their own favour. The question of Sikhs is not of sentiment, but of substance. The fundamental question is whether the Sikhs are a backward community either socially, educationally or economically or even in any other sphere. I maintain they are not. Socially, they are respected and economically they are prosperous because they are enterprising and hard working. It was revealed at the Sikh Education Conference at Patiala last month that according to the last Census, the standard of literacy among Muslims of the Punjab was 9 per cent, Hindus 16 per cent and Sikhs 17 $\frac{1}{2}$ per cent.

During the current year the East Punjab Public Service Commission compiled a list of successful candidates for Provincial services according to a tentatively agreed ratio of 40 per cent. for Sikh, and 60 per cent. for others. The Premier of East Punjab, Shri Bhim Sen Sachar, referred the list back to the Public Service Commission with the recommendation that the list should be drawn up strictly on the basis of merit and it resulted in the selection of Sikh candidates in excess of 40 per cent. May I enquire from Sardar Hukam Singh and Sardar Bhopinder Singh Man and others of their way of thinking and feeling whether our backwardness and necessity for safeguards lie in our higher literacy and greater efficiency? Besides, the success of Sikh candidates at the two competitive examinations for the I.A.S. during the past two years has not fallen below our proportion in the population of the country. It is to be remembered that

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both these competitive examinations were held at a difficult time when a large and opulent part of the Sikh community was suffering from the hardships and rigour of partition and its aftermath and necessary conditions and atmosphere for first class preparation for higher examinations were not available to displaced candidates. I have even hope and confidence that after the resettlement of displaced persons, our young men would show and achieve much better results in getting opportunities for the service of the country.

Sardar Hukam Singh has stated an economic truth in saying that the two main avocations of Sikhs are agriculture and army. He has nothing to complain about any discrimination as far as agriculture is concerned which absorbs 85 per cent of our population. The special position in the Army is sure to subsist as far as our moral and physical qualities and geographical situation continue as they are. No country can afford to keep bravery and stamina out of its army and the position of East Punjab as a border province is sure to oblige the Government of the country to take steps and measures to impart military training to the populace and equip them fully to meet the menace from the other side and provide a permanent reserve from which the regular army would have to draw its requirements from time to time. I think it is time we stop harping on our inferior position and nauseum and insult the intelligence and fitness of our new entrants to Government services and the efficiency of those who are already in. An over-emphasis on inferiority and helplessness, when they are not there, will impair the self-respect and dignity of our able officers if not their material prospects. As regards services, our case is not on all fours with that of the Scheduled Castes and Scheduled Tribes and it is no use our creating artificial smokescreens to hide or distort truth.

Another attempt is made to manufacture an artificial grievance when it is alleged that the decision of the Minorities Advisory Committee to bring the backward classes among the Sikhs into the category of Scheduled classes has been lightly changed to exclude PEPSU from the operation of this decision. I declare that nothing is farther from the truth. As far as any one can see the position has been considerably improved in the direction contrary to what has been attempted to be made out by Sardar Bhopinder Singh Man. The relevant portion in the report of the Honourable Sardar Vallabhbhai Patel, Chairman of the Advisory Committee on Minorities and Fundamental Rights dated 11th May 1949 reads as follows :

“The Committee also accepted the unanimous Proposal made by the Sikh representatives that the following classes in East Punjab, namely, Mazhabis, Ramdasias, Kabirpanthis and Sikligars, who suffer the same disabilities as other members of the Scheduled Castes, should be included in the list of Scheduled Castes so that they would get the benefit of representation given to the Scheduled Castes.”

At that time, the status of the Indian States was intended to be kept different from that of the Provinces. But, subsequently, the decision to bring both to the same level and status has culminated in the form which article 341 has now taken. Article 341 reads

“The President may, after consultation with the Governor or Rajpramukh of a State by public notification, specify the castes, races or tribes or parts of groups within castes, races or tribes, which shall for the purpose of this constitution be deemed to be Scheduled Castes in relation to that state.”

It appears from this that there is no distinction as between East Punjab and the PEPSU. Article 15 clause (1) provides—

“The State shall not discriminate against any citizen on grounds only of religion race place of birth or any of them.”

In the face of this how can our Constitution or the Government of the country or any State in the country based on this Constitution afford to make discrimination as between East Punjab and PEPSU ? I am afraid the fears expressed by my co-religionists are extralogical and without reference to the appropriate provisions of the Constitution.

The objection with regard to the jurisdiction and function of the Backward Classes Commission is equally groundless. The Commission to be appointed under article 340 shall investigate the conditions of socially and educationally backward classes within the territory of India and the difficulties under which they labour and make recommendations to remove such difficulties etc. etc. The backward classes among Sikhs are not excluded from the purview of the Commission. The Sikh Community on the whole is not at all a backward community and its spokesmen in the House have no business or justification to insist on its being classed as a backward section of the population. This is neither a fact nor is it believed by the majority of Sikhs or their eminent leaders. The Maharaja of Patiala, the Rajpramukh of PEPSU, Sardar Baldev Singh, the Defence Minister of India, Jathedar Udham Singh Nagoke, the President of the highest religious institution, the Shiromani Gurdwara Prabhandhak Committee, Sardar Partap Singh Kairon, Member of the Congress Working Committee, Giani Gurmukh Singh Musafir, President of the E.P.P.C.C., all the past and present Sikh Ministers of East Punjab and all Legislators of the East Punjab do not share the views and sentiments of Sardar Hukam Singh and Sardar Bhopinder Singh Man that the entire Sikh community deserves to be included among and accorded the treatment of backward classes. For myself, I belong to a majority of India—a majority of kisans who make up 85 per cent. of its population.

Unfortunately the trouble with some of our leaders is that they have never throughout their public career had experience of working in any secular institution and they have always built their leadership and power on slogans of 'religion or community in danger' and they find it difficult to give up old habits and propaganda or to strike upon new outlook or programme. I can hope that had Master Tara Singh ever worked as a Municipal Commissioner in Amritsar and seen in actual practice that Hindu and Sikh Commissioners were equally anxious and keen for sanitation and the health of all citizens living in the municipal town, he could have overcome much of the imaginary fears and suspicions against the majority that are haunting him today. In one breath he declares that Hindus and Sikhs are comrades in life as well as death and in the next that they cannot live under one another's domination. This is strange logic but our friends in the House have to echo whatever views or sentiments their leader expresses outside.

I appeal to my co-religionists to cry halt to this campaign of mutual distrust and hostility. Love begets love and hatred breeds hatred. If we sow trust we reap confidence. Having allowed ourselves to indulge in militant communal ideas and slogans we cannot, in fairness, grumble about the aggressive communalism of the majority community in the East Punjab which is now pressing even the Punjabi language. What we need is a change of atmosphere where justice, liberty, equality and fraternity prevail to the good of all and the glory of the country. Our Constitution may be blamed for not showing undue favouritism to any section excepting one, but it does not lie in any one's mouth to say that any discrimination against any section or interest is intended or for.

Our Constitution carries in it the impress of the high-souled nobility of the President—Dr. Rajendra Prasad, the universal vision of Pandit Jawaharlal Nehru, the unfailing judgment and strength the Sardar Vallabhbhai Patel the scintillating

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and penetrating intellectuality of Dr. Pattabhi Sitaramayya, the erudition and labours of Dr. Ambedkar and above all the Patriarchal blessings and divine inspiration of the Father of the Nation—our revered Mahatma Gandhi. It is my hope and prayer that such a monumental Charter of Freedom of minions of my countrymen will not fail to bring about peace, prosperity and happiness not only for this, country, but for the whole world. (*Cheers.*)

Mr. T. J. M. Wilson (Madras : General) : Mr. President, Sir, I also join in thanking you, the Rashtrapathi and the Chairman and members of the Drafting Committee for this Constitution. This Constitution is criticised by many on the ground that it has borrowed from foreign Constitutions and from foreign ideas. It arises out of a misconception that our country is entirely independent of and different from other countries and therefore our nation had nothing to do with the ideas and achievements of other nations. But the truth is that the whole humanity is marching forward as a single whole—of course with different progress for different countries of the world on account of the different material conditions, but all the same is marching towards the same goal and in the same direction and the heritage that mankind has so far won, either of the fundamental principles of equality, and liberty, and fraternity or of the Constitution itself, is the common heritage and common property of all the nations and each nation would draw upon and ought to draw upon that common heritage and march forward further adding to that heritage by its own experiences and by its own struggles. If to day each nation talks of equality, it has come to us long long ago—when Christianity had offered this conception of equality to humanity at the time of the greatest crisis for human society—on the fall of the Greek City States, when the conception of equality was absolutely foreign and unknown to those Greek City States and when the society had no foundation—no basis to rest upon; and if today everybody talks of liberty, this liberty has been won for us by centuries of struggles and revolutions and experience, and therefore the criticism that we have borrowed from foreign Constitutions or from foreign nations, is absolutely wrong.

But how far has humanity progressed till to-day and how far does our Constitution reflect this progress of humanity? Whatever the difference in approach or of method the whole human thought at present whether it is literature or science or art or philosophy— is centered upon one fundamental factor and that is the common man and his amelioration. His position is so much established that even his enemies swear by him. Therefore it is today that Everybody talks of democracy though this unfortunate word has had to pass through so much strain and stress. But what is this democracy? The most elementary requisite of democracy is the right of every citizen to vote and we have provided for it in our Constitution. But even this was questioned by some of our friends on the ground that they are not sufficiently educated to carry on the Government of the country. Their contention is that only intellect is necessary for the Government of the country. But the conditions and also the philosophy have changed. Government also has changed—the Government is not something meta-physical or something mytic. Government has to deal, today with the actual conditions of people and the needs of people, whether they are of food and cloth or of health and education and how can anybody else claim to know these needs of people better than the people themselves ? Thought is, of course, necessary and intellect is really essential; but unless it is united with action, unless it is based upon the experience of the people, it will not achieve much. Therefore, the purpose of adult suffrage, the right of every person to vote is to bridge this gulf between action and thought. But is this right to vote once in five years enough ? The essence of democracy is not so much the existence of what are

called political parties, etc., but the essence of democracy is the effective participation of the individual in the actual government of the country. The greater and more effective the participation of the individual in the government, the greater is the democracy, because democracy is still only an ideal which has yet to be reached by humanity. Decentralisation would have done something in that direction, if we had provided for it in our Constitution. But even the federal character of the Constitution has been extremely narrowed down, and even that feeble and narrow federalism disappears some times and converts itself into the unitary system. Reference is made by some to the Village Panchayats, those ancient self-sufficient Indian communities where agriculture and hand weaving industry were combined and which have survived centuries of invasion and conquest, and which were uprooted and destroyed by British imperialism of whose glorious achievement the Governor-General in 1834 reported "The bones of hand-weavers are bleaching the plains of India". I am not one of those who look upon these Panchayats as perfect or eternal. But what I say is that this Assembly should have taken the one from that inherent, native aspect of the Indian society and should have provided for some such machinery, which would have enabled the individual to participate effectively in the government of the country and the authority to flow not from top but from bottom to top. I plead for this participation of the individual, not only because it is essential in the interest of democracy, but also because it alone makes for tile strength and efficiency of the Centre, though many people mistakenly think that strength lies in centralisation and a strong Centre. I repeat that democracy of conscious effective citizens is much stronger and more efficient, from any point of view than any other form of government, and the usual talk of weakness of democracy is absolute nonsense.

There has been provision made in the Constitution for the freedom of several languages and cultures, providing at the same time, for a national language. That should have logically resulted in more autonomy and more freedom of the States, making for one powerful nation. The several languages and cultures would have been guaranteed and made more effective if it had been buttressed by a provision for such independent States and their distribution on a cultural and linguistic basis. I am, however, grateful that Andhra province has, been conceded and will be provided for in the Constitution. The greatest achievement, however, of our Constitution, is its secular character, and the secular State that emerges therefrom. We have achieved this secular character of the State and we have provided for it in the Constitution. But the clouds are gathering and are threatening to darken the secular character of the State and obliterate it. I only pray and trust that the progressive forces of this country, under the guidance and leadership of our great and beloved Prime Minister will clear away those clouds and shall not allow our country to pass once again through that destruction and misery which most of the nations of Europe and Asia had to pass before they could accomplish this great achievement of a secular State.

I may mention also one thing which may not have been realised by many Members of my own community. By giving up the reservations whatever we might have lost we have gained tremendously, because that has mainly contributed to the establishment of and the making it a fact, the secular character of the State on which depends our very existence as a minority or community. I may here raise my voice for an unfortunate section of my community—the Harijan Christians. They are untouchables, Sir, and they are treated so, not only by the caste-Hindus with whom they have to deal every minute of their lives, but I am ashamed to confess it, they are treated so even by their Christian brethren, and the parents of these children come to us with tears in their eyes to tell us that their children have been driven out of the schools and deprived of their education because scholarships had been stopped for them, while the

[Mr. T. J. M. Wilson]

children of their brothers and sisters who are non-converts are continuing their studies. I do not need to plead the fundamental right that no discrimination should be made against them on the basis of religion, but I only beg to the Drafting Committee and the Government to take pity on them and not to remove that taste of education from their mouths.

I now come to the criticism that is levelled against the Constitution that it has not provided for or conferred anything on the common man, that it has not provided for social and economic justice. That, I submit, Sir, is an erroneous contention, because it is based on an erroneous conception of the scope of the Constitution. A Constitution has a limited scope. Its main function is to provide for a machinery of Government, and this Constitution has provided for a machinery of the government, whatever its character. And whatever the privileges or rights put in certain chapters are only those rights and privileges which we have achieved so far. The Constitution embodies and gives sanction only to those rights that are achieved. That is the basic conception which I want to emphasise, because otherwise, if we had embodied certain rights in the Constitution which we have not achieved so far, that would have given a distorted, dishonest and hypocritical picture of the country as a whole, and what is more, the Constitution would have been simply unworkable. Therefore, the Constitution has a limited purpose, and in spite of certain ugly features of the Constitution, for example the provision for the protection of property as a fundamental right, it would not and shall not prevent the country, as Mr. Santhanam has pointed out, from achieving socialism.

Much has been said of liberty and freedom. Let us strive and march forward to that liberty which is not only negative, which is not only the absence of any restraint, but to that liberty which is positive, which is the creation of those conditions which would give the necessary opportunity to every man and woman of this country to develop his or her full personality, free from any want or fear. And I may also say this that the price of liberty is not vigilance, but work and more work, and more production so that humanity may march forward and achieve its goal of happiness and freedom and democracy.

Shri H. Siddaveerappa (Mysore State) : Mr. President, it is with very great pleasure that I associate myself with the chorus of tributes paid to the Drafting Committee in general and to its Chairman in particular. Sir, for the last several days, the merits and demerits of this Constitution have been discussed so threadbare that it is not possible to cover any new points. Almost all the points have been covered.

One outstanding point that comes to my mind when I see this Constitution is that from the first time that this Constituent Assembly met, it will be seen that several changes have been introduced into it, much of which having been influenced by what is called compulsion of events. It can be seen that right from the beginning the very tenor of this Constitution is to have a strong unified Centre, and it is well that, situated as we are we could not think of any other form of Constitution, though, of course, in name it is a Federation. It can also be seen that the powers have been so much centralized that this Constitution is more in the nature of a unitary Constitution than a Federal Constitution. The only question is whether the Centre has been made so strong, that there is what is called over-centralization. Now in the opinion of some the Centre is made so powerful and strong that very little incentive is left for the component parts and I am also prone to believe in that opinion. The Chairman of the Drafting Committee himself, when he made his introductory speech on 4th November, 1948 with regard to the Centre being so strong, said :

“It cannot chew more than it can digest. Its strength must be commensurate with its weight. It would be folly to make it so strong that it may fall by its own weight.”

In the opinion of some the Centre has taken almost all the powers and that the Units are left with little or no incentive. That is with regard to the character of this Constitution, whether it is Federal or Unitary.

Coming as I do from an Indian State, I cannot help making a special reference to the nature of the Constitution with regard to the States. It can be seen that in this country nearly one-third of its territory, with 27 per cent of its population, was covered by 562 Indian States having a population of 80,880,434. These States had varying degrees of political progress and economic advancement, some comparing very favourably if not better than some of the advanced provinces in this country, and some being very backward. The question of these Indian States was one of the baffling problems for this infant independent country. Even during the time of the Britishers they took several decades to consolidate the States and to bring them to a certain form. With regard to the States the Butler Committee report stated:

“Politically there are two India’s—British India governed by the Crown according to the Statutes of Parliament and enactments of the Indian Legislature, and the Indian States under the suzerainty of the Crown and still for the most part under the personal rule of the Princes. Geographically, India is one and indivisible made up of pink and yellow. The problem of statesmanship is to hold the two together.”

Even the Cabinet Mission’s plan as announced on 15th May, 1946 envisage two vital changes with regard to the States, namely, that after the attainment of independence paramountly would lapse and that the States would retain all the other subjects except those covered by Defence, Communications and Foreign Affairs.

It will be seen, after the Britishers left this country, technically, of course these 562 States were as free as any other part of India. It is under this period of stress and strain in some quarters, though of course very few, that some fissiparous tendencies raised their ugly heads and they claimed that they were independent, though that tendency was nipped in the bud. It is in this period that the States Ministry of the Government of India was formed on 5th July, 1949, when Sardar Patel observed :

“The States have accepted the basic principle that for foreign affairs, defence and communications, they would come into the Indian Union. We ask no more than accession of those subjects in which the common interest of the country is involved. In other words, we would scrupulously respect their autonomous existence.”

It is a very fascinating and interesting study because history is being written before our eyes. It is not possible to perceive how within these two years, not only all these three subjects, but in all vital matters, this whole country from Cape Comorin to the Himalayas has been brought under one administration and Government and certainly, Sir, the credit must go to that great leader, Sardar Patel, who has brought about this change a very bloodless revolution. No one could have believed that such a change was possible within an incredulously short period of two years : Not only that, in some advanced States Constituent Assemblies had been started and they were going on with their work. In defence to the wishes of the States Ministry, those Constituent Assemblies had to postpone their work just because it was thought desirable that there should be one single Constitution for the whole of India, whether they are provinces or whether they are Indian States. Under those circumstances it was found possible to have a Constitution of the so called Indian States which are very few in number now, as one can see from part B of the First Schedule. There is a single Constitution for the whole of this country governing their relationship and it may not be far wrong if I say now that this change would not have been so easy, had it not been for the unstinted support given to them by the Princes and the subjects of the Indian States. It has been acknowledged in wholesome measure by Sardar Patel himself on occasions more than once, that the patriotic feelings of the subjects and Princes were also responsible for bringing about this bloodless revolution within so short a period of time.

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It can be seen that in the case of some advanced States, due to financial integration, they have been subject to some losses of revenue, particularly in Mysore where due to financial integration they have lost a considerable portion of their revenue. Still, the people have cheerfully borne all these temporary inconveniences and in some cases permanent also, in the larger interests of this country. When all this is said, I want to know what justification is there for bringing about discrimination by way of article 371. Besides when the peoples of the States have, made considerable sacrifices and without any resistance they have fallen in line with the whole of India, was there any necessity for an article like 391—just a kind of good—behaviour clause, wherein there is general supervision and control for a period of ten years with regard to all the States ? Perhaps I am not able to find out the reasons. There may be weighty reasons, but the feeling in the minds of several people in the States is : What is it that we have done to be reduced to this level? Is this the reward for the sacrifices made by the people of the States for falling in line with the rest of the country ? Anyhow, so far as Mysore and Travancore and Cochin are concerned, there is a promise that they will be exempted, though the people in those States would have been, far happier if it was statutorily recognised that there is no need for a provision like that. Let me sincerely hope that this article 371 will remain a dead letter.

Lastly, I also join the chorus of tributes paid to you, Sir, for the very worthy manner in which you have conducted the deliberations of this House.

Shri Kamlapati Tiwari (United Provinces: General): *[Mr. President, Sir, during the Third Reading of the Constitution we have had a discussion for the last six days. The Constitution has been fully discussed and no aspect of it remains which the Honourable Members have not said something or the other. Its merits and demerits have been fully discussed. Everything has been said in regard to its merits and its specialities and I find that Everything has been said in regard to its demerits and its shortcomings too. I admit that after a discussion of six days I cannot say anything new in regard to its merits, or demerits. Even then Sir, I have gathered courage to take some time of the House because this is an important and historic occasion and its very idea is inspiring to us. It has special significance for soldiers like us who look the pledge of serving the country and the nation twenty five to thirty years back sitting at the feet of revered leaders like you who initiated us into that service. We shall possibly never have such an occasion again. Therefore I too could not resist the temptation of saying something on this occasion. I am grateful to you for having given me an opportunity of saying a few words. Sir, many of us have had a dream picture of our nation and of the future of our country for the last thirty years. We nourished an idea in regard to our country and its future. Our dream and our idea was that a day would come when we would ourselves be able to shape our destiny without interference from any quarter whatsoever. This dream and this idea inspired us for the last thirty years, and gave us strength to advance forward in our struggle for freedom according to our intelligence and our power. After a period of thirty Years it appears that our dream is coming out to be true to some extent and our idea appears to be materialising. We saw our country achieving freedom and our idea of being able one day to shape our destiny without outside interference is going to materialise. We can think ourselves fortunate and blessed because the Constitution of our nation and of our free country is being moved for acceptance in our presence. So far as the relation of the merits and demerits of the Constitution is concerned, I would like humbly to submit, Sir, that I was not satisfied with the trend of the discussion which took Place during its course. I saw that one Honourable Member after another rose to eulogise the merits

*[] Translation of Hindustani speech.

of the Constitution and to congratulate and praise each other. I could not understand this mutual praise and mutual congratulations. The Constitution is the result of the collective effort of all. It is not worthy of us to praise each other and to congratulate our own selves. We are Indians and we take pride in our culture. We can be worthy of our culture only if we abstain now by not praising our merits and by not taking pride in the good things that we might have done. After all what have we done so as to deserve this self-praise and mutual congratulations. How has the necessity arisen of patting each other? The people of our country confided in us and returned us to this House with the hope and faith that we would chalk out such a line for shaping their lives and their future which would not only enhance their prestige but would also uplift them. When the country returned us and gave us the charge of shaping its destiny, it did hope that we would frame a constitution which would be noteworthy for its merits and specialities. You have indeed framed a constitution which has many good features and specialities. Whom should we congratulate and what for? The country gave us the authority for shaping its destiny. If we have successfully fulfilled our responsibility and done our duty, we should not praise each other for it. We only discharged the responsibilities that we had taken upon ourselves. Instead of ourselves praising each other we should have left this task for the country. The nation will judge whether this Constitution has any merits and whether we deserve any praise for it. We shall have reason for self gratification only when the nation praises us. Therefore without taking recourse to self-praise like my other friends I straightaway want to put before the House a short analysis of the constitution itself. When I think of the most noteworthy feature of the Constitution and its greatest merit, three things present themselves before my mind. Those of my friends who have only eulogised the Constitution have only repeated these things. It has been said that the Constitution has provided for adult franchise. It has also been said that untouchability has been abolished by the Constitution. The third thing which is being taken pride of, is that separate electorates have been abolished and provision has been made for joint electorates in the Constitution. These are the three specialities of the Constitution which have been emphasised by the speakers and it is for these that they have been congratulating each other.

Sir Alladi too, who is a great scholar of jurisprudence. repeated in the course of his speech this morning only these three features of the Constitution. Sir, I humbly submit that these are not such specialities as may justify our taking pride in them and feeling elated about them and taking recourse to mutual congratulations. When the country returned you and sent you here for framing the Constitution, if you had not included these broad features in the Constitution, what else would you have included in it ? The principle of adult franchise is a well known principle and its usefulness has already been demonstrated elsewhere. Therefore there is not much sense in taking pride for having forwarded it. If this great democracy, which you are going to establish, is not based on the rights of the people that is to say on adult franchise, on what else will it be based ? Adult franchise is gaining ground everywhere in the world and it is now being recognised that the structure of democracy can be raised on this basis alone. Besides, we have always been declaring that we have to establish true democracy alone in India. Have we not declared that we would establish peoples democratic government in India and have we not been returned on that basis ? If we had not provided adult franchise what else could we have provided for ? We have not done such a thing as may justify our self-praise. We accepted a well recognised principle and have done but our elementary duty. Any person or any other party on being returned to this House and on taking upon itself the task of bringing about a democratic order, would have been compelled to provide for at least adult franchise. It was after a successful revolt that we came here. We led that revolt. Then,

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if we have provided for adult franchise, what novel thing have we done ? I would say that if in our place had been the sycophants and diehards of the old order or even the capitalists engaged in the task of framing the constitution, they too would have at least granted adult franchise. So much for adult franchise.

I shall now take up the other speciality of the Constitution. which has been constantly referred to and for which we have resorted to self-praise and mutual congratulations. It is the abolition of untouchability. We very proudly say that through this Constitution we have totally effaced untouchability. Sir, it is a surprise to me that we take pride on the abolition of untouchability. Sir, it is we consider it a great success. I want to ask whether we have abolished untouchability only today? By declaring untouchability as illegal in the Constitution have we done anything as can bring great credit to us ? Have we done any great and novel thing? Untouchability was abolished long ago when Bapu raised his voice against it and revolted against it thirty years back. When Bapu began to play a role in our lives, he revolted against untouchability and said that it was a blot on India and that it should be removed. That powerful and explicit voice ended untouchability years ago. Today we say that we have abolished untouchability through this Constitution. I ask had we not done what Bapu had asked us to do and what had met general approval, how would we have kept face with our people ? Therefore it does not appear proper to me to say that we have done a great and unique thing. I think that it is altogether unnecessary for us to take pride in the abolition of untouchability, in the provision for adult franchise and in a third thing which has also been characterised as great achievement.

I think Sir, that we have nothing to be proud of in the abolition of separate electorates either. Separate electorates were responsible for the ruin of the country. Our history of the last one hundred and fifty years bears testimony to the fact that no other problem has been so much responsible for ruining the country as that of separate electorates. Separate electorates alone gave birth to communalism. Separate electorates alone gave birth to two-nation theory. Separate electorates alone gave birth to the idea of dividing the country which ultimately culminated in the partition and mutilation of the country. All this was brought about by separate electorates alone. Would we have provided for separate electorates even now? We have not done anything great by giving no place to that system in our Constitution and we need not praise it for that. I think Sir, that it is futile to eulogise our achievements and the merits of this Constitution and to take recourse to self-praise and mutual congratulations. Instead of taking recourse to this practice we should rather consider at this occasion what we have been able to do and what we have not been able to do, so that the country may have a knowledge of what remains to be done and at a suitable time we may be able to correct our mistakes. We should acknowledge our mistakes and should apprise the future generations of the shortcomings and defects of the Constitution which need rectification. We should pay particular attention towards this. I think that a person or a nation can progress only when it pays attention towards its shortcomings. Gandhiji taught us to pay attention towards our shortcomings and weak points and to turn our eyes away from our merits. He asked us to see our defects to admit them and to make effort to remove them. He said that for the development and welfare of a person or a nation it was necessary that an error should be accepted without any hesitation and that to see an error one should look at himself. Therefore to enable the country to make progress it is necessary to see the defects of the Constitution so that they may be removed. It is also necessary to see whether we have not left out such things as were greatly needed

by the country. Sir, I humbly submit that when I examine this Constitution from this point of view I find that though we ourselves are responsible for framing it, it does not satisfy us, nor does it fulfil our necessities. It may be that I am saying things which I am not authorised to say but at present every one should give primary importance to the interests of the country and should express his views accordingly. This sentiment alone has given me courage to refer to these matters. I realise that the conditions obtaining in the country have influenced us. We were influenced by fears and doubts and these have been reflected in the Constitution. This fact may be responsible for its shortcomings. But whatever may be responsible for them, we have to see them and Point them out. Our scriptures say :

‘शत्रोरपि गुणा वाच्या दोषा वच्या गुरोरपि’

‘Speak of the merits of the enemy also and surely point out the defects that may be in your teachers.’ Therefore if we discuss this matter from this point of view, it should not be understood that we are showing disrespect to any teacher. No particular person or committee can be held responsible for the shortcomings. We are all equally responsible for the shortcomings. Therefore Sir, I want to draw your attention to some fundamental defects which have been left over in this Constitution. Many petty mistakes too can be pointed out but I would not refer to them. I have not the time to discuss in detail in my own humble way all the clauses and sub-clauses to which I object. I shall only point out the fundamental defects in the short time, that you have kindly permitted me to speak. The first fundamental defect of the constitution appears to be that it is terribly centre-ridden. It appears to me that the polity we have provided for in the Constitution will necessitate the centralisation of all power and authority. I consider this type of centralisation to be defective and dangerous. I think that centralisation will necessarily give rise to tendencies which may prove to be dangerous. Moreover, the leader whose foot steps we have been fortunately—following for the last thirty years, gave us a viewpoint, an idea and an ideology. Our Bapu was all light and he told us that centralisation, whether in political field or economic field necessarily deprives the masses of their political and economic independence. This was the new idea and new ideology that he handed over to us. He said that true democracy rose not from the top but from the bottom. Power and authority should not be centered at the top but should be distributed among the people at the base of society. Then alone can true democracy be established and then alone can people enjoy freedom. The order that we are going to establish has its head downwards. A tree is being planted with its roots above and its branches spreading downwards. There may be a spiritual tree with its roots upwards and branches spreading downwards but in the political field any order with its base upwards and its top downwards cannot be instrumental in the establishment of true democracy. Centralisation is a terrible curse of the present times. It was the centralisation of production which gave birth to capitalism which in its turn put an end to economic freedom in the world. In the political field the order that came into being on the conclusion of the French Revolution disappeared with the establishment of centralised forms of government and with the centralisation of power and authority. If you look at the present day Russia you will see that although Russia claims to have established the greatest democracy but actually it has not been able to respect democracy. The reason behind it is that a terrible demon in the form of centralised power dominates the people and crushes their individuality and their freedom. You should remember that if you bring about centralisation in India it would lead to the maintenance of rights from a centre and necessarily that in its turn would involve that power be more and more vested in the centre. Everyone knows that effective power in the hands of the centre can only be based on military strength and the concentration of military power is the sure road leading to the complete destruction of popular rights. This is an historic truth. Our

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Constitution obviously presents this danger. The circumstances may have compelled us to provide for a centralised form of government but the danger is there and it is necessary to take notice of it. It was with this realisation that Gandhiji had taught us to oppose centralisation. He told us that for the establishment of true democracy the means of production should be decentralised and its form too should be of a decentralised nature. The society which is formed on such foundations should also be of a decentralised nature and the Government of this society should also be of a decentralised form. The rights should be in a gradation from below upwards and the government should enjoy only those rights as are bestowed upon it by the people. We have been told that this is a people's constitution and a common man's constitution. I humbly submit that it appears to me that this is in the least a common man's constitution. Power has been centralised in it at the top although it may have well been said in it that power is vested in the people. You should pay attention to it.

Moreover, I find that there is nothing Indian in the Constitution. It appears that the Constitution has been framed only to meet the exigencies of the times. We were influenced by the conditions obtaining in the country and were obsessed by the fear that some people might spread anarchy and emergency may arise at anytime and our freedom might be endangered. We were all along influenced by this thought and we framed our Constitution accordingly. No doubt we are confronted with this situation in the present transitional period. When an old order crashes, when an established system collapses it sends vibrations and quivers even into the earth. It is but natural that at such a time of political earthquake fear and anxiety should grip the minds of men. Before our eyes has collapsed a great and mighty empire. It is not surprising, Sir, that there should be at such a time fear and anxiety in our hearts, but I do deeply regret that there should have been reflected in the provisions of our Constitution.

My other regret is, Sir, that we have drawn inspiration mainly from foreign Constitutions alone. We have drawn upon the Constitution of Australia. We may have even borrowed from the Constitution of Canada and we may have even influenced by the unwritten Constitution of Great Britain. We also been discussing rather warmly whether the Constitution under consideration is federal or unitary in character. But, Sir, we have not cared to cast even a glance to the historic spirit and culture of India or have we taken into consideration the Indian approach to life. While passing this Constitution we did not in the least pay attention to the political philosophy and situation of this ancient country—the oldest among the nation of the world—and which has occupied a prominent place on the stage of history. History is, Sir, a witness to the great and glorious experiments made by our country in than sphere of politics. But, Sir, we turned a blind eye to all the facts of our History. It does no credit to any one here to say that majority rule did not exist in our country. History is a witness, Sir, to the fact that ours was the first country in the world in which was established the system of majority rule if not of pure Democracy. The entire north west region of our country the land of the Panchabs—was studded with Republics in the historic epoch noted for Alexander's invasion of our country. The state of Kapilvastu, where Lord Budha was born, was also a republic. Again there was the great Republic with which Lord Budha had very intimate contacts. The glory of these republic continued for thousands of years in this country. Even in the Vedas, Upanishads and the Brahmanas we find fully developed concepts of such politics as the samrajve, virajye and Arayke, Rajiye. I, therefore, fail to see how any one here can say that the concepts of republics, Majority rule and democracy are entirely foreign to us. I submit, Sir, that there has been a whole body of political traditions in this country. If you looked into the

Mahabharat and gave thought to what the great Vyas has put into the mouth of Bhishma in that great epic you would find that there is contained a constitution polity complete in itself and a political philosophy ripe in wisdom. But the question I ask, Sir, is 'Have we cared to give even a passing thought to all wisdom?' Principles and provisions of alien origin are to be found in this Constitution, What is worse, Sir, I can safely assert notwithstanding the loud protest of some friends here that the dark shadow of the Government of India Act is to be found lying heavily on this Constitution. No one can deny here that the dark shadow of that Act which we had denounced so much, is to be found in every page of this Constitution. We have committed Sir, a fundamental error in keeping this Constitution quite unrelated to the historic culture, traditions, the national genius, the national sentiments and self of our country. I would urge you to remember that this cultural divorce between the Constitution and the country has not only made entirely alien but also lifeless in character.

This third basic shortcoming of this Constitution is the limitations and restrictions it imposes on Fundamental Rights, credit is being taken, Sir, for the provision with regard to the abolition of untouchability. The critics are sought to be confounded by the naive question "Have we not guaranteed the Fundamental Rights by This Constitution?" But at the same time to which I would like to get a reply is whether it is not time that we have imposed many restrictions on the Fundamental Rights. Is it not also true that there are many clauses in this Constitution which infringe and encroach upon the Fundamental Rights of the citizens. How could we do all these unless we drew an inspiration from the Government of India Act. It was the policy of the British Government to break to the heart which they promised to the ear—and I believe we, have followed in their footsteps. I may concede that all that was probably necessary for the security of that State. My Complaint, however, that while doing all this you should not acknowledge it. Gandhiji had taught us that the security of the State cannot be ensured by the arms and denial of rights of the people. Bhishma had also advised Yudhishtira to remember that the people should be fully protected and kept free from the danger of starvation and nakedness and other types of sufferings and wants. The state that we should establish should be like the same which while it takes the price of food also gives it back eightfold for the benefit of the people of this earth. Such a state would not need arms for its security, nor would it need an army to defend it. Bapu had also taught us that any state which seeks to retain its existence by the use of force alone would not be able to maintain itself for even its own arms, would turn against it. I repeat Sir, that if we would establish a state which relies on force alone for its continued existence it would not be stable or durable. Any state which rests on a denial of the basic rights of the people cannot last for long. If a State gathers power by depriving people of their rights, it sooner or later finds that it has bargained for a frankenstein for itself. As the proverb runs—Nothing corrupts like fouls—and this is but natural to man. It is no doubt true that the, reins of power are today in the hands of leaders whose life has been passed in the service of the country. None need entertain any fears about their acting improperly. But it may well be that this power may fall into the hands of people who misuse it. That is the danger.

The great defect of this Constitution is that it secures nothing to the poor and have votes of this country. Even the little assurance contained in the Directive Principles is not adequate. Even there it is said that the State would do all this within the limits of its economic capacity. It does not in the least guarantee that there would be no poverty in the country and we would not have a single person begging on the streets. As there is no guarantee against unemployment nor do I find a duty being laid on the State to provide work to it, citizens. No doubt we have guaranteed a salary of Rs. 10,000 for the President of India. we have also charged the salary of the Accountant-General, and former

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services on the consolidated fund of India by means of this bulky Constitution. But we have not made the least provision as regards the pay to be given to the peons nor have we made any provision with regard to the minimum salary that can be given by the State to its employees. For example why is it that we have not laid down that every employee in this country would be paid a salary of not less than Rs. 75. If we had done any such thing we would have won the heart of the people of this country. But you have paid attention only to the people at the top and not to them who are at the bottom. It is for this reason that this Constitution appears to be quite futile and lifeless. The fact is that it is not inspired by any substantial ideas.

We accepted that there should be one official language for this country but at the same time we have taken care to see that that language which is going to be our national language may not become the official language at an early date. Sir, my submission is that we paid attention to the question as to what would happen to the services if Hindi became the official language in less than fifteen years but we remained blind to the consideration as to the integral relation of language with the consciousness and sentiments of the people. Language is the vehicle of our sentiment and belief. It is, therefore, the basic element of culture—and culture as is well known, is the driving power behind the progress and rise of a country. Such a deep relation exists between culture and language, that there cannot be any foundation for any creative activity in its absence. But we paid no heed to this fundamental truth and are still fondly longing a foreign language to our bosom. What is the language that you have employed for drawing up your Constitution? Whatever else may or may not have been possessed by our country it is a fact that it never backed a well developed language and script. History is a witness to the fact that all the Asiatic countries designed their scripts on the basis of our script. The literature of our country is so great that the entire world pays its respect to it, what a shame it is that the Constitution of our Country is being drawn and passed in a foreign language.

These are defects to which we should attend to. I felt that I owe a duty to my country to my leaders, to this Constituent Assembly that I should place my sentiments before you so that we may acknowledge that though our Constitution may be desirable yet it is not free from blemishes.

Sir, I have briefly placed my sentiment before. But I would like it to be understood that I have despair in my heart or I want to abate in any way the work that has been accomplished so far. I have talked of our failings only in order that we may be able to say to our people that our work, whether good or full of defects, was before it. I felt that we should frankly accept that our work may be full of defects and failings. We should make it clear that we are aware of those defects. We must say that we know what are defects but we also know the direction towards which we are moving and that when circumstances would permit we would remove those defects and overcome these failings. Sir, even though there are defects we should express our satisfaction at what we have some fondness for this Constitution because we have ourselves framed it in all good faith and moved by the love of the country. We are happy at what we are today. I feel that in comparison to the day when thirty years ago we started on our adventure on rocks and shoas to reach the temple of freedom, the present day is very beautiful for us. We have been witnessing to the humiliation of our great and ancient country lying under the hand of foreigners. That was our epoch in the life of this country when humanity was grasping for life, when our mother our country was lying despoiled, trampled and outraged before our very eyes. That was the age when despair darkened our hearts and we had lost all hopes for our future. Suddenly we perceived an angel descending into our life. We felt the magic of

his words and life and hope came back singing back even to the ashes and bones of this country. His fire and faith breathed into our dead souls a new life. We heard the thunder of revolution in his sweet voice, and the call for battle and sacrifice in his mild words. He gave us a new message and a new and novel technique of struggle and revolution. His was a unique motto of war—the war of Dharma of Truth, of humanity and light against the forces of untruth, injustice, animality and darkness. There came the day when we saw that the mightiest empire crumbled into dust and nothing under the blows of that man. We saw the miracle of nature that went to step in one night awaking to find the sun of independence and freedom already smiling in its life. AR this miracle has happened before our eyes. It is due to that miracle of that great man that we have been able to frame this Constitution today. It is but natural that we should have tender feelings for this product of our labours. A great event in our history comes before my eyes today. Twenty five hundred years ago another Constitution had been drawn up for our country. that was the age when Chandragupta Maurya had thrown out the Greek conquerors from this country, re-established its glory and self-respect, and established the empire which remained a glory of country for generations. It was in that age that Kautilya had drawn up a Constitution which has remained a brand product of the Indian mind during all these centuries. It is after that long period of twenty-five hundred years that we are engaged again in this task of Constitution making. It may well be that this effort of ours may be full of faults, or may be it has its merites. But we feel it a duty to dedicate it to the memory of the Father of our Nation. We do so in the hope and faith that a day will come when we shall have succeeded in establishing such a pattern of life as will be a message of hope and cheer to the entire mankind.]*

Shri Dharanidhar Basu Matari (Assam: General): Mr. President, Sir, I feel I cannot leave the Constituent Assembly to return to my province, Assam, without adding my own tribute to Dr. Ambedkar and the Drafting Committee for their great achievement in producing this Constitution. I think I am right in saying that everyone has some or the other criticism or grievance to air. The Constitution does not and cannot satisfy every section from all points of view, but, taking everything from an All-India point of view, the Constitution is not disappointing and, in fact, the best that could have been framed under the difficult circumstances after Partition. It is not what has been put down in cold print in the Constitution, in the Articles, in the Schedules, that will matter. It will surely be the spirit in which the purpose of the Constitution is executed. If all sections co-operate honestly and unselfishly, I am certain India will progress along right lines.

Talking of progress, let me make it quite clear that no real progress is possible if large parts of our nation are deliberately kept behind and backward. The advanced communities will have to make special efforts, particular sacrifices if the backward classes are to come up. I am not one who believes that the backward classes can be brought to the general level in ten years. That is impossible and it is unfortunate that ten years as a limit have been incorporated in the Constitution. But, much can be done in the ten years also, if undivided attention and adequate funds are earmarked for the advancement of the backward classes.

Assam Tribals have much to be thankful for in the Constitution. One has to admit that there is much scope for tribal development for the so-called autonomous districts where there will be tribal councils and so forth. But I am not happy about tribals in Assam who are in the plains and the tea gardens. There are millions of them outside the autonomous districts. What will be their fate? Do they not need any protective and special treatment? I am none too happy about the tribals in the Assam plains. I know only too well how they have been neglected and exploited in the past and, to my mind, they will continue to be suppressed, unless there is special arrangement made for

[Shri Dharanidhar Basu Matari]

their advancement. The truth is that tribals have to be helped against themselves. As things are, they cannot complete with the other elements of the plains.

The tempo of advancement will have to be faster. Take the question of appointments. It is no good saying that so many tribals have been recruited as forest rangers. Tribals must be recruited to all branches of service, from the lowest to the highest, not only in the provinces but also at the Centre. Not only should there be a minimum quota fixed for their appointments, but their promotion must equally be seen to, so that they do not stick where they begin. For this to happen, the advanced classes must make a sacrifice. They must recede and tribals must come forward. When the advanced communities here say they want the tribals must come to their standard, do they really mean that they are willing to make way for the educated tribals? On the basis of competition, there will be no improvement. The sections that have captured the services will see to it that their superiority is never threatened or endangered. Arguments about efficiency of administration are, to my mind, just dodges to perpetuate class or territorial interests. During the British regime, certain people were the favoured lot and they got the jobs, the contacts and the privileges; there was a distinction between martial and non-martial races. In Free India, there is no room for such invidious distinctions. I know the Constitution does not satisfy people who have been used to preferential treatment. To such people democracy means something different.

Sir, the overall picture is not without hope. I do believe the Constitution can be worked in a democratic way, if the leaders respect the rights of others more than their own. Tribals will certainly do their best to contribute their part in the working of the Constitution and I hope others, will not stand in their way.

All of us know, Sir, our Father of the Nation, Mahatma Gandhi wanted to establish a Ramrajya and to me, it appears that he wanted a world where there can be no discrimination between the poor and the rich, the wretched and happy, and we are proud to be his disciples.

Shri Ari Bahadur Gurung : Mr. President, Sir, I associate myself with my colleagues in congratulating the Chairman and other members of the Drafting Committee for having brought this stupendous task to a successful conclusion. I have only a few observations to make. Firstly, the criticism of the Constitution that it does not provide for the establishment of socialism is as irrelevant as the complaint that it is likely to open the way to dictatorship is futile. The real test of democracy is to give the right to people to decide for themselves the nature of the Government they would like to have. The question of dictatorship or totalitarian communism will depend entirely upon the manner in which the people will work the Constitution. The Constitution will be subject to a continuous series of modifications according to the will of the people. Such provisions have been provided already in the Constitution. Sir, I personally feel that a Constitution is something of a sacred character which inspires future generations. It is the embodiment of the living faith and philosophy. Therefore we must not for, at his gospel. To end with, Sir, I thank you for giving me an opportunity to express my humble views on the Constitution. Jai Hind.

Shri Dip Narayan Sinha (Bihar: General) : *[Mr. President, at this occasion when we are going to accept a Constitution for India, I most humbly want to pay my homage to the Father of the Nation, Mahatma Gandhi, whose hard penance and extraordinary skill relieved us of our bondage. At the same time

*[] Translation or Hindustani Speech.

to pay my homage to those innumerable men and women who joined hands with us in our struggle for freedom, underwent many sufferings and made great sacrifices from time to time. The Constitution which we are going to accept is an unparalleled thing in the history of our country. Our national life will form itself on the basis of the provisions of this Constitution. Therefore I attach great sanctity and significance to this Constitution. I wish that every Indian should have the same feeling about it. I know that it has its shortcomings and there is much room for improvement. But it has its beauties too and any country can take pride in them. Now we should with all sincerity strive to work this Constitution and to put it to the greatest advantage for the country. If we sincerely strive to work this Constitution, we would be able to remove its shortcomings and whenever it would be necessary to make an improvement we would be able to do so easily. I now want to say a few words on this Constitution from a common man's point of view. When a common man from the countryside would turn over the pages of this Constitution he would not like to see the beauties of this Constitution or to go very deep into it. He would like to see whether things to meet his necessities have been provided in the Constitution or not. He would like to see whether this Constitution guarantees to him nutritious food, cloth, health and proper education. I would like to point out that the people of the villages and common men would be unable to find such a guarantee in this Constitution. No doubt it has been laid in the Constitution that during ten years such arrangements will be made for education as to enable all children reaching the age of fourteen to get educated. There is no provision for people of a higher age. Moreover, there is no guarantee for food, cloth and health in the Constitution. I know it and everyone knows it that India is a country of villages and our people live in villages. I can say that extensive countries of the world today have a preponderance of cities but my country is a country of villages. Our culture and civilization is one of villages and whatever remains of it has been saved by the grace of villages alone. Let alone giving a dominating position to the villages in the Constitution, they have been given no place whatsoever. No doubt I have seen that in a small article mention has been made of village panchayats. But it is nothing more than a reference. Our Constitution is silent about the shape that our villages will assume and the place they will occupy in future. The picture of the administration and of the society drawn in the Constitution has no place for the villages. I wanted that in administration and other matters the villages should have been given a predominant place but this has not been done in our Constitution. I consider it a great shortcoming. I think that this is due to the fact that much thought was not given to it. But no doubt it is a basic shortcoming. If we want that our country should make great progress, happiness and peace should soon reign supreme in this land, we will have to give a predominant place to the villages in all matters. We will have to frame all the administrative and other schemes on the basis of the village. If we do not do so we will only add new chapters to our painful history of the past. I want that we should pay attention to this short-coming in working our Constitution and should formulate a nation building schemes on the basis of the village.

There is one thing more which looks very improper to me. When the struggle for Swaraj was launched, we were told that we could achieve freedom only with the weapon of non-violence and truth. Marching forward on the path of truth and non-violence we triumphed and attracted the attention of the whole world towards us. Now when our Prime Minister or our representatives go to foreign countries they are shown the highest respect. I accept that the persons who go abroad have such capacities as to command the respect of others. But I think that the chief reason for this respect is that we have broken as under the shackles of slavery with non-violence and have achieved Swaraj and with non-violence alone have banished the greatest foreign power

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from our country. However, that non-violence finds no mention in this Constitution. It would have been only proper if the whole constitution had been based on non-violence. Then alone could we have acted with success in future in accordance with our sentiments and thoughts. When we were engaged in the struggle for freedom and had to very often change our front, we were reminded of the unfailing strength of non-violence. Every resolution, every scheme and every election manifesto had the stamp of non-violence on it. But this voluminous book, which will shape the future of our country, makes no mention of truth and non-violence. It would have been proper to give a full chapter to non-violence so that the future generations and those on whom the burden of working this Constitution would fall, could have illumined their path with it and gone ahead to build their nation. However, the Constitution has now been framed and will be accepted in two or three days' time. I now appeal to our leaders and to the nation that although the Constitution makes no mention of non-violence but in bringing it into force non-violence must be the basis. If we forsake non-violence we would not only harm ourselves but would hurt the other people of the world also who are looking up to us with the hope that after some time we would be able to establish peace in this violence-torn world. Therefore I request once more the leaders and the people of this country not to be unmindful of Truth and Non-Violence in working the Constitution.]

Mr. President : We shall adjourn till 10 o'clock tomorrow.

The Assembly then adjourned till Ten of the Clock on Thursday the 24th November, 1949.
