

**Shrimati G. Durgabai** (Madras: General): Mr. President, Sir, the speakers who have preceded me have placed before you in a highly learned way an exhaustive analysis of the Constitutional set up which this country is going to have. Sir, I have no intention to repeat them, firstly because I do not claim to have that legal or constitutional wisdom to say anything by way of throwing further light on the points already placed before this House. I also think that at this stage it is better to look forward than look backward and dissect this Constitution in a theoretical way to find out either the merits or the defects of it. Sir, there is only one standard by which we have got to judge this Constitution. The purpose of a democratic constitution is to find a device and to establish a machinery to find out the general will of the people and also to give scope for the general will to prevail. Does this Constitution fulfil this object? That is the point to be considered. Sir, with the franchise extended to all the adults, and with the ample checks provided to control the executive and the Fundamental Rights solemnly guaranteed by this Constitution, I do not think any fair-minded person would say that this Constitution does not fulfil that democratic purpose, that it does not establish the scope and opportunity for the will of the people to dominate in the administration of their affairs. May I say, Sir, that it is not or should not be the purpose of the makers of the Constitution to give the colour of a particular political ideology to the Constitution, and it is well that it is left to the people and the people should be left alone, and they should be the masters to shape the destiny of this country and also to mould their machinery as they like, as long as they hold the field. It would have been wrong on the part of the makers of the Constitution to have given that kind of colour or to put a kind of interpretation of a particular brand of political philosophy to the provisions that are embodied in this Constitution. What the Constitution should do is to give the people sufficient and free scope to canvass their own particular brand of ideology and give them the means to make their own opinions prevail as long as they have got a voice in the administration of the country.

Sir, it is possible for a socialist to complain that the principles of his own party do not find a place in this Constitution. But ours is a Constitution which is neither a socialist Constitution, or a communist Constitution, or even for the matter of that, a Panchayat Raj Constitution. It is a people's Constitution and a Constitution which gives free and ample scope to the people of India to make experiments in socialism or any other ism in which they believe would make this country prosperous and happy. It would have been wrong on the part of the makers of the Constitution to have introduced their own political philosophy, and they have done well in making this Constitution, as I say, a cent percent people's Constitution, and leaving it at that.

In their own wild disappointment, some unkind critics have described this Constitution as no better than "the Motor Vehicles Taxation Act". That, Sir, is very cheap criticism, I should say. Does this Constitution which for the first time gives adult franchise, for the first time guarantees the Fundamental Rights, and which has amazingly succeeded in blotting out the hundreds of patches of this country and made it a strong and united country, does this Constitution stand on par with the Motor Vehicles Taxation Act? Certainly, as I have said that is a way of criticising this Constitution which is a very cheap way.

Sir, I will not deal with the various constitutional safeguards provided in this Constitution for a democratic government. It is a subject on which many learned disquisition have been made. As I said we should now look forward and see to shape the future of things, by means of this Constitution. Many have dealt with the pros and cons of adult franchise. It is a very good thing, provided it is exercised in the interest of this country. What should we do to bring about this happy consummation? It is said that adult franchise unleashes vast forces which may not work in the interest of national good, but which may work in sectional interests. Sir, it depends upon the leaders who are going to take charge of the destinies of our country and of the new set up to create sufficient safeguards against such an abuse. I do not imagine the problem is so difficult as we think it to be, if we only make, in the first instance, membership of this House the membership of Parliament, not a position of unusual prestige or of position and power, but a post of duty and of heavy responsibility, a post of duty and very hard and efficient work. It is only then that many of the defects of parliamentary democracy will be automatically solved. Can we not devise a method by which the elected representatives would be looked upon, not as belonging to a privileged class, but as persons discharging a heavy responsibility and duties over and above, and in addition to talking which is what we are doing now? As long as we maintain the *status quo* with regard to the position of the representatives of the people there will be that scramble

for seats in Parliament and the consequent scramble for power. Only when we are convinced and make others also realise that the position of an elected representative is not merely a position of luck or prestige, but a place of duty and hard and efficient work, only then will there be the necessary restraint in the matter of the choice of the representatives.

Sir, I will not take up much of the time of the House but will only mention one feature which appears to me to distinguish the Constitution from the American type of constitution, and that is with regard to the judiciary. Although this Constitution is of the federal type there is not a double chain of courts created in this country, that is, one set to administer the federal laws and another set to administer the laws made by the State. All the courts form a single hierarchy, at the head of which is the Supreme Court. Immediate below the Supreme Court there are the various State High Courts and below them the subordinate Courts of the States. But every court of the chain, subject to the usual pecuniary and other local limits, will administer the laws of the country, whether made by Parliament or the Legislature of the State.

Sir, there are several other kinds of criticisms made against this Constitution, but I have not got time because I have to accommodate other colleagues of mine, as the President has already said.

Sir, I would just mention one or two points. It is said that there is nothing Gandhian in this Constitution. Look at the Chapter on Fundamental Rights. It has always been criticised in the House and some of the attacks have been bitter, that the Fundamental Rights are not worth the paper on which they are written. Is it supposed that because the Fundamental Rights are hedged in by certain restrictions they are absolute trash? These restrictions on the Fundamental Rights are completely in consonance and in accord with well recognised restrictions in the whole jurisprudence not only of this country but of the whole world and the constitutions of various countries. The rights should not be absolute.

I have also heard the criticism that this Constitution has not laid down the duties of the citizen. It has laid down only the rights. I do not want to say much on the restrictions which have been placed on the Fundamental Rights. While claiming his rights under the Constitution the citizen should as well remember that he has got an obligation and a duty to the State, from which he expects his rights or his protection.

Look at the Chapter on Directive Principles of State Policy. It is said that they are just merely principles which are not enforceable through the courts of law. Constitutional declarations of social and economic policies of the State are becoming a common practice and it is not even unknown to

ancient India. Artha Shastra mentions an injunction to the King in these terms:

"The King shall provide the orphan, the dying, the infirm, the afflicted, the helpless with maintenance. He shall also provide subsistence to the helpless and the expectant mothers and to the children they give birth to."

This is a basic injunction of the Artha Shastra, which the King has no option but to obey and it could form the guiding principle of our Government both at the Centre and in the States.

I do not want to deal with the criticism that this Constitution which is a republican Constitution cannot work well within the Commonwealth, which we have chosen to be part of. From many sources we have heard this criticism. I do not want to deal with it at length but would only say a word. I do not think it is an insurmountable difficulty. I would mention again that it is not unknown in ancient India, because the republic of Licchavis is mentioned as having a form of membership or partnership with the empire of Chandragupta. These two names are inscribed on the imperial coins. Berriedale Keith said that in the Commonwealth if there was no room for the republics to work then the enduring character of the Commonwealth itself was of a doubtful nature. Therefore it would be well that we recognised certain authorities for this purpose of working together. Therefore, it need not be thought that this would constitute any difficulty.

Last but not least, I want to say that I have just read the decision of the Government of India this morning in the papers that they have created facilities to bring about the Andhra Province at an early date. They have done well in leaving the details to be worked out by a Partition Council and that the Centre would not interfere with them. I am very glad about it and I hope that the Partition Council which might be created will not do anything that is injurious to the peaceful and quiet life which the people are enjoying hitherto.