

Mr. B. Das (Orissa: General): Sir, when the first draft of the Fundamental Rights was discussed on the floor of this House I expressed doubts about Clause 3 regarding citizenship. After Ad hoc Committee redrafted it and it was presented to the House for acceptance by the Honourable Sardar Patel. At the time when the Ad hoc Committee's Report was presented I had my doubts as to whether that new draft would suit the requirements of the people of India. I accept the clause to-day. Some slight changes have also been made in the body of the text of clause 3. Sir, I would like to be assured by the Honourable Sardar Patel whether Government intend to change the laws of the Union as envisaged in the proviso of clause 3. Many things have happened since we discussed Fundamental Rights in April last. India has been divided up and Indian citizens who are born in both parts of India now can claim citizenship in either Pakistan or Hindustan. There may be families that may have a brother in Pakistan acquiring the citizenship of Pakistan while others may be citizens of India. Particularly, Sir, I find many officials and non-officials whom I always took as citizens of India, have gone to place their services, their best energies in the service of Pakistan. So it is natural that Government should legislate that everybody must declare whether he is a citizen of Pakistan or Hindustan. One would not like the best brains of India to go to Pakistan and when they come back to India will they be taken as Indians or only recognized as citizens of Pakistan because they have served after the separation in that country?

Sir, as to the other changes of the Fundamental Rights, I accept the recommendations on clause 16 and I also accept that clause 17 and sub-clause (2) of clause 18 should be deleted.

Sir, while we are talking of Fundamental Rights of the people of India, I would like to state that certain citizens, particularly in the services of the Constituent Assembly, were so unnecessarily and deplorably criticised yesterday. They have no representation on the floor of this House--it is the office of the Constituent Assembly--to reply to any charges that may be made on the floor of this House. I think it was wrong to make such statements on the floor of this House. If any member had any grievance, he ought to have approached the Staff and Finance Committee to make any enquiry about the efficiency or non-efficiency of the Constituent Assembly office. Personally I know they have discharged their onerous responsibilities with great intelligence, tact and loyalty to Independent India. They were part of the old bureaucracy and yet they came up to the high standard required of them and they have served India as faithfully and as loyally as any of us have served India. So far I record my grateful appreciation of their work and services.

Sir, I will then come to the next part of the Report which deals with the Fundamental principles of governance. My honourable friend Mr. Sidhwa had made some observation and I agree with him and regret that these pious recommendations should find no place in the Statute. I consider that the fundamental principles of governance means--Dharma of the Government--the path of duty of the Government. But we don't lay down in the Constitution Act what the Government should do and what are the responsibilities of Government to the citizens and the people of India.

We say that the Government may do this and it is expected that we, members of the Constituent Assembly should be treated like children in our homes, and shout and agitate for something from the Government and then the Government, whether they may be the present Government or successor Government will legislate for the betterment of the conditions of the people of India. I am not satisfied with the opinion of the legal servants and great authorities on law in this House who interpret the functions of Government as justiciable and non-justiciable. They have said that we cannot include in the Union Constitution of India what the Government has to do for the people. I think it is the primary duty of Government to remove hunger and render social justice to every citizen and to secure social security. Sir, I am not satisfied, although portions of the Soviet Constitution or the Irish Constitution are somehow made into a jumble and included in these 12 paras, that they bring any hope to us. The teeming millions do not find any hope that the Union Constitution that will be passed two months hence will ensure them freedom from hunger, will secure them social justice, will ensure them a minimum standard of living and a minimum standard of public health. In the principles of Constitution we have approved so far, be it the Provincial Constitution or be it the Union Constitution or be it the Union Powers I do not find anything that makes it obligatory on the Government, on the State, to discharge their obligatory duties to the people of India about common welfare and well being of the people. So better it is that these pious clauses find their way to the Appendix and not to the main Constitution Act! It is no consolation to the people of India that they elect the Constituent Assembly which elects the Dominion Government. The Government has a corresponding obligatory duty to the people to govern them properly, to look after their social welfare and their general well-being. We have appointed yesterday a body of draftsmen to draft the Union Constitution. I hope it is not too late for the legal talents of this House to find ways and means for making it obligatory on the part of the Government to function and to exist for the welfare and well being of the people of India. Too much is made of 'justiciable' and 'non-justiciable.' I do not understand how the Irish Constitution included some of these noble principles in the body of the Constitution. If the Irish Constitution can do it, the Indian Constitution must do it. But then, Sir, we are up against a brick wall of lawyers. Legal talents are there and they rule that these are justiciable and other are non-justiciable. The result is that this House is reduced to the status of children and made to function as children. The Government though it is democratic, must follow, they say, the precedents and the traditions of the bureaucratic Governments of the past. If it does so, it cannot effect any improvement in the social conditions of the people.

This is very alarming. We are framing our Free Sovereign Constitution. Perhaps ours is the last Constitution framed in the 20th century. One would have expected that we would have profited by the knowledge, by the suffering and by the experience of other countries. I do not want this Constitution to be drawn up to last only for a year or two. There are rumblings; there are signs of the times. And if we go by the precedents of the French Constitution Assemblies we may not achieve much. The people of France elected three successive Constituent Assemblies to draft their Sovereign Constitution and there were three successive Constitutions. The French Government, under the last Constitution, has not yet been a stable one. Our Government is expected to be stable and is stable today. But nobody can be a prophet and say that it will be stable for more than a year or two. And if I, a Gandhite, am not satisfied with this Draft, how can I expect the Socialists and the communists and the others to be satisfied with it. Let us make a more acceptable draft. Let us make the draft fit in with the conditions in India. Let us tell the world through our draft Constitution that Indians have a civilization and culture, ten thousands of years old. We should draw up a democratic Constitution whereby the State serves the people and the people, the State. Let our Constitution bear the Stamp of the culture and civilisation of India.