

(SYED MUHAMMAD SAADULLA, NOVEMBER 9, 1948)

The yard stick to measure the contents of the Draft Constitution is really the Objectives Resolution that was accepted by this House universally when it was moved by our learned Prime Minister. That Objectives Resolution contained only eight Articles... They gave us the barest skeleton. The Drafting Committee was charged with the duty of filling in the canvas and producing a complete picture of what the Constitution should be.

Mr. Vice-President. Sir, I rise with some diffidence to sum up this debate and general discussions of the Draft Constitution for I was a member of the Drafting Committee. I do not mean to cover all the grounds that have been advanced during the last four days on the floor of the House but I will speak generally on the trend of the criticism and try to show by facts why the Drafting Committee took a certain line of action. Many honourable Members have been kind enough to give us a meed of appreciation for the tremendous trouble we took in the task of preparing the Draft Constitution. Certain honourable Members were not in a position to congratulate the Drafting Committee and I welcome that also. For it is well known that in the midst of sweet dishes something briny, something salty adds to the taste. I have listened very carefully during the last three days to the criticisms that have been advanced. My task has been greatly lightened by the intervention of my friends, colleagues in the Drafting Committee—I mean Sir Alladi Krishnaswamy Ayyar and Mr. Madhava Rau—in this debate. The criticisms that were levelled against our labours boil down really to three only, one that we have travelled far beyond our jurisdiction, secondly that we have flouted the opinions expressed by various committees by not accepting their recommendations, and thirdly; that we had made a discrimination between the provinces and the Indian States. Sir, if human memory is short, official memory is shorter still. The Drafting Committee is not self-existent. It was created by a Resolution of this House in August 1947, if I remember aright. I personally was lying seriously ill at the time and I could not attend that session. But, Sir, I find from the proceedings that as the Drafting Committee has been asked to frame the Constitution within the four corners of the Objective Resolution, we will be met with the criticisms which we have heard now. Wise men even in those days had anticipated this and to the Official Resolution an amendment was moved by the learned Premier of Bombay. Mr. Kher, wherein we are given this direction.

I will read from his speech. He moved an amendment to the original Resolution for Constituting this Drafting Committee and there he said:

That the Drafting Committee should be charged with the duties of scrutinising the draft of the text of the Constitution of India prepared by the Constitutional Adviser giving effect to the decisions taken already in the Assembly and including all matters which are ancillary thereto or which have to be provided in such a Constitution, and to submit to the Assembly for consideration the text of the draft Constitution as revised by the Committee.

This was his amendment. In his speech he said:

We have laid down a principal that all the action to be taken in the Provincial Constitution will be taken in the name of the Governor. There are a number of things which have to be put in, in order to give effect to this decision which the Assembly has taken and which have been given a place in the Government of India Act. Then there are provisions which are ancillary in the other Constitutions and some other provisions which must usually find a place in the Constitution. All these will have to be included in our draft even though they may not have been discussed or decided here upto now. We have taken decisions on almost all important points. Those will be given effect to but the draft will also contain things which are ancillary to these and also, all such things as are otherwise necessary.

That was the amendment which was accepted by the House. Sir, after this amendment of the Honourable Mr. Kher which was accepted by the House, it does not lie in the mouth of the Members of the Constituent Assembly to say that we have gone far beyond our jurisdiction.

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The yard stick to measure the contents of the Draft Constitution is really the Objectives Resolution that was accepted by this House universally when it was moved by our learned Prime Minister. That Objectives Resolution contained only eight Articles, the last of which need not find a place in a Constitution. Let anyone here say that we have not conformed to the principles that are enunciated by that Objectives Resolution. We cannot say that those eight Articles form our Constitution: they gave us the barest skeleton. The Drafting Committee was charged with the duty of filling in the canvas and producing a complete picture of what the Constitution should be. At the time of moving that Objectives Resolution our popular Prime Minister said that this is an expression of our dream, this is the target of our aspirations and that it is nothing but a "Declaration". A declaration in such bold terms cannot form a Constitution. Therefore the Assembly, at the instance of Government—for the Resolution was moved by the then Chief Whip of the Government party—decided that the actual framing of the Constitution should be left in the hands of the Committee.

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How can I tell Honourable Members that we toiled and moiled that we did our best, that we ransacked all the known Constitutions, ancient and recent from three different continents, to produce a Draft which has been termed to be nothing but patch-work? But those who are men of art, those who love crafts, know perfectly well that even by patch-work beautiful patterns, very lovable designs can be created. I may claim that in spite of the deficiencies in our Draft we have tried to bring a complete picture, to give this Honourable House document as full as possible which may form the basis of discussion in this House. The Drafting Committee never claimed this to be the last word on the Constitution, that its provisions are infallible or that these Articles cannot be changed. The very fact that this Draft has been placed before this august House for final acceptance shows that we are not committed to one policy or the other. Where we had differed from the recommendations of Committees, or where we had the temerity to change a word here or a word there from the accepted principles of this august House, we have given sufficient indication in foot-notes, so that nothing can be put in surreptitiously there. The attention of the House has been drawn so that their ideas may be focussed on those items in which the Drafting Committee thought that they should deviate from the principles already accepted or from the recommendations of the Committees.

As regards the Committees, we were in a difficult position. Some Committees' recommendations were placed before the House and there they were discussed and a decision was taken, but reports of certain other Committees—notably the Financial Experts Committee or the Centrally Administered Areas Committee—were not placed before the House. They could not be discussed by the Honourable Members and no decision could be arrived at. We have taken liberty in the Drafting Committee to put our own view on some matters. If we have done it, we have done it with the best of intentions. As regards two other matters, I will elaborate a little later, but please for God's sake, do not go with the uncharitable idea that the Drafting Committee were not amenable to the vote of this House.

The main point of criticism, at least in regard to those two Committees, is firstly that the Drafting Committee did not give any consideration to the recommendation of the *ad hoc* Committee on the Centrally Administered Areas. We had very able exponents from those areas—Delhi and Ajmer—Merwara. We listened with the greatest respect, but we have heard the criticism on the very floor of this House that India should not multiply very small localities and convert them into units of the Union. We had the recommendations of this *ad hoc* Committee before us but we were perplexed what to do with them. Take Delhi, for example. It has got a population of 20 lakhs. If it is converted into a separate unit—and it cannot but be separated into a distinct unit, call it Lieutenant Governor's province or put it under the Centre—in that case, what are we to do with the other localities which are now centrally administered, Ajmer—Merwara, for instance? According to 1941 census figures, Ajmer—Merwara had only 6 lakhs population, but Mr. Mukut Bihari

Bhargava was good enough to tell me now that the population has increased to 9 lakhs. Let us put the present population at 10 lakhs. In that case, if we give a separate Lieutenant Governor's province to Delhi, how can we refuse it to Ajmer-Merwara? Then what about Coorg? It is another centrally administered locality with a population of less than 2 lakhs. Then again there is the Andaman Islands which also boasts of a Chief Commissioner. Therefore, we thought it best that this matter should be left to be decided by the bigger body—the Constituent Assembly. Were we wrong in adopting this course? We drew specific attention of this august Assembly to this in Part VII of the Draft Constitution in the foot-note there you will find that we have said:

The Committee is of opinion that it is not necessary to make any detailed provisions with regard to the constitution of the States specified in part II of the First Schedule which are at present Chief Commissioner's provinces on the lines suggested by the *ad hoc* Committee on Chief Commissioner's provinces in their recommendations. The revised provisions proposed in this part would enable the recommendations of the *ad hoc* Committee if adopted by the Constituent Assembly, to be given effect to by the President by order.

If we wanted to neglect these areas, if we wanted to give a cold shoulder to their aspirations, we would not have said that it is up to the Constituent Assembly whether they should give them a constitution on the lines recommended by the *ad hoc* Committee.

I now come to the greater charge—of practically refusing to accept the recommendations of the Experts Finance Committee. I can quite appreciate—may, sympathize—with all those members from East Punjab, West Bengal, Orissa and Assam who have criticised this part of our recommendations. But I would leave it to the decision of this august House to judge whether the provisions that we have made are not far better ultimately than the recommendations made by the Expert Finance Committee. I was surprised to hear one particular criticism from an Honourable Member from Madras that we were either careless in going through those recommendations or we were incompetent to appreciate the principles underlying them. To both of these accusations I register an emphatic “No”. On the other hand, we gave the closest attention to the recommendations of the Expert Committee. I will show from their report as well as by figures that if the recommendations of that Committee had been accepted, the provinces will stand to lose, especially the poorer provinces like Assam, Orissa and Bihar. Again, it is not correct to say that the Drafting Committee has not accepted the majority of the recommendations of the Expert Finance Committee. I have that Committee's report in my hands and anybody who has it in his hands will find that on page 41, Appendix VI, the Committee recommended certain amendments in the Draft Constitution. I am glad to say that 95 per cent of those amendments have been accepted by the Drafting Committee and will be found in our provisions. What we did not accept is the figures that the Expert Finance Committee suggested that we should include in our recommendations.

Now, to turn to specific points, first I take the recommendation of the Expert Committee regarding the share in the jute export duty which is now available to the jute growing provinces of India. This subject is very vital for the Republic of India. Jute as is known, is the world monopoly of these four provinces only. I am glad to see from Press reports that attempts are being made to grow jute in Madras, but taking the position as it is, the undivided Bengal used to produce 85 per cent of the world's jute, Bihar 7 per cent, Assam 6 per cent and Orissa 2 per cent but these proportions have been changed by the partition of Bengal into East and West Bengal.

East Bengal used to produce 75 per cent of the total jute produced in Bengal. Therefore the present West Bengal reduces only 10 per cent or 12 per cent of world jute. This position has changed the percentages of Assam, Bihar and Orissa. Yet, what do we find in the recommendations of the Financial Experts' report? Their recommendation is that the share—which under the Government of India Act of 1935, is $62\frac{1}{2}$ per cent of the proceeds of the jute export duty which was given to the four provinces—should be stopped. No money should be given on this account to the provinces. But they realised that the poor provinces will be hard hit and therefore recommended that for ten years, the contribution should be made by the Government of India *ex-gratia* and in the following proportion:—

West Bengal—one crore,
Assam— fifteen lakhs,
Bihar — seventeen lakhs and
Orissa — three lakhs.

Now, I request this Honourable House to consider seriously whether this distribution is just or equitable for a province like Assam or a province like Orissa or Bihar. Bihar has got its production ratio increased from 7 per cent to very nearly 35 per cent of the jute grown in India now. Similarly the percentage for Assam has gone up to 30 per cent and proportionately for Orissa. Yes, the Financial Expert Committee wants to perpetuate the injustice that was done during the bureaucratic days and divide the proceeds in the same fashion, giving West Bengal which produces only 10 or 12 per cent of the total jute production as much as one crore.

One argument advanced by the Committee is that jute may be grown in the other provinces, but the mills converting the jute into finished products are situated in Bengal. It is perfectly correct that the export duty is levied not only on raw jute but also on the finished product. But consider the effect. West Bengal cannot increase its acreage. There, all the available waste lands are being requisitioned for refugees from East Pakistan. If any province can increase jute production it is Assam and Orissa. But if we do not get any return, if the share in the jute export duty is stopped, what is the incentive for Assam to increase the jute acreage? Jute is vital for India in the sense that all the jute produced in West Bengal is sold either to the continent of Europe or America

by means of which we get the much-needed sterling or dollar exchange. If tomorrow the provinces of Assam and Orissa cease to produce jute, the jute mills in Bengal would not have anything to do and they will have to close down. It is on this account that the Drafting Committee thought that we should not accept those recommendations of the Expert Committee and let the *status quo* run.

The next recommendation of the Expert Finance Committee is that, in order to make up the loss which these provinces will suffer by the stoppage in the share of jute export duty, the Government of India which now shares on a 50-50 basis the income-tax from the provinces should increase the divisible pool of the provinces to 60 per cent or an increase of 10 per cent. Sir, most Honourable Members here do not know how unjustly and iniquitously this provision of division of income-tax has fallen on the poor provinces of Bihar and Assam. Bihar produces the raw material; Bihar has the gigantic steel works and offices, but their head offices are all in Bombay and hence the income-tax is paid in Bombay. Bihar therefore does not get any credit for this income-tax. Bihar has been crying hoarse to get this changed, but has been unsuccessful so far. In Assam, the condition is worse. Before Partition, Assam had some 1,200 tea gardens. Even after the removal of a large part of Sylhet to East Pakistan, Assam has got a thousand tea gardens. That is the only organised industry of Assam. But out of those 1,000 tea estates, the head offices or the offices of the managing agents of as many as 800 are in Calcutta or London. Up till now, Assam has been making insistent prayers to the Central Government from the time this system was introduced to change the system. The division under this system is on the basis of collection and not of origin.

Now, do you think, Sir, that if we accept this provision of the Finance Committee, justice would be meted out to Bihar and to Assam? We wanted revision of the entire system and the Finance Committee was compelled to accept the force of our arguments. But they tried to compromise and their compromises are put down in Section 55 of their recommendation.

They say: "We recommend that the provincial share, that is 60 per cent of the net proceeds, be distributed among the provinces as follows:—

20 per cent on the basis of population,
35 per cent on the basis of collection, and
5 per cent in the manner indicated in paragraph 56."

Paragraph 56 says: "The third block of 5 per cent should be utilised by the apportioning authority as a balancing factor in order to modify any hardship that may arise in the case of particular provinces as a result of the application of the other two criteria."

Sir, of the present provinces, after the merger of the native States with Orissa, Assam is the least populated provinces in India. We had a population

according to the 1941 census of 102 lakhs, but now the population has dwindled to 72 lakhs. The population of Orissa has increased. Therefore if twenty per cent of the divisible pool of income-tax is divided on population basis, we get very little. Rather, Assam would get a reduced sum.

Then they say that 35 per cent should be distributed on the basis of collection. This way both Assam and Bihar will suffer, because the place of collection in the case of Assam is Calcutta and for Bihar, Bombay and naturally the major portion of the 60 per cent will go away from the provinces concerned. Only a little 5 per cent is left to mitigate any hardships that may arise in the case of particular provinces. Ours has been a cry in the wilderness; our voices are never heard at the Centre. However hoarse we may cry and however much our Premier may try, we do not get a hearing. Therefore, the Drafting Committee thought that it is not in the interests of the poorer provinces to accept this recommendation of the Expert Committee.

Again, the Committee has stated that the excise duty on tobacco should be divided amongst the provinces on the basis of estimated consumption. That would not help either Assam or Orissa for want of numbers. Although the Expert Committee made a reference about this in their main recommendations, they omitted this from the list of amendments which they have put down in Appendix VI. Therefore when they themselves have not recommended this, no blame can be attached to the Drafting Committee if they have not adopted it.

Lastly, Sir, the Expert Committee recommended that there should be a Finance Commission appointed immediately to go into the finances of the provinces and the Centre. We have not accepted that it should be appointed immediately because we felt that the appointment of such a Commission at this juncture would be fair neither to the provinces nor to the Central Government. Moreover, they will have nothing to go by. The Expert Committee themselves have stated:

In this country the lack of sufficient economic and financial statistics and other similar data is a great handicap. Therefore, the allocation of resources has to be made largely on the basis of a broad judgement, at any rate until the necessary data become available. We attach great importance to the collection of these statistics and to connected research, and trust that the Government will make the necessary arrangements without delay.....

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We find that even on the recommendation of the Expert Committee, there are no data available at the present moment. From the figures which they have published at page 27 of the brochure, we find that the Central Government's budget has been a deficit one continuously since 1937-38. According to the revised estimate for 1946-47, their deficit is a small one of about 45 lakhs, but I am sure, Sir, that when the final figures are published, the deficit will increase. That is the reason why, I presume; the Central Government without consulting

the provinces concerned, by a stroke of the pen, have reduced the share of the Jute Export Duty to these four provinces from $62\frac{1}{2}$ per cent to 20 per cent. They would not have taken this extraordinary step if they were not hard-pressed for finance.

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For the past ten years the Government of India themselves are having deficit budgets, and now they are incurring very huge expenditure on the rehabilitation of refugees, the war in Kashmir and the police action in Hyderabad. On account of these, they are not in a position to give sufficient help to the provinces, whereas the provinces are crying hoarse over the financial neglect from the Centre. Sir, I will just address one point about the particular position of Assam, as Assam's position is not appreciated by most Members of the House. It is not merely a frontier province of the Republic of India but it is a bulwark against aggression from the East.

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