

(SHRI N. MADHAVA RAU, NOVEMBER 9, 1948)

When any federal constitution is in the process of making, there are always two opposing sets of views, namely, the views of those who want to make the Centre strong, and the views of those who would plead for the utmost extent of State autonomy. The provisions of the Draft Constitution are necessarily a compromise, tentatively suggested, of these opposing views.

Mr. Vice-President, I had not intended to join in this discussion, but in the course of the debate, several remarks were made not only on the provisions of the Draft Constitution, but on the manner in which the Drafting Committee had done their work. There was criticism made on alleged faults of commission and omission of the Committee. Mr. Alladi Krishnaswami Ayyar who spoke yesterday and Mr. Saadulla who will speak on behalf of the Committee a little later have cleared or will clear the misapprehensions on which this criticism is based. I felt that as a member of the Committee who participated in many of its meetings, after I had joined the Committee I should also contribute my share in removing these misapprehensions if they exist among any large section of the House.

It is true that the Draft Constitution does not provide for all matters, or in just the way, that we would individually have liked. Honourable Members have pointed out, for instance, that cow-slaughter is not prohibited-according to the Constitution, Fundamental Rights are too profusely qualified, no reference is made to the Father of the Nation, the National Flag or the National Anthem. And two of our Honourable friends have rightly observed that there is no mention even of God in the Draft Constitution. We have all our favourite ideas; but however sound or precious they may be intrinsically in other contexts, they cannot be imported into the Constitution unless they are germane to its purpose and are accepted by the Constituent Assembly.

Several speakers have criticised the Draft on the ground that it bears no impress of Gandhian philosophy and that while borrowing some of its provisions from alien sources, including the Government of India Act, 1935, it has not woven into its fabric any of the elements of ancient Indian polity.

Would our friends with Gandhian ideas tell us whether they are prepared

to follow those ideas to their logical conclusions by dispensing, for instance, with armed forces; by doing away with legislative bodies, whose work, we have been told on good authority, Gandhiji considered a waste of time; by scrapping our judicial system and substituting for it some simple and informal methods of administering justice; by insisting that no Government servant or public worker should receive a salary exceeding Rs. 500 per month or whatever was the limit finally fixed? I know some of the Congress leaders who sincerely believe that all this should and could be done. But we are speaking now of the Constitution as it was settled by the Constituent Assembly on the last occasion. Apart from the Objectives Resolution (which is otherwise known as India's Charter of Freedom) and the enunciation of Fundamental Rights, the decisions of the Assembly dealt, sometimes in detail and sometimes in outline, with questions relating to the composition and powers of the Legislature, the executive authority and the judiciary of the Union and of the provinces, the distribution of legislative powers and administrative relations between the Union and the units, finance and borrowing powers, the amendment of the Constitution and so on. Is there any instance in which a decision of the Assembly embodying Gandhian principles has not been faithfully reproduced in the Draft Constitution? If it is the contention of these critics that the decisions of the Assembly itself have fallen short or departed from those principles, that is of course another matter.

Then those of our friends who wanted indigenous ideas of polity to be embodied in the Constitution would have to admit that while (as has been pointed out by an honourable member today) there might have been republics in the northern India in the days of Alexander, by and large, kingship was an integral part of Indian polity. At a time when the institution of kingship is so unpopular, when even Indian rulers are barely tolerated although they have shed all power, when formal elections and ballot boxes unknown to our ancestors are regarded as the *sine qua non* and authentic symbols of democracy, it would be unreal to pretend to seek guidance for our immediate task in the ancient political philosophy of India. A more pertinent point is this. Why did not the exponents of these fine ideas press them on the attention of the House at the proper time and secure their acceptance when the Constitution was more or less settled during the last session? Why do they not do so even now if they have any feasible suggestions to make? Why should they blame the Drafting Committee for not incorporating in the Draft what can only be described as belated second thoughts?

There is undoubtedly a feeling among some Congress circles and others that the National Government in the Centre and the people's Government in the provinces are both departing from the principles of Gandhiji, that they are carrying on the much the same bureaucratic way as their alien predecessors and that the promised Ramrajya is nowhere near being realised. In these circumstances, "back to Gandhi" has become a sort of militant slogan and a challenge to the authorities. It might or might not be right, but it has to be addressed to the proper quarter. To apply that slogan in the context of the very

restricted task entrusted to the Drafting Committee seems to be entirely pointless. I am reminded of a couplet written about an archaeologist of the name of Thomas Hearn. This is how it runs:

Quoth Time to Thomas Hearn.

What I forget you learnt.

"You learn what I forget" seems to be rather naive advice.

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It is very unfortunate that a good deal of controversy arose in regard to village panchayats. Dr. Ambedkar's strong remarks on the subject were apparently based on his own experience. But, like Mr. Alladi Krishnaswami Ayyar, I wish to speak for myself in the light of my own experience. For over thirty years, the Mysore Government have put the revival of village communities and the improvement of the working of village panchayats in the forefront of their activities. A great deal of public expenditure has been incurred on this account. All officers concerned from the Dewan to the Tahsildar have, according to their lights, given personal attention to the condition of the villages. The present popular Government in Mysore, are, I understand, making still more intensified efforts in the same direction. The results are, in my opinion encouraging and in some cases, quite gratifying. It is true some villages are chronically faction-ridden and indulge in petty tyrannies, or remain the strongholds of untouchability. A considerable number are apathetic or even moribund. But, about thirty per cent could be classed as good; that is to say, they had held regular meetings, collected panchayat taxes, undertaken some optional duties and carried out works of public utility and weekly cleaning by voluntary labour contributed by the villagers and had taken steps to ensure the vaccination of children and so on. The success that has been achieved such as it is, is largely conditioned by the initiative of a good headman or other influential land-lord. I am sure that experience in other parts of the country is more or less the same. In certain small Indian States, where the bureaucratic system of administration had not penetrated, I found remarkable self-help and organised effort in the villages. With sustained effort on the part of the provincial and State Governments, the resuscitation of village communities may well be hoped for. As the Members of the Assembly are aware, Gandhiji was very particular about constructive work in the villages. This is what he said on one occasion. "If the majority of congressmen were derived from our villages, they should be able to make our villages models of cleanliness in every sense. But they have never considered it their duty to identify themselves with the villagers in their daily lives." There is nothing in the Draft Constitution to prevent provincial Governments from developing the village panchayats system as vigorously and as rapidly as they are capable of doing. The only point which has now come into prominence is whether the electoral scheme for the legislatures should be founded on these panchayats, if the House comes to the decision that this should be done, two Articles in the Draft

Constitution have to be slightly amended. But, before taking such a step, the Assembly will have very carefully to consider whether by throwing the village panchayats into the whirlpool of party politics, you will not be destroying once for all their usefulness as agencies of village administration.

In curious contrast with those Members who found fault with the Drafting Committee for not presenting to them a Constitution according to their own ideas, although they had not been approved by the Assembly, there were others who criticised the Committee for having exceeded its instructions. This is an aspect of the matter which will be dealt with by the next speaker. I have only to say, in view of the criticism of Mr. B. Das, that by accepting membership of the Drafting Committee, Members have not given up their freedom to express their views either from the committee room or the floor of this House.

The Draft Constitution is nothing more than a detailed agenda for this session, it is to serve as the basic working paper so to speak. There are other papers too, such as the Report of the Expert Committee on Finance and the Report of the Committee on Centrally Administered Areas. This is not the only paper before the House. If the Draft Constitution is viewed in this light, I am sure Members will appreciate that the charge that the Committee has, in any way exceeded its instructions is unfounded.

One of the honourable Members observed that this Constitution if adopted would become a fruitful source of litigation. So long as the Constitution is of a federal type, the possibilities of litigation cannot be excluded. It is all the more necessary, therefore, that all Articles and Clauses are closely scrutinised to ensure that litigation and consequent uncertainties of administration are minimised if they cannot be avoided.

Sir, there are one or two points which I should like to refer to in this connection. One is this: when any federal Constitution is in the process of making, there are always two opposing sets of views, namely, the views of those who want to make the Centre strong, and the views of those who would plead for the utmost extent of State autonomy. The provisions of the Draft Constitution are necessarily a compromise, tentatively suggested, of these opposing views. My own feeling is that the scales have been tilted a little towards the Centre. If this feeling is shared by any large section of the House, it should be possible to adjust the balance in the direction desired. The second point, Sir, is that the provisions relating to the accession of States are meagre. There have been so many different kinds of mergers of late and the final pattern, so far as we know, has not yet emerged. The exact procedure by which the States will accede to the Union has to be determined at an early date so that the names of the acceding States may be mentioned in the appropriate Schedule and other relevant parts of the Constitution finalised.

There is a good deal of wisdom in the saying; "For forms of Government let others contest; whatever is best governed is best." However, things being

what they are, unfortunately, we have to have some sort of written Constitution and it has inevitably, to be a lawyer's Constitution. If it is possible for any honourable Members to animate the Draft Constitution by a Promethean breath of ancient political wisdom or exalted patriotic sentiment many of us in this House would surely welcome such an effort.