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# CONSTITUENT ASSEMBLY DEBATES OFFICIAL REPORT

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## CONSTITUENT ASSEMBLY OF INDIA

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## CONTENTS

Volume VII—4th November 1948 to 8th January 1949

|                                                                                                            | Pages   |                                                                                                   | Pages   |
|------------------------------------------------------------------------------------------------------------|---------|---------------------------------------------------------------------------------------------------|---------|
| <b>Thursday, 4th November 1948</b>                                                                         |         | <b>Thursday, 18th November, 1948—</b>                                                             |         |
| Presentation of Credentials and signing the Register .....                                                 | 1       | Taking the Pledge and Signing the Register .....                                                  | 453     |
| Taking of the Pledge .....                                                                                 | 1       | Draft Constitution—( <i>contd.</i> ) .....                                                        | 453—472 |
| Homage to the Father of the Nation .....                                                                   | 1       | [Articles 3 and 4 considered]                                                                     |         |
| Condolence on the deaths of Quaid-E-Azam Mohammad Ali Jinnah, Shri D.P. Khaitan and Shri D.S. Gurung ..... | 1       | <b>Friday, 19th November 1948—</b>                                                                |         |
| Amendments to Constituent Assembly Rules 5-A and 5-B ..                                                    | 2—12    | Draft Constitution—( <i>contd.</i> ) .....                                                        | 473—500 |
| Amendment to the Annexure to the Schedule .....                                                            | 12—15   | [Articles 28 to 30-A considered]                                                                  |         |
| Addition of New Rule 38V .....                                                                             | 15—17   | <b>Monday, 22nd November 1948—</b>                                                                |         |
| Programme of Business .....                                                                                | 17—31   | Draft Constitution—( <i>contd.</i> ) .....                                                        | 501—527 |
| Motion <i>re</i> Draft Constitution .....                                                                  | 31—47   | [Articles 30-A, 31 and 31-A considered]                                                           |         |
| Appendices—                                                                                                |         | <b>Tuesday, 23rd November 1948—</b>                                                               |         |
| Appendix “A” .....                                                                                         | 48—52   | Draft Constitution—( <i>contd.</i> ) .....                                                        | 529—554 |
| Appendix “B” .....                                                                                         | 53—100  | [Articles 32, 33, 34, 34-A, 35, 36, 37 and 38 considered]                                         |         |
| Appendix “C” .....                                                                                         | 101—142 | <b>Wednesday, 24th November 1948—</b>                                                             |         |
| Appendix “D” .....                                                                                         | 143—207 | Condolence on the death of Shri Kanya Lal Manana .....                                            | 555     |
| <b>Friday, 5th November 1948—</b>                                                                          |         | Draft Constitution—( <i>contd.</i> ) .....                                                        | 555—584 |
| Taking the Pledge and Signing the Register .....                                                           | 209     | [Articles 38, Government of India Act, 1935 (Amendment Bill) and articles 38-A and 39 considered] |         |
| Motion <i>re</i> Draft Constitution—( <i>contd.</i> ) .....                                                | 209—253 | <b>Thursday, 25th November 1948—</b>                                                              |         |
| <b>Saturday, 6th November 1948—</b>                                                                        |         | Draft Constitution—( <i>contd.</i> ) .....                                                        | 585—612 |
| Motion <i>re</i> Draft Constitution—( <i>contd.</i> ) .....                                                | 255—283 | [Articles 39-A, 40, 40-A, and 8 considered]                                                       |         |
| Taking the Pledge and Signing the Register .....                                                           | 284     | <b>Friday, 26th November 1948—</b>                                                                |         |
| Motion <i>re</i> Draft Constitution ( <i>contd.</i> ) .....                                                | 284—294 | Statement <i>re</i> Eire Act .....                                                                | 613—615 |
| <b>Monday, 8th November 1948—</b>                                                                          |         | Addition of Sub-Rule to Rule 38 .....                                                             | 615—640 |
| Taking the Pledge and Signing the Register .....                                                           | 295     | Draft Constitution—( <i>contd.</i> ) .....                                                        | 640—642 |
| Motion <i>re</i> Draft Constitution—( <i>contd.</i> ) .....                                                | 295—343 | [Article 8 considered]                                                                            |         |
| <b>Tuesday, 9th November 1948—</b>                                                                         |         | <b>Monday, 29th November 1948—</b>                                                                |         |
| Draft Constitution—( <i>contd.</i> ) .....                                                                 | 345—395 | Taking the Pledge and Signing the Register .....                                                  | 643     |
| <b>Monday, 15th November 1948—</b>                                                                         |         | Statement <i>re</i> Future Programme ....                                                         | 643     |
| Taking the Pledge and Signing the Register .....                                                           | 397     | Draft Constitution—( <i>contd.</i> ) .....                                                        | 643     |
| Draft Constitution—( <i>contd.</i> ) .....                                                                 | 397—424 | [Article 8 considered]                                                                            |         |
| [Article 1 considered]                                                                                     |         | Taking the Pledge and Signing the Register .....                                                  | 644     |
| <b>Wednesday, 17th November 1948—</b>                                                                      |         | Statement <i>re</i> Time of Meetings ....                                                         | 644     |
| Taking the Pledge and Signing the Register .....                                                           | 425     | Draft Constitution—( <i>contd.</i> ) .....                                                        | 644—670 |
| Draft Constitution—( <i>contd.</i> ) .....                                                                 | 425—452 | [Articles 8, 8-A, 9, 10, 11, 11-A, and 11-B considered]                                           |         |
| [Article 1 postponed, articles 2 and 3 considered]                                                         |         |                                                                                                   |         |

## CONSTITUENT ASSEMBLY OF INDIA

*Monday, the 8th November, 1948*

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The Constituent Assembly of India met in the Constitution Hall, New Delhi, at Ten of the Clock, Mr. Vice-President (Dr. H. C. Mookherjee) in the Chair.

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### TAKING THE PLEDGE AND SIGNING THE REGISTER

The following Member took the pledge and signed the Register:

1. Mr. H. P. Mody (Bombay : General).

### MOTION *re.* DRAFT CONSTITUTION—(Contd.)

**Mr. Vice-President** (Dr. H. C. Mookherjee): It has been the decision of the House that we should close the general discussion today. There are about sixty names on my list and it is obviously impossible for me to give an opportunity.....

**Many Honourable Members:** We cannot hear you, Sir. Evidently the mike is not working.

**Mr. Vice-President :** It is obviously impossible for me to give an opportunity to every Member who wishes to speak. I have therefore decided to give Members of the minority communities the opportunity to speak first. Mr. Mahboob Ali Baig.

**Mahboob Ali Baig Sahib Bahadur** (Madras : Muslim): Mr. Vice-President, Sir, Dr. Ambedkar's analysis and review were remarkably lucid, masterly and exceedingly instructive and explanatory. One may not agree with his views but it is impossible to withhold praise for his unique performance in delivering the speech he did while introducing his motion for the consideration of this House.

I am afraid, Sir, I am unable to agree with either the form of Government or the form of constitution embodied in the Draft Constitution or the reasons that Dr. Ambedkar gave in their justification.

Firstly, let me deal with the form of Government. Dr. Ambedkar's view is that the British parliamentary executive is preferable to the American non-parliamentary executive on the ground that the former is more responsible though less stable, while the latter is more stable but less responsible. I am inclined to think, Sir, that the advantages of the parliamentary executive have been exaggerated and its defects minimised. It is common knowledge—and from experience also we have found—that the responsible executive under which we have been working for the last two decades has pointedly brought to our attention the fact that a removable parliamentary executive is at the mercy of hostile groups in their own party. Very little time is left to the executive to achieve the programme which is before it. It is so unstable. It is always in fear of being turned out by no-confidence motions. Further, Sir, it is there that the seeds of corruption are sown. A corrupt party-man cannot be turned out by the electorate under the present Constitution or under the proposed Constitution. The Minister or Ministers have always to be very careful to satisfy the various elements in their party in all their legitimate and illegitimate demands. This is the opinion also, Sir, of the Commission that was sent out to India sometime ago, called the Simon-Attlee Commission. It was clearly said that the Ministry is so much engaged in cajoling, in satisfying

[Mahboob Ali Baig Sahib Bahadur]

its Parliament that there is hardly time to look after its administration or to put into effect its schemes. That is a very serious defect. Further, I have heard several members of the party saying: "Well, we cannot vote according to our conscience. There is the Party Whip. God save us from this party system". This is what has been expressed by many honest legislators. Further, Sir, as I said, there is no stability at all.

The third point I would like to urge against this parliamentary executive is that it cannot reflect the several sections of the country. The defects are so overwhelmingly great that I should rather prefer a stable Government, a government which does not stand in fear of being turned out overnight, because it was not able to satisfy some corrupt supporters of their party. Now, it is true in a democratic Government, the executive must be responsible. Let us see whether there is any other system of Government which has both responsibility and stability. It is no doubt true that in the American system there is less responsibility and more stability. But if you look at another system of Government, namely, the Swiss form of Government, where the elected Parliament again in its turn elects the executive, there the responsibility is emphasized. Having elected its executive, it leaves the executive to work out its schemes in a satisfactory way for a period of four years and the decisions of the Parliament are binding on that executive, unlike in the case of the American Presidential executive. Therefore, if we want both stability and responsibility, the Swiss system of executive is preferable.

Now, Sir, with regard to the form of Constitution, I am unable to agree with the Constitution that is embodied in the Draft Constitution. People seem to think that the Centre must be strong, and that unless the Centre is very strong the provinces will always be an impediment in the way of the Centre becoming strong. That is a wrong view. If provinces are made autonomous, that does not necessarily mean that the Centre will be rendered weak. What do we find here? My view is that the provinces will be nothing but glorified District Boards. Look at Article 275 where in an emergency all powers can be usurped by the Centre. Look at articles 226, 227 and 229. The Centre can legislate for the provinces in all matters; and look at the long Union List and the Concurrent List. All these clearly show that in the hands of a Central Government which wants to override and convert this federal system into a unitary system, it can be easily done. Now there is a danger of this sort of Government becoming totalitarian. This is the danger in the form of the Constitution that is embodied in the Draft Constitution. Now to add to this, look at the Fundamental Rights that are enunciated. Can they be called Fundamental Rights at all? Fundamental Rights are those which are fundamental in character, unchangeable except in extreme circumstances. But what do you find here? These Fundamental Rights are hedged in by provisos, by overriding exceptions. There is a little confusion also in that chapter that deals with Fundamental Rights. It is said that from experience, it is found that instead of a Supreme Court deciding whether the Government cannot under certain circumstances override the Fundamental Rights, provision is made in the draft itself; and it is claimed, Sir, in the provisions for the form of Constitution that it must be a flexible Constitution. May I, with due respect to Dr. Ambedkar, state that the rigidity and the legalism which he says must be avoided are the very essence of a written Constitution? It is not an unwritten Constitution as in the case of Britain. In the case of Britain, Sir, it is a matter of history. It is an unwritten Constitution and it has suited the peculiar genius of the British people to go on with their work without any written constitution and the peculiar parliamentary democracy suited the British Government. The very rigidity and the legalism which Dr. Ambedkar complained of a necessary and unavoidable

characteristic of a written constitution. We do not want to be so flexible as to allow any Government to ride rough-shod over the fundamental rights. They are not written rights at all if they are hedged in by so many exceptions. What is stated as Fundamental Rights, in the very article they have been rendered useless. Further, with regard to these Fundamental Rights, it is stated in section 13 that nothing contained in this shall in any way affect the operation of the existing laws. You know very well how reactionary the existing laws have been. No doubt in Article 8 it is stated that all laws which are inconsistent with the Fundamental Rights must go, but in article 13 it is said that the existing laws must prevail as against the Fundamental Rights. Not only there is contradiction here but there is confusion. I could understand, Sir, if under Article 8 a list of Acts and their sections have been mentioned as well as those which have been annulled. That section does not make it clear. In these circumstances, Sir, I am afraid, there are no fundamental rights at all.

One thing with regard to minority rights I am bound to say. There is nowhere any mention of provisions which safeguard the personal law of the people. You know, Sir, in India, at least, people of several communities are governed by personal laws based on their religion. It is possible to legislate with regard to personal laws also. That would go against the claims that this government is going to be secular, which would not interfere with the religious rights of the people.

Sir, one word with regard to reservation. Some Muslim friends of mine, especially Mr. Karimuddin has stated that he does not want reservation for his community. But, when I had a talk with him, he clearly stated that when there are no separate electorates, the people who will be returned will be those put up by the majority community, and therefore, the Muslim candidates who really represent the Muslims may not be elected. That seems to be the reason why he did not want reservation. If we can find out a way by which the Muslims who are elected would truly represent their community, there should be no objection. If in case of minorities a device is found, for instance, the election being based on what is called proportional representation by the system of single transferable vote, if such a device is made by the party in power, by the persons responsible for the framing of the constitution, I think that might go a long way. In the absence of such a device, in the absence of separate electorates, I do not think I will be voicing the opinion of my community if I gave up this reservation that has been agreed to in the Minorities Sub-Committee. Therefore, Sir, I feel, on the whole, that this draft has not been very satisfactory. There is almost a certainty that this system of Government would lead to fascism or totalitarianism and it is capable of riding rough-shod over the valued rights of the citizens and also of the minorities.

**Mr. Z. H. Lari** (United Provinces : Muslim): Mr. Vice-President, Sir, before making my submissions on the draft Constitution, I would like to lodge a protest. The Constituent Assembly refrained from taking any decision as to the language question, and had postponed its consideration to a future stage. But the Drafting Committee, of its own accord, inserted a clause laying down that Hindi and English shall be the languages for transacting the business of the House. In today's paper I saw a report that the Muslim members from the United Provinces and Bihar have agreed that Hindi with Devanagari script shall be the official language. I therefore think it necessary to repudiate that statement at the very outset, and say clearly that we stand for Hindustani written in either script as the national language of our motherland. So far as English is concerned, I think it is necessary to retain it for some years to enable those who are not acquainted with Hindustani to be able to take an effective part in the discussions in the House.

[Mr. Z. H. Lari]

An Honourable Member from Madras was right when he said that there should be no linguistic imperialism. For that reason, Hindustani written in either script alongwith English should be the languages used for transacting the business of the House.

Coming to the Draft Constitution, which is primarily intended to usher in a democratic secular republic, we have to see how far the contents, the form and the spirit of the provisions contained therein are calculated to promote the Objectives Resolution unanimously adopted by this House and universally acclaimed by the country. To assess the provisions of the Draft Constitution, we have to see how far the Draft Constitution ensures the inherent rights of man, rights without which life is not worth living, how far the provisions safeguard against possible prostitution of democratic forms for totalitarianism, how far the provisions ensure justice if not generosity for the minorities and lastly, how far they ensure the independent development of the various national elements in the country. In order to assess the value of the provisions, we have to bear in mind two things: firstly, certain admissions made by the honourable Mover of the Resolution, I mean the Honourable Dr. Ambedkar, and secondly our experience of the working of democracy in the last fifteen months after the attainment of independence. When the House adopted resolutions which are the basis of the Draft Constitution, we had no such experience before us; but now we have. The first admission that the honourable Mover made was, and I will use his own words: "Democracy in India is only a top-dressing on Indian soil, which is essentially undemocratic"..... "It is wiser not trust the legislatures to prescribe forms of administration." With respect, I say he is mainly right.

**An Honourable Member :** He is wrong.

**Mr. Z. H. Lari :** I would like to point out in this connection the various Security Acts which have been passed by the various legislatures, particularly the Safety Act in one province which even excluded the right to move the High Courts under section 491 of the Criminal Procedure Code. The second admission that he made is: "Constitutional morality is not a natural sentiment. It has to be cultivated. We must realise that our people have yet to learn it."

I say not only the people but even our Governments have to learn it. To prove this I will cite only two instances. The House will remember that in Calcutta—in Bengal—the High Court was seized of a case and had appointed a full Bench to decide as to what is the effect of the word 'reasonable' in an enactment dealing with Government's power to arrest and detain. The Bench was to meet only next day but the Government came out with an Ordinance laying down that the word 'reasonable' shall be held to have been deleted. No doubt, as the High Court remarked in that case 'His Excellency the Governor of the Province' was fully within his rights to enact an Ordinance but it was against constitutional morality. The second instance which I would place before the House is that the head of an autonomous institution—I mean the Aligarh University—was only the other day asked to quit and give place to another man although that head had the confidence of the University Court and of the community to which the institution appertains. I say therefore in assessing the value of the provisions we have to keep in view these two admissions made by the Honourable Minister, as well as the recent working of the democracies during the last fifteen months.

Now the first requirement of a citizen is there must be security of life and there must be safeguard of liberty. This august House when considering the Draft Fundamental Rights laid down that nobody should be deprived of life and liberty except in accordance with due process of law. Now those words have been substituted by the words 'procedure established by law'. That absolutely nullifies the intention of those who wanted this article to appear in the Constitu-

tion. The moment you say that a person may be deprived of personal liberty and life “in accordance with procedure” it becomes open to the legislature to frame any legislation affecting life and liberty. That nullifies the very intention. Therefore the substitution of the original clause is absolutely essential. In the Introduction to the Draft Constitution reference is made to the Japanese and Irish Constitutions but those responsible for those constitutions had laid down the procedure itself. For instance it is laid down there that everybody arrested shall have the right to be given the cause of arrest and he will have the right to get it adjudicated by courts. Therefore so far as Japanese and Irish Constitutions are concerned, they have laid down the procedure and after laying down the procedure, the Constitution says ‘Nobody can be deprived of life and liberty except in accordance with procedure as established by law’. I submit that the examples of Ireland and Japan have no relevance.

Next to individual liberty and life comes the sanctity of one’s house. One’s house has been said to be a citadel, and it is of sanctity for him. In all democratic constitutions you will find that no searches or seizures can be made in the houses except on causes shown and on complaints specifying the reason thereof and thing to be seized. Similar articles should appear in our Constitution.

The next necessity of the individual is the right to have elementary education. That is singularly absent in the Fundamental Rights. In the Directive Principles of State Policy it is contained that it shall be the endeavour of the State to provide elementary education. My submission would be that that is absolutely insufficient. What is necessary is that it should be the duty of the State to provide elementary education and such a provision should exist in the Constitution among the Fundamental articles.

Now I come to Article 13 which refers to freedom of speech, assembly or association. These are conceded but have been hedged in by such provisos and conditions that they reduce them to a nullity. I think addition of the words ‘subject to reasonable requirements of public order and morality’ would be enough. The Honourable Mover said that in America these rights have been circumscribed by judicial decisions, but when judicial decisions circumscribing those rights are given, they are given out of necessities of State. I think the addition of the words ‘subject to reasonable requirements of public order and morality’ would do. I submit that Fundamental Rights as conceded in the Draft Constitution are indefinite, insufficient and in certain particulars, vague.

The next item I would like to bring before you is this. The twin principles of democracy are that everybody has a right to representation and the majority has the right to govern. The electoral system, therefore, must be such as to ensure representation to everybody. This is the significance of adult franchise but the method adopted, *viz.*, that of single member constituency really amounts to disenfranchisement of 49 per cent of the voters. It is possible in a single member constituency to disenfranchise even a minority extending to 49 per cent. I am talking of political minority. Even political minorities are entitled to be represented in representative institutions. Therefore the system which is laid down in this Constitution needs revision. It may be said it prevails in England but this is why I drew the attention of the House to certain basic facts to which the Honourable Mover has referred and I would say it would be more advisable to follow the Irish, Swiss and now France in regard to introduction of proportional representation by single transferable or cumulative voting. It may be said that such system leads to multiplicity of parties. This has been in vogue for 25 years in Ireland and everyone is aware that one party governed the country for more than fifteen years and there had been not more than two parties. France had a plethora of parties even when there was no proportional representation. It is better for us to adopt this principle which is more progressive in instinct and which is really democratic.



I come to another feature of the Constitution, *viz.*, the Ordinance. There was a time when we used to complain that Ordinance was the rule and legislature was hardly consulted. I may here refer to the Father of the Nation who said: "Under the British rule the Viceroy could issue Ordinance for making laws and executing them. There was a hue and cry against the combination of legislative and executive functions. Nothing has happened to warrant a change in our opinion. There should be no Ordinance rule. The Legislative Assemblies should be the only Law makers". It is said when the Assembly is not meeting, an emergency arises, and an Ordinance has to be promulgated. But there is no significance of time and space and you can get an Assembly within two days and it is not at all difficult. Even if a necessity existed, that has disappeared; and moreover what is its effect? Because of the use of Ordinance-making powers the Assembly has become a rubber-stamp. In our province I know there is hardly any legislation which is not preceded by an Ordinance and in a Parliamentary Government where the Cabinet determines really the policy of the majority, once the Cabinet has framed an Ordinance and it comes forward in the form of a legislation, it is impossible for the major party to go back and therefore it is the Cabinet which determines the legislation. I would accordingly submit that there is really no necessity of a provision requiring powers of issuing Ordinance.

Then there is the contingency of emergency. No doubt an emergency clause should be there. But such is the wide scope of the emergency as put in the Draft Constitution, that not only actual violence, not only actual invasion as in the case of America, but threat of violence is enough to warrant declaration of emergency. These features are dangerous and must be eliminated.

I will now come to that portion of the draft which deals with minority rights. In dealing with these rights the first thing that has to be seen is reservation of seats. That is the one unique feature of the Constitution—that a minority is said to be safeguarded by means of reservation of seats, without ensuring that the minority concerned has any right or voice in determining its representative. This is meaningless and even deceptive. The only means of safeguarding minorities is by adopting the system of proportional representation. A writer in the Round Table of March 1948 referring to this system and its working in Ireland said that this solved the question of reconciling justice to minorities with the necessities of a stable Government.

Then I come to the Services. What a strange contrast! In the Legislature you have got statutory reservations where they are meaningless, but when you come to the Services it is merely said their claims shall be considered. This is a very pious wish. The experience of the last fifteen months in the United Provinces and in other provinces has shown that mere pious wishes are not enough. There must be statutory reservations. Take away the reservation from the Legislature and for God's sake give us reservation in the Services. Here I speak not only for the Muslims of the United Provinces but also for other minority people. You concede reservations to Anglo-Indians but you deny it to the Muslims. Why this discrimination? Take the situation in the United Provinces. If you pursue the results of the last twelve months there, hardly five per cent of the Muslims have been taken in the services. I say if you take into account their discharges and dismissals it will be 75 per cent, but if you take new recruitment—it is hardly 5 per cent.

**Shri Vishwambhar Dayal Tripathi** (United Provinces : General): What did your leaders do in Pakistan?

**Mr. Z. H. Lari** : My friend wants me to follow in the footsteps of Pakistan. I am not going to do so.

**Mr. Vice-President** : Order, order.

**Mr. Z. H. Lari :** I have not mortgaged my rights to Pakistan. I stand here as a citizen of India. What Pakistan does or does not do is not my concern.

**An Honourable Member :** You have grown wise today!

**Mr. Vice-President :** Order, order.

**Mr. Z. H. Lari :** We never said that Muslims in these parts are going to migrate to Pakistan. We are the children of the soil and as such we claim the rights of citizens of India.

**Shri Vishwambhar Dayal Tripathi :** Even your U. P. leader has escaped!

**Mr. Z. H. Lari :** Interruptions only show how uncharitable and how undemocratic are these.....

**Mr. Vice President :** Order, order.

**Mr. Z. H. Lari :** I Submit to the order. I was saying that my time was very short.

**Mr. Vice-President :** It has gone already!

**Mr. Z. H. Lari :** Give me two minutes more please.

Now there is the question of the Cabinet. I admit there can be no statutory representation there. In a parliamentary system of Government it is inconceivable. But you have to consider whether, after introducing proportional representation, it is not proper for us to go back to the Presidential system. In that case it will be possible to have the election of the Cabinet on the Swiss system. But in the present set-up of the Constitution I admit that statutory reservation is impossible and the best that could be done has been done.

Lastly, I would beg of this House to consider that there must be some provision which should recognise the existence of an opposition in the Legislature. Of late since the Socialists seceded from the Congress, there have been utterances from responsible men indicating that the majority party—I do not say this is a confirmed opinion — are not very charitably disposed towards such an opposition. Just as it is in South Africa, or in England or in other countries, the position of the Leader of the Opposition should be accepted, and the one means of accepting is that it should be provided that he should be also granted a salary as in other countries. We know that in the system that is coming, men like myself have no chance to come back. Therefore, it is not in our interest but in the interests of democracy that there should be a proper Opposition which is constructive and charged with a duty to the country, and the motherland, and this can be assured only when you give a status to it in the Constitution itself.

I notice that in the further amendments provided by the Drafting Committee, there is a suggestion for the appointment of an Advisory Committee to advise the President and there the position of the Leader of the Opposition has been recognised. But his position should be recognised even in the Constitution for the Union and for the States.

With these few submissions I conclude. I have made references to certain admission by Dr. Ambedkar but all the same I have faith in the goodness of my countrymen and in the catholic spirit of those who inhabit this motherland, and I hope that they will rise to the occasion, and now that the critical phase has passed, now that passions have subsided, they will be more realistic and more conciliatory so that there may be an even balance in the country between the majority and the minority, not only theoretically but actually, so that we may concentrate on making India great.

**Mr. Hussain Imam (Bihar : Muslim):** I wish to say a few words on the Constitution as it has been presented to us. My task has been lightened a

[Mr. Hussain Imam]

great deal by the previous speakers who have referred to many of the questions to which I wished to refer.

I must say that I find the position of the President of the Drafting Committee unenviable. He has been attacked from the left for not having copied the Soviet Constitution, and from the right for not having gone back to the village panchayat as his unit. May I say that there is an element of confusion in some of our friends' minds, when they want that the Constitution should provide for all the ills to which Indians are subject? It is not part of the Constitution that it should provide for cloth and food. A very revered Member of this Constituent Assembly regretted that this Constitution does not contain any provision for that purpose. My submission, Sir, is that the Constitution is based on the needs of a country to which it is applied. We have to see whether this Constitution does supply those essentials which are peculiar to our own circumstances.

The first lacuna which I find is that there is no mention of the sovereignty of the people. Unless you accept the principle of sovereignty of the people that all power is derived from the people and all Constitutions are based on the will of the people, the result will be confusion.

This has resulted in confusion. For instance, take what was formerly called the Indian States and the British Indian Provinces. The way in which the two have been treated is scarcely just and equitable. We find that people who mainly fought for the achievement of Swaraj or self-rule have lesser power than the people of the States, who did not participate as much in the struggle as we of the Indian provinces. The customs income of certain States has to be compensated by means of central grants. We have been told that there is one citizenship, the citizenship of India. With one-citizenship rights, can the people of the States have different rights? In the Indian States the people will be free from income-tax and income-tax can only be applied to the British Indian provinces. Corporation tax is not levied there except in so far as it might be applicable to one or two Indian States. I therefore suggest that there should be uniformity with a single kind of suzerainty. That is my first fundamental objection to the Draft Constitution.

Secondly, as Dr. Ambedkar himself has pointed out, I think there must not be any differentiation between the provinces and the States. The right to maintain an army which has been given to the Indian States is wrong. India is in a dynamic condition. Thanks to the sagacity and firmness of Sardar Patel, the question of the Indian States has been solved to a great extent and they are no longer a stumbling block in our way. I was very glad to hear yesterday the Prime Minister of the Jodhpur State and one representative gentleman from Madhya Bharat speaking, in which they themselves came forward with the idea of uniformity with the Indian provinces. There is no reason why the portals of the Supreme Court should be closed to the citizens of Indian States. If they are citizens of India, they have as much right as we have to go to this court for the adjudication of their interests and rights. I think that it is all due to the fact that we have not conceded the suzerainty of the people nor the proposition that with uniformity you get as a matter of course a system under which every one will be equal before the law in power and in responsibility.

I was also surprised that a learned pundit of constitutional law like Dr. Ambedkar should have skipped over the fact that the responsibility of the non-parliamentary executive is not less than that of the parliamentary executive. If it is examined it will be found that the committees of the House of Representatives and the Senate in U.S.A. exercise far greater control than the control exercised by the House of Commons. It is wrong to say that the

Executive in the U.S.A. only comes in for a corrective after four years' term of the President. He is subject to day-to-day control and that control is far greater in the case of the Senate Committees and the House of Representatives than it is in the case of the British Parliament. A very well-known instance is the failure of President Wilson to carry forward his move for the League of Nations, because it was the Senate Committee which did not consent to it. Even the appointment of ambassadors to other countries is subject to the control of the Senate. Therefore it is wrong to say that in the presidential non-parliamentary system there is no control and the control if at all is very remote. It is as intimate if not more intimate than in the British system of parliamentary control. I do not wish to discuss this aspect of the matter further as I shall have opportunities later when we will be discussing this subject again.

I might mention in this connection, as I said earlier, that the constitution must be framed to fit in with the needs of the country. I ask leaders to examine conditions in India. Look at the U. P., the centre of India, where the only other political party that you have got, *viz.*, the Socialist Party, was supposed to be the strongest. What was the result in the local board and district board elections? They were beaten. In the Parliamentary elections out of twelve seats vacated by them every one of them was lost. Is this the way in which you can maintain parliamentary democracy? In a parliamentary democracy it is necessary that we must have an effective opposition. You can never have an effective opposition if you have single seat constituencies. It is only by means of a system of proportional representation that you can avoid the danger of reducing India to a Fascist State. I make this observation in all humility that for the preservation of democracy in India it is necessary that you must have a system where by an opposition may be allowed to come in. The popularity, the prestige and the name of the Congress are so great that it is impossible for anyone to come in opposition to the Congress and the result of this is, as has been seen many times in England, that the majority of the electors are disfranchised in this way that if there is a three-cornered contest the defeated candidates might together get more than the successful one. Even conceding that there will be no three-cornered contest a large part of the electorate is disfranchised. Even if you have 60 and 40 per cent. voting, 40 per cent. have no representation in the country, whereas under the system of proportional representation which is prevailing in most of the new advanced countries of Europe you will have representation in which every shade of opinion will be represented.....

**Shri. L. Krishnaswami Bharathi** (Madras: General): What are those countries in Europe where there is proportional representation at general elections?

**Mr. Hussain Imam** : In the U.S.A. there is proportional representation.....

**Several Honourable Members** : No, no.

**Mr. Hussain Imam** : Switzerland has got it. (Voices: No, no.) Even if nobody has got it, if it is necessary for us, we should not follow what others have done. As I said in the beginning, a constitution must be framed suitable to the needs of the country and not necessarily in line with what others have been doing.

I might explain a point which was made by the previous speaker, *viz.*, that the personal law of the minorities should be safeguarded. The majority need not have the safeguard, because they are the majority, and nothing can be passed in the legislature without their full consent and concurrence, whereas, the minority have not got this privilege and therefore it is necessary that the personal law of the Muslims and other minorities who so desire should be

[Mr. Hussain Imam]

preserved from interference by the legislature without the concurrence of a vast majority of the members thereof.

Adverting to the question of reservation, as Mr. Lari has said reservation in the legislature is no good when there is no method of proper representation. I therefore say that proportional representation, in addition to being a very necessary item for the preservation of an opposition in the country, would also serve the interest of the minorities. There will be no need to have reservation for minorities provided you give proportional representation insufficiently large numbers.

For instance, one or two constituencies in each district may be made multi-member constituencies with ten or twelve seats in each. And, if you have the Lists system which prevailed sometime ago in Germany, that would serve a greater purpose; because voting will be on the basis of parties and not on the basis of persons. We want representation more in groups than individually. We do not want the spectacle of France repeated in India. But we do not wish to have a one-party Government which is liable to degenerate into something anti-democratic.

Before I conclude, Sir, I wish to say few words on the language question. I am not going to say anything in opposition to the prevailing sentiment on this matter. The need for the continuance of the English language for the time being has been advocated by the South. But as far as Hindi is concerned, there is no difference of opinion, provided we know what is Hindi. I personally am prepared to adopt the language spoken by Sardar Patel and the language in which he delivered his recent address at Bombay. He does not come from the Urdu-speaking tracts. He is a Gujarati. He speaks the language which is spoken by people everywhere. I had occasion to listen to the radio-relay of his speech at Chowpathi and I found that it was nothing but Hindustani or whatever name you give it. To me the language in which he spoke at Chowpathi was Hindustani. It is a language which is far better understood by the people than the language used by the Department under him, the A.I.R.

We have been told, Sir, that in this respect too, we are following the Gandhian conception. But people forget that Mahatma Gandhi stood for Hindustani to the last moment. He stood for Hindustani, in both Devnagri and Urdu scripts. Devnagri, as far as the script is concerned has nothing to rival it. It is the best possible medium. But what about the language? Hindi (you may call Hindustani), unless you mix it up with big Sanskrit words and fill it up with all common genders, is Hindustani. As I said, the language of the Deputy Prime Minister, coming from a province not speaking Urdu, should be our criterion and guidance. If the Members of the Constituent Assembly are willing to accept it I suggest that Hindustani, written in both Devnagri and Urdu, which was the last wish of Mahatma Gandhi and the most accepted in India today, should be adopted as the national language.

Sir, the Constitution is only framed once. It is not a thing which is done every other day. So it is but right and proper that in framing it we should give the utmost consideration, cool consideration, without heat and without rancour or mental reservations. I appeal to the House that they should forget and forgive the past. It is very painful, Sir, to be reminded every day that we are responsible for bringing Pakistan into existence. In its creation the Congress was as much a party as anybody else. In that spirit I request that Muslims should not be regarded as hostages. They should be regarded as citizens of India with as much right to live and enjoy the amenities of India—the land of their birth—as anyone else. I conclude my speech.

**Begum Aizaz Rasul** (United Provinces : Muslim): Sir, I congratulate the Honourable Dr. Ambedkar for his lucid and illuminating exposition of the draft Constitution. He and the Drafting Committee had no ordinary task to perform and they deserve our thanks.

Sir, I feel it a great privilege to be associated with the framing of the Constitution. I am aware of the solemnity of the occasion. After two centuries of slavery India has emerged from the darkness of bondage into the light of freedom, and today, on this historic occasion we are gathered here to draw up a constitution for Free India which will give shape to our future destiny and carve out the social, political and economic status of the three hundred million people living in this vast sub-continent. We should therefore be fully aware of our responsibilities and set to this task with the point of view of how best to evolve a system best suited to the needs, requirements, culture and genius of the people living here.

Much has been said about the fact that most of the provisions have been borrowed from the Constitution of the U.S.A., England, Australia, Canada, Switzerland, etc. Sir, I for my part see nothing wrong in so borrowing as long as the higher interests of the Nation and the well-being and prosperity of the country are kept in mind. There is no doubt that the draft Constitution has been framed to fit in with the present administration. But this had to be so in the very nature of things. After all, we have all become used to a certain way of life of government and of administration. If the draft Constitution had changed the whole structure of Government, there would have been chaos. India is a new recruit to the democratic form of Government. Its people have been used to centuries of autocratic rule and, therefore, to carry on more or less on the lines they have been accustomed for some time more, with changes here and there according to changed conditions, is the best thing possible. The important thing is that power is derived from the people and it is the people who will make or mar the destiny of India.

A lot of criticism has been made about Dr. Ambedkar's remark regarding village polity. Sir, I entirely agree with him. Modern tendency is towards the right of the citizen as against any corporate body and village panchayats can be very autocratic.

Sir, coming to the Fundamental Rights, I find that what has been given with one hand has been taken away by the other. Fundamental Rights should be such that they should not be liable to reservations and to changes by Acts of legislature. It is essential that some at least of the civil liberties of the citizen should be preserved by the Constitution and it should not be easy for the legislature to take them away. Instead of this, we find the provision relating to these Rights full of provisos and exceptions. This means that what has been given today could easily be changed tomorrow by an Act of the legislature.

To my mind it is necessary that some sort of agency should be provided to see that the Fundamental Rights and the Directive Principles are being observed in all provinces in the letter and in the spirit. Otherwise it may be that the absence of such an agency may give rise to the formation of communal organisations with the object of watching the interests of their respective communities. It should be the function of the agency I have suggested to bring to the notice of the Government the cases where the Fundamental Rights and the Directive Principles are not being followed properly. I hope this point of mine will be seriously considered by this august Assembly when we come to discuss the Draft Constitution clause by clause.

Sir, as a woman, I have very great satisfaction in the fact that no discrimination will be made on account of sex. It is in the fitness of things that

[Begum Aizaz Rasul]

such a provision should have been made in the Draft Constitution, and I am sure women can look forward to equality of opportunity under the new Constitution.

Sir, I will not go into the details of the Constitution because I shall deal with the various provisions as we discuss the Constitution clause by clause, but there are a few fundamental issues which have been raised and discussed on the floor of this House during the last two or three days to which I may refer in passing.

Sir, the question of the reservation of seats for the minorities has engaged the attention of this House. It is true, Sir, that last year on the recommendations of the minorities Sub-Committee, this House accepted the principle of the reservation of seats for certain communities. At that time also I was opposed to this reservation of seats, and today again I repeat that in the new set-up with joint electorates it is absolutely meaningless to have reservation of seats for any minority. We have to depend upon the good-will of the majority community. Therefore speaking for the Muslims I say that to ask for reservation of seats seems to my mind quite pointless, but I do agree with Dr. Ambedkar that it is for the majority to realise its duty not to discriminate against any minority. Sir, if that principle that the majority should not discriminate against any minority is accepted, I can assure you that we will not ask for any reservation of seats as far as the Muslims are concerned. We feel that our interests are absolutely identical with those of the majority, and expect that the majority would deal justly and fairly with all minorities. At the same time, as has been pointed out by some honourable Members in their speeches, reservation of seats for minorities in the Services is a very essential thing and I hope that the members of this House will consider it when we deal with that question.

Then, Sir, another question which has been engaging the attention of this House is the question of language. Sir, the question of language in its very nature is a very important question because after all we have to devise something which is most acceptable to the people living in this country. It is quite true that the language of the country should be the language that is mostly spoken and understood by the people of the country, and I do not deny the fact that Hindi is the language which is understood and spoken by the majority of the people (*hear, hear*), but, Sir, the word 'Hindi' as it is being interpreted today is a very wrong interpretation. After all there is not much difference between Hindi and Hindustani. Every one will bear witness to the fact that the language spoken in the country, whether by Hindus or Muslims, is a very different language to that which is being described as Hindi and which is being advocated by the protagonists of Hindi. What is advocated is Sanskritised Hindi which is only understood by a small section of the people. If we take the villages, the language spoken there is very different to what is called Hindi here.

Then, Sir, I do not think that the forty million Muslims living in this country can immediately be asked to change their language. I agree that we will have to learn Hindi in the Devnagri script, but some time must be given to us to effect the change-over. It is very unfair of you to ask us suddenly to transact all the business of the state as well as the business in the legislatures in a language that we are not conversant with. I therefore feel that this is a matter which should be calmly and coolly considered. After all, this is not a matter which can be decided on the spur of the moment or on grounds of sentiment or passion. We have to keep in mind the requirements of the country. The Father of the Nation up to the last advocated Hindus-

tani written in both the scripts as the only language which is most suitable and which can be acceptable to the mass of the people living in this country. I therefore recommend that, whereas Hindi in the Devanagiri Script can be made the ultimate *lingua franca* of the country, a certain time limit, say about 15 years, must be given for the change over and until then Hindustani in both the scripts should remain the language of India.

In conclusion, Sir, I would say that whatever we put in this constitution, we must see that all our efforts are concentrated to make India strong and prosperous with equality of opportunity, happiness and prosperity for all so that India may lead the countries of the world on the path of peace and progress.

**Dr. Monomohan Das** (West Bengal : General): Mr. Vice-President, Sir, a few days have passed since the Draft Constitution was introduced on the floor of this House by our able Law Minister and Chairman of the Drafting Committee, Dr. Ambedkar. During these few days, the Draft Constitution has met with scorching criticism at the hands of different members of this House. With the exception of a very few members who questioned the very competency and authenticity of this House to pass the Draft Constitution, all the other Members have been unanimous in their verdict. They have accepted the Draft Constitution with some alterations, additions and omissions, in some clauses and articles, as a fairly workable one to begin with. One very reassuring feature that we find in the Constitution is the single citizenship. As the Chairman of the Drafting Committee has said, unlike the American Constitution, the Draft Constitution has given us a single citizenship, the citizenship of India. In these days of provincialism, when every province likes to thrive at the cost of its neighbouring ones, when we have forfeited the sympathy and goodwill of our neighbouring provinces, it is indeed a great re-assuring feature. I, as a member from West Bengal, especially find myself elated to think that henceforth when this constitution is passed, when this clause of single citizenship, with its equal rights and privileges all over India, is passed, the door of our neighbouring provinces will be open to us, so that our unfortunate brethren from the Eastern Pakistan, will find a breathing space in our neighbouring provinces.

I beg to mention another point regarding the minority problem. The safeguards that have been awarded to the minorities in the draft Constitution, have caused some amount of resentment. Nobody can deny that minorities do exist in this country. No amount of denial can efface these minorities from the face of India. You know Sir, that democracy means rule by majority. The majority is always there to rule and the minority will always be there at the mercy of the majority. The majority has no need to be afraid of these minorities. It behoves the majority, I think, to protect these minorities, and give them safeguards, if necessary, so that a sense of confidence, a sense of security may be created in their hearts. I think, what the minorities of India demand and deserve today, from the majority, is a sympathetic consideration of their problems and not a challenging attitude.

One very pertinent question has been raised by an eminent member of this House, Sir, when he said that the Draft Constitution of India has borrowed many things from the Constitutions of other countries of the world, but it has taken nothing from the indigenous soil, from our cultural heritage, evidently meaning the Village Panchayat System. We, as a sentimental and idealist race have a natural tendency and love for everything that is old and past. Our Chairman of the Drafting Committee has been criticised by various personages of this House, for not including this Village Panchayat System into the Draft Constitution. They have taken it for granted that this Constitution has been the work of a single man, forgetting that there was a Constitution-making body, the Drafting Committee, always to guide the framing of



[Dr. Monomohan Das]

Constitutions. I think, it is strange, Sir, that all the members of the Drafting Committee including the Chairman have forgotten to include this Village Panchayat System into our Constitution. The Village Panchayat System has been a blind spot to all of them. I personally think the Drafting Committee has wilfully left it to the provincial legislatures to frame whatever they like about this Village Panchayat System.

In fact, Sir, there are provinces in which legislation has already been undertaken in that direction, I mean, Sir, the Gram Panchayat Bill of the United Provinces. There is nothing in our Constitution that will take from the provincial legislatures the power to pass an Act in that direction. If our provincial legislatures think that this Village Panchayat System will do immense good to our country, they are quite at liberty to introduce it in their legislatures and pass it accordingly. So I think, Sir, the criticisms sometimes amounting to abuse, which have been showered upon the Chairman of the Drafting Committee, are wholly uncalled for, unjustifiable, uncharitable, and if I am permitted to say so, undignified.

I beg to utter a few words of caution to all Honourable friends who are so enthusiastic protagonists of the Village Panchayat System. Unless and until our village peoples are educated, unless and until they become politically conscious unless they become conscious of their civic rights and responsibilities, and unless they become conscious of their rights and privileges, this Village Panchayat system will do more harm than good. I know that I am inviting severe criticism upon myself when I say that the Village Panchayat System has been there and was there for centuries and centuries. How much has it contributed to the welfare of our country, how much has it contributed to our social, political and economic uplift? If this system is introduced before our village people are properly educated, then I think, Sir, the local influential classes will absorb to themselves all the powers and privileges that will be given by the Panchayat System and they will utilise it for their selfish motives. This system will enable the village zamindars, the village talukdars, the Mahajans and the money-lending classes to rob, to exploit the less cultured, the less educated, poorer classes of the villages.

With these words, Sir, I endorse wholeheartedly the motion put forward by the Chairman of the Drafting Committee for consideration of the Draft Constitution. I thank you, Sir, for the opportunity you have given me to express my views on the floor of this House.

**Shri V. I. Muniswamy Pillai** (Madras : General): Mr. Vice-President, Sir, nobody in this august Assembly or outside can belittle the efforts and the services rendered by the Drafting Committee that has presented the Draft Constitution for the approval of this House. The future generation will feel great pride that this Drafting Committee has been able to digest the various constitutions that are obtaining in the world today and to cull from them such of the provisions as are needed for the elevation of this great sub-continent.

Sir, going through the various sections, one has to note whether the underdog, the common man, the communities that have been neglected in the past, have been well protected, and facilities for citizenship have been afforded. Reading this constitution, one finds that there are two novel things that are not obtaining in any of the constitutions of the world: first of all, the eradication of untouchability. As a member of the so-called Harijan community, I welcome it. Untouchability has eaten into the vitals of the nation, and with all the pride and privilege of the Hindu community, the outside world have been looking at India with a doubtful eye. I welcome this provision because it shows the greatness of the majority community that they found out that there is a

fungus that is eating into nation's pride and they have come forward to remove this curse of untouchability. There are people in India today who say that enough propaganda has been made to eradicate untouchability and there is no need for further propaganda. But I honestly feel, Sir, if you go to the village parts, untouchability is rampant still and a provision of this sort in the Constitution is a welcome thing.

The second feature is the abolition of forced labour (*begar*). If there is any labour required for common purposes in the village, this most unfortunate fellow, the Harijan, is always caught hold of to do all menial and inferior service. By the provisions in this Constitution, I am sure you are elevating a community that has been outside the pale of society. It was given to the great Father of the Nation, Mahatma Gandhi, as a great mycologist, to find out the fungi that were eating into the national vitality. He has made certain proposals to eradicate this evil and I am glad that the Drafting Committee have made provisions to eradicate untouchability and forced labour on this unfortunate community.

Sir, in the Draft Constitution, they have stated that the eradication of untouchability can be made by laws. I plead that mere laws are not enough. Special laws have to be made. In my own province the legislature was good enough to pass an Act to remove the civil disabilities; but in putting the Act into operation, it was not possible even for the Government to enforce the facilities that were sought to be conferred by the Act. Therefore, I plead that there ought to be special laws if you really want to do away with untouchability and forced labour.

Coming to the Fundamental Rights that have been accorded to all in this country, and especially for the unfortunate minority communities, the Advisory Committee, the Minorities Committee and the Fundamental Rights Committee that went through the whole thing have adopted certain methods and they have been approved by this august Assembly.

There are certain sections of people who say that no reservation is required. But, all those, who have seen the unfortunate plight of these minority communities, feel that reservation must be there, as already accepted by the Minorities Committee and also approved by this august Assembly. So far as the protection of the minorities are concerned, it is the good-will of this august Assembly to confer adult franchise with joint electorates. Of course, no one can deny that this is the best thing that could be done in the circumstances to elevate this community, that is poor in economic status and also poor in education. Any attempt to do away with adult franchise will be a great sin. In the matter of safeguard to the minorities, I think what is now provided in the Draft Constitution is a welcome thing; but there is still in the provinces a strong feeling against these safeguards. I honestly feel that they must be enforced in all ways.

Coming to the economic condition of the villagers, especially the tillers of the soil and agricultural labour, I do not find any provision has been made in the Draft Constitution to consider the village as a unit. Of course, due to exploitation and other things, the villages are in rack and ruin. It is the highest duty of any constitution-making body to see that the village is set right. Due to the hereditary system of appointment of village officers, Maniagars and Karnams, they are the people who rule the villages. Having made a constitution for the upper strata for the management of the provinces of India, if we leave alone the village re-construction, I feel that we are doing a wrong thing. It is the wish of Mahatma Gandhi also that the village must be made a self-governing unit. I am sure this august Assembly will reconsider what has been presented to this House and see that we make proper amendments so that the village or a group of villages could come under the category of self-governing

[Shri V. I. Muniswamy Pillai]

institutions. Whether in the District Boards or Municipalities, there are no real representatives of the people of the village or the taluk. Due to certain circumstances the Collectors in my province are asked to look after the District Board administration. These Collectors are loaded with so much other responsible work that they appoint a Special officer to carry on the District Board administration. This is not a popular institution as it is now constituted. I feel that the village unit must be taken into account.

In the matter of appointment of Ministers, the President is given full powers. If you read the provisions of the Government of India Act, 1935, you will find that provision has been made that the Governor or the President, in choosing his Ministers, shall take into account the claims of the minority communities. I find no such provision in this Draft Constitution. I am sure in the further deliberations over this Draft Constitution, some such provision will be made to take into account claims of the minority communities for these Ministers' posts. Sir, I believe that it is political power that can give a chance of better service to these neglected communities. Even in the matter of All India Services, in section 10 it is said that the backward communities are to be taken not of. But, if you pursue the list of backward communities from province to province, the Scheduled Castes do not come in it. I feel that also must be rectified.

Finally, there is the controversy about the national language. Taking my own community, I do not think that even one per cent of the population have taken to Hindi or Hindustani.

I feel, Sir, that this august body must deliberate properly and should not force any language on a province, or district or state where it is not welcomed.

With these few observations, I congratulate the President and members of the Drafting Committee for their great service in presenting the Draft Constitution to this Assembly and I commend the motion to this House for its acceptance.

**Shrimati Dakshayani Velayudhan** (Madras : General): Mr. Vice-President, Sir, now that the draft is before us for general discussion, I request you to permit me to express my views on the same. The able and eloquent Chairman of the drafting Committee has done his duty creditably within the scope of the general set-up of the new State of India. I feel that even if he wanted he could not have gone beyond the broad principles under which transfer of power took place and I therefore think that any criticism that is levelled against him is totally uncharitable and undeserved. Even if there is any blame—and I think there is—it should go only to those of us who are present here and who were sent for the purpose of framing a Constitution and on whom responsibilities were conferred by the dumb millions of this land who by virtue of their suffering for independence had great hopes when they sent us to this Assembly. But this does not mean that I have not got any criticism about the Draft. I fear that the Constituent Assembly from the very beginning of its formation showed more interest in things other than making a constitution. We hear daily speeches made by our great leaders and their ideals and principles but in the Constitution we find that it is barren of their ideas and principles. We have got leaders of national and international importance but in our Constitution we find that those principles and ideals are absent and it is a great tragedy to find that such a draft has been placed before us and I do not think even the members of the drafting Committee have completely read the Draft that is placed before us.

The general criticism is that the draft is a replica of the 1935 Act, but we cannot forget the fact that we have got a legacy of the British Imperialist ad-

administration which goes by the name of the Parliamentary system of Government. The trouble was that we were depending on it and we will have to depend on it even after the Constitution is put into operation. The trouble arose from one point, *viz.*, just as the British administrators who wanted to keep India centrally and provincially as a single unit, we in our bewilderment and anxiety tried to bring India centrally and provincially as a strong unit and this centralisation of power has led to all the troubles. There are two ways of making India a strong unit. One is by the method of centralisation of power and the other is by decentralisation; but centralisation is possible only through parliamentary system which now goes under the safe words 'democratic methods', but in this draft we can't find anything that is democratic and decentralisation is totally absent. It is a great tragedy that in making the constitution of a great country with thirty crores of people, with a great culture behind it and the great principles and teachings of the greatest man of the world on the surface, we were only able to produce a constitution that is totally foreign to us. The arguments put forward by the Chairman of the Drafting Committee are not at all convincing. He has said that we are very late in making the Draft Constitution. But I can cite examples which will show that his arguments are not sound. The Drafting Committee recommends that the President of the Union can nominate fifteen members to the Council of States. Then another plea is that the term of the legislature should be more than four years. There is another misnomer in the Draft and that is about the selection or the election of the Governors. The Committee feels that if the Governor and the Chief Minister who is responsible to the Legislature are elected by the people then there will be friction between the two. But the remedy they have suggested is worse than the disease. There is a panel and the President is to select from the four one person as a Governor. If the Centre happens to have a Congress President and if a province is having a Socialist majority, suppose the Socialist party recommends three from their party and one from the Congress, certainly the President at the Centre will select the Congress man to be the Governor. Certainly this will lead to friction. We find that this direct recruitment to Governorship is taken from the Government of India Act and it shows that we have not left out even a comma from it.

Then, Sir, I cannot understand why there should be Centrally Administered areas under the new Constitution. The British kept these areas simply to have the military rule in the country. But I do not understand why we should have such areas under the present Constitution. It is better that these provinces are merged with the adjoining provinces and thus we will not be losing anything. We find that the draftsmen included such a clause and as a result it has come before us for discussion.

Then I want to say a few words about the Socialist demand at this stage. The Socialists are the second party which wants to come as an Opposition to the official bloc. We cannot deny the large following that they are having in the country. They have declared that they want to be a Constitutional Opposition in the future. But I must say that I do not agree with their demand that this Constituent Assembly should be buried. I have to make one suggestion. The present Constitution, when it comes into force, will be put before the public by way of the General Elections. Then this Constitution can be made an election issue either for its acceptance or rejection. If the majority of the electorates accept the Constitution, then we can take it that the whole country has accepted it. If the majority of the electorates reject it then we must take it that the whole country has rejected it, and the party that comes into power, and the Legislature that will be formed thereafter, can take up the Constitution and make the amendments that are necessary. I think, Sir, the Congress Party that is in power today will accept such a policy and see

[Shrimati Dakshayani Velayudhan]

that we are not blamed for being undemocratic in our approach to Constitution making.

**Shri Deshbandhu Gupta** (Delhi): \*[Mr. President I am sorry I cannot congratulate Dr. Ambedkar, the Chairman of the Drafting Committee who has received congratulations from different Members of the House. I have read that part of the recommendations of the Drafting Committee which relates to the Chief Commissioners' Provinces, with great care. I would like to confine my remarks to this part only and wish that the Members of this House should go through it minutely.

Mr. President, you are aware that previously when the problem of Chief Commissioners' provinces was brought before the Constituent Assembly, the recommendations of the Drafting Committee were that the system of governance should remain the same as is now in force. Hindustan is changed, the country is free, but Delhi and other Chief Commissioners' provinces, in spite of their considerable population, did not have any say in the administration. There was no change in the system of their governance. When such a recommendation was brought before us in the Constituent Assembly, the representatives of the Chief Commissioners' provinces raised their voice and the Constituent Assembly appointed a special sub-Committee, which was entrusted with the task of framing a constitution in accord with the conditions prevailing there. Mr. President, the Chairman of this special Sub-Committee was Dr. Pattabhi Sitaramayya, the President-elect of our present National Congress and a senior member of this House. This special Sub-Committee had obtained the services of our constitutional "Pandit" Shri N. Gopalaswami Ayyangar. Moreover, our another Constitutional "Pandit", Shri K. Santhanam was also one of its members who always took a keen interest in it (*laughter*). (Do you doubt it)? Every member of the committee took interest in it and the recommendations which they submitted were unanimous. This committee held several meetings, considered the whole problem, examined all the sides of the question minutely and it also considered those difficulties of the Government, due to which they had deemed it proper to treat the Chief Commissioners' Provinces with indifference. Accordingly, taking all the matters into consideration, recommendations were submitted in which it was clearly stated that although the people of these areas demand that they should have the same rights as the people of the other provinces have already got — and there is no reason why this should not be—yet, considering that Delhi has a peculiar position of its own, they have recommended that Delhi and other similar provinces should be turned into Lieutenant-Governors' Provinces; and as regards the appointment of a Lieutenant-Governor it was conceded that the Centre should have control over him. Accordingly, it was resolved that instead of electing the Governor the President of the Republic should nominate him.

Another safeguard which has been provided is that, unlike other provinces, the constitution of the provinces should be framed differently and in such a manner that the provincial and central list should be concurrent, so that the Centre should have the full power to interfere in any legislation it likes which has been passed by the provincial Legislature. Moreover, the province should not have its exclusive jurisdiction.

It also has been provided that its budget should be brought before the Centre and that the President should have the right to interfere in it. This is not all. There is yet another safeguard, which says that should any difference arise between the Lieutenant-Governor and the Ministers on any matter it would be referred to the President whose decision on the subject would be

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\* [ ] Translation of Hindustani Speech.

taken as final. I fail to understand why the Drafting Committee deemed it necessary to dismiss this question in a few lines on the plea that as Delhi is the Capital town, local administration was not possible—although the Committee had submitted its recommendations after mature consideration in which maximum regard was paid to the powers of the Centre. It seems to me that the Drafting Committee, instead of paying due regard to the unanimous recommendations of the special committee or trying to find any other way out, has acted according to its prejudices and thought that it was not a matter to which consideration should be given. It seems to me that these gentlemen were under the impression that the special Committee was appointed merely to console the people of Delhi and other Chief Commissioners' provinces. That is why its recommendations have been thrown into the waste paper basket. I would like to ask them, why did they not realise that so many Members of the Constituent Assembly who spend considerable time in Delhi have certainly thought it proper that Delhi's population of 20 lakhs should have a say in their own administration? Does it look nice that in case there is a partial strike in Delhi, the Home Minister and the Prime Minister should run about to stop it? Is it proper that even under the new system of administration the cabinet ministers should be called upon to settle even the petty affairs of Delhi and the people of Delhi should have no voice? It is said that there being no parallel in Australia, it could not be done also here in India. I should have thought that we should try to benefit by the constitution of other countries and should not merely copy word by word. The example of Australia has been cited, but the population of its Capital town was 8000, and the estimate of its population in 1944 was 12,000. Its population is less than that of Narela, a town near Delhi. If you want to follow the example of Australia, then by all means make Narela your capital and exercise your authority there. The people of Delhi will have no objection. Another example which has been cited is that of Washington. This example can hold good to a certain extent. But I think that Delhi and Washington cannot be weighed in the same scale. Delhi is a commercial and an industrial town and it has a population of 20 lakhs whereas the population of Washington is near about 8 lakhs. Washington has been specially built to serve the purpose of a capital. Delhi has been in existence for centuries, nay for thousands of years. It has a culture of its own and its population has its own requirements.

To my mind, great injustice is being done to the citizens of Delhi by dismissing the whole question in few lines by saying that, as it is not done in United States and in Australia, therefore nothing can be done likewise in Delhi. I would like to ask whether it is not a fact that Moscow has a separate province and a provincial administration of its own. If Moscow, being the Capital of U.S.S.R. can have a separate administration, why can't Delhi have one? Is it not a fact that there are four separate provinces in the Union of South Africa? And is it not a fact that even there, the capital city is also the capital of a province? Then why cannot it be done in India? Only two examples have been cited before us and of these two, one is that of a place where the population is 8000. I would like to ask with greatest respect: what comparison could there be between the capital of Australia and Delhi? Is it not an injustice that the case of Delhi be dismissed in a minute by comparing it with a town having a population of 8000?

I would like to say in all humility that if this Constituent Assembly, which is representative of the people, does not lend its ear to the voice of the people, then they will have to adopt some other method for making their voice heard by the members. Since 1927 from every nook and corner of Delhi the cry is being raised that Delhi should have a separate administration of its own; even today a resolution to the effect has been passed by the Delhi Provincial Congress Committee. A similar resolution has also been passed at a provincial

[Shri Deshbandhu Gupta]

political conference. Chief Commissioner's Advisory Council and the Delhi Municipal Committee have adopted similar resolutions. Similar resolutions have been passed in hundreds of meetings but the members of our Drafting Committee have completely ignored that; they have not cared to take note of that at all. I think it is a grave injustice. There can be no greater injustice that the residents of Delhi, which is the heart of India, be denied a share in its administration. It is said that this demand is being put forth as some Delhi-wallas are hankering for Governorship and Ministership. I ask my worthy friend that while he poses to be the standard-bearer of the minority-rights—Dr. Ambedkar's attentive eye at once catches even the minutest point, if any, concerning the minorities—how did the claim of this small province escape his notice? He should have shown some consideration to Delhi, regarding it at least as a minorities province. Even today when it concerns a religious minority, which is only 30 to 35 lakhs, the question is brought before the Constituent Assembly. It draws the attention of all of our leaders and they do their utmost to find a solution, but nobody today pays any heed to the Delhi province. Is it not an injustice to ignore the demand of twenty lakhs of people and to regard the twenty-lakh population as insignificant? Today about six lakhs of our brethren have come down to Delhi from West Punjab after losing their all. Delhi has given them shelter and made them its own. I want to know whether this Constituent Assembly wants to penalise doubly these six lakhs of people by denying them franchise? That would be a great injustice. If you think that Delhi, being the capital, needs more of protection then you can certainly give it. Delhi-wallas are prepared for that service. In the recommendation, which we have placed before you, we have ourselves conceded wide powers. What do you then lose by giving to Delhi a small Legislative Council and a few ministers? You will have full freedom to suspend the whole thing whenever you like. The special Committee have themselves given all these powers to the President. Even here, instead of giving this a trial which would be a step in the right direction, we are told that there is no necessity of giving it a trial, and the President is vested with powers to take any such action, if and when he thought fit. On top of it all, it is made out that this is the only comprehensive solution of this problem. Mr. President, through you, I entreat the Honourable members of this House to ponder over this question calmly and to realise that the feeling of the people of Delhi is very strong and that their demand and their grievance is quite justified.

The same may be said about Ajmer-Merwara and Coorg; but as most probably they may amalgamate themselves with their neighbouring states they may thus acquire all the rights enjoyable by an autonomous province; but as regards Delhi it is being ordained that there would be no change in its status. Previously, Delhi's population was about six lakhs. Its present population is near about twenty lakhs, and it is estimated that within the next decade it would increase by another ten or fifteen lakhs. It is the fourth biggest town of India and its people have no voice in its administration. What is the state of affairs today? Delhi's Administrative report does not come before us. We are told that a Chief Commissioner's Advisory Council has been provided and we must be content with that. So, listen a bit about that also. It is more than a year that it was set up but not even once during all this period has the Chief Commissioner thought it necessary to consult the members of his Advisory Council on any matter of day-to-day administration so far. When riots broke out in Delhi, an emergency committee under the Chairmanship of Mr. Bhabha was set up by the Central Cabinet. But Delhi's Advisory Council had no hand in it. I want to know that if some sort of misfortune or devastation be falls Delhi today, or some sort of difficulties are

created by the people of Delhi, then would it not affect us? How could it be therefore that the people of Delhi are not to be given any voice in its administration? New townships are being built around Delhi; new schemes are being planned, but nobody consults the people of Delhi. There is no place for them. For trivial matters they have to go to the Prime Minister or to the other Ministers. If Bombayites are capable of self-government, if Calcutta people are capable of running a government, and if U. P. with a population of five crores can run its government, than the same right should be given to the people of Delhi so that they may run the administration of Delhi province. The people of Delhi have never lagged behind during the hour of trial; their part in the struggle for freedom has been no less than that of others. In spite of all this, it is stated that no rights can be given to the Chief Commissioners' provinces of Delhi and Ajmer-Marwara. I want to emphasize that this question cannot be settled so easily.

Sir, I being the only member here for Delhi, my voice is feeble; I get little opportunity to make known to this House the aspirations of the people of Delhi. Today, with the great difficulty I have got this opportunity to put their case before this House; who cares for a cry in the wilderness? The most potent argument that I can place before you is that whatever safeguards you think proper, you may take. We shall have no objection to that, but the local administration should be entrusted to the people of Delhi. Delhi's status should be similar to that of other provinces. If you do not concede this right to them, it would be a grave injustice. The consequences will not be good.]

**Shri Gokulbhai Daulatram Bhatt** (Bombay States): \*[Mr. President, The minorities are being afforded an opportunity today to speak to the motion. I am, however, from the Native States. But these States are as yet political minors though they are gradually moving forward to attain the age of political majority. I am specially here to demand that we, who have reached this fulness of political age, should be recognised to have attained it, notwithstanding those who would like to deny us this right. The fact is that our States and Unions of States are similar in character to the other provinces. I believe that I have been afforded this opportunity on this very ground and I only say that it was for this very purpose that I had agreed to it and I thank you, Sir, for affording this opportunity to me. Since the draft of the constitution reached me I have been carefully scrutinising it. I may therefore say that it is not that I have begun its scrutiny only a few days back. But from the day I began to examine it I have felt that there is nothing in it which may be said to be proper and right. I admit that it is quite proper to borrow, in a written constitution, such provisions from constitutions of other countries as may be considered obviously very good and useful. But the bold and authoritative statement of the Chairman of the Drafting Committee that the constitution we are going to accept would be the best in the world should be taken with some reservation. He says so because he is one of those who have prepared this draft—and I admit that they are entitled to gratitude on our part for the pains they have taken and the labours they have put in, borrowing parts from the constitutions of innumerable countries. Of course, it is not that these parts are disparate nor do I suggest that they have strung up a remarkable frame of unharmonious parts gathered from here and there. No, I would not like to make such an observation, for I do not think that the disparity within its various parts is to such an extent as would justify such a sentiment. But I would say that even in the buildings of Delhi, the city where we are meeting today and of which Shri Deshbandhuji has been telling us just now and which I agree should be given a separate status of its own

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\* [ ] Translation of Hindustani Speech.



[Shri Gokulbhai Daulatram Bhatt]

in the buildings of Delhi, for example, in a building like the Governor General's House there are to be found traces of ancient architecture just as much as there are those of modern architecture. Similarly I concede that good provisions of the constitutions of other countries may be included in our Constitution. But I feel pained today, as I did even before, that in our eagerness to borrow from other countries we have totally neglected those ancient principles and institutions of our country which are there even today and which we have inherited in our blood. It is a draft of the Constitution but neither its guiding principles nor its body are vitalised by the heart of India. The truth is that it does not give us the sense of being our own. This draft is no doubt beautifully decorated and decorated with flowers and other attractive articles. But the fragrance which such a constitution should give out is not there. I do not suggest that the labours of the Committee were a mere waste of energy and time, but I beg to be excused if I do wonder why so many months were spent on it when the constitution to be framed was to be only of this nature. I do not deny that there are some good features in it and I extend my congratulations to them for the same; but considering it as a whole I doubt seriously if it can at all be considered a constitution which is Indian in spirit and in character.

Dr. Ambedkar boldly admitted, and the members of the Drafting Committee do concede that in this constitution there is no provision for establishing Panchayat Raj, the village Panchayati system in India. When there is no such provision, it can never be the constitution of India. To forget or spurn the system of village Panchayats, which has lifted us up and which has sustained us so far and to declare boldly that it has been deliberately spurned—well in all humility I lodge my protest against it. They admit that they have spurned it and have not included it in our Constitution. He has said so and that too with great emphasis. I am pained at the fact that the Chairman of our Drafting Committee has used the words, “what is the village but a sink of localism and a den of ignorance...” I am glad that the Draft Constitution has discarded the village...” I was grieved to find that our great Pandit with all his knowledge of Sanskrit and politics, has opposed the system of village Panchayats in this way. If the village is to be discarded, someone can also boldly demand that this constitution be discarded. But I am a humble person and do not have much experience either. Occasionally I am led by sentiment also to make an observation. But in all circumstances an attempt should be made to include in some form, by the amendments we intend to bring forward, that democracy should be the foundation of our polity. Then alone can our Constitution be complete, then alone will it have life and then alone will we have the feeling that this constitution is our own. Otherwise we would be rearing this great building on a foundation of sand and it will surely fall down. This is what I particularly want to suggest and that was why I wanted to speak.

Another matter to which I want to draw your attention is that some of our States have joined together to form a number of unions. It is a matter of great satisfaction that our able leader Sardar Patel has changed the very face of the States with great speed and I am proud of it. Now, the constitution will be completed, I admit by the end of December or in January next. But several States have and desire to continue to have a separate existence of their own. It must be said that if the province of Orissa can have a separate existence, several states such as Travancore, Cochin, Jaipur, Jodhpur etc., can also maintain their separate existence. But I humbly submit that if we form such small provinces, we will find ourselves in the grip of much worse provincialism than we have today and all our unity will be shattered. The result will be that we will not be as strong as we are to-

day. I would say that the States and provinces should be so big and so well administered as to be able to stand on their own legs. A Revenue of six crores or seven crores or eight crores is not sufficient. No large province can pull on with this revenue. In my opinion, no such province should be formed as may have a smaller revenue than twenty to twenty five crores; nor in my opinion should there be formed any Union of States which does not have that much revenue. But this is a matter which requires consideration, special consideration, by our leaders. I come from Rajputana and from a small State. Even though I admit that the rulers have made great sacrifices and may also praise their self-surrender. Yet I wonder how long can Bhopal be permitted to maintain, as it is doing today, a separate existence from Madhya Bharat, how long Benares and Rampur can be permitted to have their separate existence and Jodhpur and Bikaner, in our parts, can be permitted to remain separate autonomous identities. When India is going to be divided into various provinces—and of course they should be big ones—I think the rulers, rulers of big States, should come forward and on the basis of the mutual understanding merge their States into sufficiently big units. If, for example, Rajputana is formed into a unit by itself the question of Ajmer and Merwara will naturally be solved for there would be no reason to continue its separate existence as it is but a small province. It is a part of Rajputana and should be naturally merged therein. Rulers may be given high officers in order to keep up their dignity. The offices of Rajpramukh and Up-Rajpramukh are already there. Besides these, there are many other offices in India which should be given to rulers because we respect them. So far as the States are concerned, we would not in any circumstances like to lag behind the provinces, nor would it be proper to keep them behind the Provinces. If it be said for any reason that we have acceded only in a few subjects, I would say that this need not be so. We do say that our status should be improved because you are kind to us and want to lead us forward. We would not like to be put on any other footing than that of the other provinces. Our status should be the same as of provinces in all matters, be they relating to High Court or Supreme Court. I am sure you will help us in the matter. We shall ask our leaders to help us, to lead us forward and give us the same place that the provinces have.

I shall not speak much because many friends have already put many of these facts before you. But I do like to submit that in regard to the formation of small provinces on linguistic basis I hold a different view. It is my opinion that under the existing conditions in India we should not even think of this for at least the next ten years. I would submit earnestly to my friends to postpone for the present the issue of the Linguistic Provinces for the sake of the unity that we are seeking to establish and for the sake of the powerful nation we are trying to build up now. We shall think over the question after ten years when things have settled down.

This is what I wanted to say. As far as Delhi and other places are concerned. I would like to urge that we should take into consideration the fact that Delhi is the Capital and that as such it must be given a distinct status. I am one with Lala Deshbandhu Gupta on this question. But the small regions like Ajmer-Merwara, Coorg, Pantpiploda etc. should be merged in the provinces. It is no use making them centrally administered areas. This much I would like to submit to Doctor Sahib. He is a great scholar, and as such he should treat this country also as a land of wisdom. It is my appeal to him that he should give a place to the soul of India in this constitution.]

**The Honourable Pandit Jawaharlal Nehru:** (United Provinces : General) (Rising amidst cheers) Mr. Vice-President. Sir, we are on the last lap of our long journey. Nearly two years ago, we met in this hall and

[The Honourable Pandit Jawaharlal Nehru]

on that solemn occasion it was my high privilege to move a Resolution which has come to be known as the Objectives Resolution. That is rather a prosaic description of that Resolution because it embodied something more than mere objectives, although objectives are big things in the life of a nation. It tried to embody, in so far as it is possible in cold print to embody, the spirit that lay behind the Indian people at the time. It is difficult to maintain the spirit of a nation or a people at a high level all the time and I do not know if we have succeeded in doing that. Nevertheless I hope that it is in that spirit that we have to approach the framing of this constitution and it is in that spirit that we shall consider it in detail, always using that Objectives Resolution as the yard measure with which to test every clause and phrase in this Constitution. It may be, of course, that we can improve even on that Resolution; if so, certainly we should do it, but I think that Resolution in some of its clauses laid down the fundamental and basic content of what our Constitution should be. The Constitution is after all some kind of legal body given to the ways of Governments and the life of a people. A Constitution if it is out of touch with the people's life aims and aspirations, becomes rather empty: if it falls behind those aims, it drags the people down. It should be something ahead to keep people's eyes and minds up to a certain high mark. I think that the Objectives Resolution did that. Inevitably since then in the course of numerous discussions, passions were roused about what I would beg to say are relatively unimportant matters in this larger context of giving shape to a nation's aspirations and will. Not that they were unimportant, because each thing in a nation's life is important, but still there is a question of priority there is a question of relative importance, there is a question also of what comes first and what comes second. After all there may be many truths, but it is important to know what is the first truth. It is important to know what in a particular context of events is the first thing to be done, to be thought of and to be put down, and it is the test of a nation and a people to be able to distinguish between the first things and the second things. If we put the second things first, then inevitably the first and the most important things suffer a certain eclipse.

Now I have ventured with your permission, Sir, to take part in this initial debate on this Draft Constitution, but it is not my intention to deal with any particular part of it, either in commendation of it or in criticism, because a great deal of that kind has already been said and will no doubt be said. But in view of that perhaps I could make some useful contribution to this debate by drawing attention to certain fundamental factors again. I had thought that I could do this even more because in recent days and weeks. I have been beyond the shores of India, have visited foreign lands, met eminent people and statesmen of other countries and had the advantage of looking at this beloved country of our from a distance. That is some advantage. It is true that those who look from a distance do not see many things that exist in this country. But it is equally true that those who live in this country and are surrounded all the time with our numerous difficulties and problems sometimes may fail to see the picture as a whole. We have to do both; to see our problems in their intricate detail in order to understand them and also to see them in some perspective so that we may have that picture as a whole before our eyes.

Now this becomes even more important during a period of swift transition such as we have gone through. We who have lived through this period of transition with all its triumphs and glories and sorrows and bitterness, we are affected by all these changes; we are changing ourselves; we do not notice ourselves changing or the country changing so much and it is a little helpful to be out of this turmoil for a while and to look at it from a distance and to look at it also to some extent with the eyes of other people. I have had

that opportunity given to me. I am glad of that opportunity, because for the moment I was rid of the tremendous burden of responsibility which all of us carried and which in a measure some of us who have to shoulder the burden of Government have to carry more. For a moment I was rid of those immediate responsibilities and with a mind somewhat free, I could look at that picture and I saw from that distance the rising Star of India far above the horizon (*hear, hear*) and casting its soothing light, in spite of all that has happened, over many countries of the world, who looked up to it with hope, who considered that out of this new Free India would come various forces which would help Asia, which would help the world somewhat to right itself, which would co-operate with other similar forces elsewhere, because the world is in a bad way, because this great continent of Asia or Europe and the rest of the world are in a bad way and are faced with problems which might almost appear to be insurmountable. And sometimes one has the feeling as if we were all actors in some terrible Greek tragedy which was moving on to its inevitable climax of disaster. Yet when I looked at this picture again from a far and from here, I had a feeling of hope and optimism not merely because of India, but because also of other things that I saw that the tragedy which seemed inevitable was not necessarily inevitable, that there were many other forces at work, that there were innumerable men and women of goodwill in the world who wanted to avoid this disaster and tragedy, and there was certainly a possibility that they will succeed in avoiding it.

But to come back to India, we have, ever since I moved this Objectives Resolution before this House—a year and eleven months ago, almost exactly—passed through strange transitions and changes. We function here far more independently than we did at that time. We function as a sovereign independent nation, but we have also gone through a great deal of sorrow and bitter grief during this period and all of us have been powerfully affected by it. The country for which we were going to frame this Constitution was partitioned and split into two. And what happened afterwards is fresh in our minds and will remain fresh with all its horrors for a very long time to come. All that has happened, and yet, in spite of all this, India has grown in strength and in freedom, and undoubtedly this growth of India, this emergence of India as a free country, is one of the significant facts of this generation, significant for us and for the vast numbers of our brothers and sisters who live in this country, significant for Asia, and significant for the world, and the world is beginning to realise—chiefly I think and I am glad to find this—that India's role in Asia and the world will be a beneficent role; sometimes it may be with a measure of apprehension, because India may play some part which some people, some countries, with other interests may not particularly like. All that is happening, but the main thing is this great significant factor that India after a long period of being dominated over has emerged as a free sovereign democratic independent country, and that is a fact which changes and is changing history. How far it would change history will depend upon us, this House in the present and other Houses like this coming in the future who represent the organised will of the Indian people.

That is a tremendous responsibility. Freedom brings responsibility; of course there is no such thing as freedom without responsibility. Irresponsibility itself means lack of freedom. Therefore we have to be conscious of this tremendous burden of responsibility which freedom has brought: the discipline of freedom and the organised way of working freedom. But, there is something even more than that. The freedom that has come to India by virtue of many things, history, tradition, resources, our geographical position, our great potential and all that, inevitably leads India to play an important part in world affairs. It is not a question of our choosing this or that; it is an inevitable consequence of what India is and what a free India must be. And,

[The Honourable Pandit Jawaharlal Nehru]

because we have to play that inevitable part in world affairs, that brings another and greater responsibility. Sometimes, with all my hope and optimism and confidence in my nation, I rather quake at the great responsibilities that are being thrust upon us, and which we cannot escape. If we get tied up in our narrow controversies, we may forget it. Whether we forget it or not, that responsibility is there. If we forget it, we fail in that measure. Therefore, I would beg of this House to consider these great responsibilities that have been thrust upon India, and because we represent India in this as in many other spheres, on us in this House, and to work together in the framing of the Constitution or otherwise, always keeping that in view, because the eyes of the world are upon us and the hopes and aspirations of a great part of the world are also upon us. We dare not be little; if we do so, we do an ill-service to this country of ours and to those hopes and aspirations that surround us from other countries. It is in this way that I would like this House to consider this Constitution: first of all to keep the Objectives Resolution before us and to see how far we are going to act up to it, how far we are going to build up, as we said in that Resolution, “an Independent Sovereign Republic, wherein all power and authority of the Sovereign Independent India, its constituent parts and organs of Government, are derived from the people, and wherein shall be guaranteed and secured to all of the people of India justice, social, economic and political; equality of status, of opportunity, and before the law; freedom of thought and expression, belief, faith, worship, vocation, association and action, subject to law and public morality; and this ancient land attain its rightful and honoured place in the world and make its full and willing contribution to the promotion of world peace and the welfare of mankind.”

I read that last clause in particular because that brings to our mind India's duty to the world. I should like this House when it considers the various controversies—there are bound to be controversies and there should be controversies because we are a living and vital nation, and it is right that people should think differently and it is also right that, thinking differently when they come to decisions, they should act unitedly in furtherance of those decisions. There are various problems, some very important problems, on which there is very little controversy and we pass them—they are of the greatest importance—with a certain unanimity. There are other problems, important no doubt, possibly of a lesser importance, on which we spend a great deal of time and energy and passion also, and do not arrive at agreements in that spirit with which we should arrive at agreements. In the country today, reference has been made—I will mention one or two matters—to linguistic provinces and to the question of language in this Assembly and for the country. I do not propose to say much about these questions, except to say that it seems to me and it has long seemed to me inevitable that in India some kind of reorganization should take place of provinces, etc., to fit in more with the cultural, geographical and economic condition of the people and with their desires. We have long been committed to this. I do not think it is good enough just to say linguistic provinces; that is a major factor to be considered, no doubt. But there are more important factors to be considered, and you have therefore to consider the whole picture before you proceed to break up what we have got and re-fashion it into something new. What I would like to place before the House is that, important from the point of view of our future life and governance as this question is, I would not have thought that this was a question of that primary importance, which must be settled here and now today. It is eminently a question which should be settled in an atmosphere of good-will and calm and on a rather scholarly discussion of the various factors of the case. I find, unfortunately, it has raised a considerable degree of heat and passion and

when heat and passion are there, the mind is clouded. Therefore, I would beg of this House to take these matters into consideration when it thinks fit, and to treat it as a thing which should be settled not in a hurry when passions are roused, but at a suitable moment when the time is ripe for it.

The same argument, if I may say so, applies to this question of language. Now, it is an obvious thing and a vital thing that any country, much more so a free and independent country, must function in its own language. Unfortunately, the mere fact that I am speaking to this House in a foreign language and so many of our colleagues here have to address the House in a foreign language itself shows that something is lacking. It is lacking; let us recognise it; we shall get rid of that lacuna undoubtedly. But, if in trying to press for a change, an immediate change, we get wrapped up in numerous controversies and possibly even delay the whole Constitution, I submit to this House it is not a very wise step to take. Language is and has been a vital factor in an individual's and a nation's life and because it is vital, we have to give it every thought and consideration. Because it is vital, it is also an urgent matter; and because it is vital, it is also a matter in which urgency may ill-serve our purpose. There is a slight contradiction. Because, if we proceed in an urgent matter to impose something, may be by a majority, on an unwilling minority in parts of the country or even in this House, we do not really succeed in what we have started to achieve. Powerful forces are at work in the country which will inevitably lead to the substitution of the English language by an Indian language or Indian languages in so far as the different parts of the country are concerned; but there will always be one all-India language. Powerful forces are also working at the formation of that all-India Language. Language ultimately grows from the people; it is seldom that it can be imposed. Any attempt to impose a particular form of language on an unwilling people has usually met with the strongest opposition and has actually resulted in something the very reverse of what the promoters thought. I would beg this House to consider the fact and to realize, if it agrees with me, that the surest way of developing a natural all-India language is not so much to pass resolutions and laws on the subject but to work to that end in other ways. For my part I have a certain conception of what an all-India language should be. Other people's conception may not be quite the same as mine. I cannot impose my conception on this House or on the country just as any other person will not be able to impose his or her conception unless the country accepts it. But I would much rather avoid trying to impose my or anyone else's conception but to work to that end in co-operation and amity and see how, after we have settled these major things about the Constitution etc., after we have attained an even greater measure of stability, we can take up each one of these separate questions and dispose of them in a much better atmosphere.

The House will remember that when I brought that motion of the Objectives Resolution before this House, I referred to the fact that we were asking for or rather we were laying down that our Constitution should be framed for an Independent Sovereign Republic. I stated at that time and I have stated subsequently this business of our being a Republic is entirely a matter for us to determine of course, it has nothing or little to do with what relations we should have with other countries, notably the United Kingdom or the Commonwealth that used to be called the British Commonwealth of Nations. That was a question which had to be determined again by this House and by none else, independently of what our Constitution was going to be. I want to inform the House that in recent weeks when I was in the United Kingdom, whenever this subject or any allied subject came up for a private discussion—there was no public discussion or decision because the Commonwealth Conference which I attended did not consider it at all in its sessions—but inevitably

[The Honourable Pandit Jawaharlal Nehru]

there were private discussions, because it is a matter of high moment not only for us but for other countries as to what, if any, relation we should have, what contacts, what links we should bear with these other countries. Therefore the matter came up in private discussion. Inevitably the first thing that I had to say in all these discussions was this that I could not as an individual—even though I had been honored by this high office of Prime Ministership—I could not in any way or in any sense commit the country—even the Government which I have the honour to represent could not finally decide this matter. This was essentially a matter which the Constituent Assembly of India alone can decide. That I made perfectly clear. Having made that clear, I further pointed out that this Objectives Resolution of this Constituent Assembly. I said it is open of course to the Constituent Assembly to vary that Resolution as it can vary anything else because it is Sovereign in this and other matters. Nevertheless that was the direction which the Constituent Assembly gave to itself and to its Drafting Committee for Constitution, and so long as it remains as it is, and I added that so far as I knew it would remain as it is (*cheers*) — that Constitution would be in terms of that Objectives Resolution. Having made that clear, Sir, I said that it has often been said on our behalf that we desire to be associated in friendly relationship with other countries, with the United Kingdom and the Commonwealth. How in this context it can be done or it should be done is a matter for careful consideration and ultimate decision naturally on our part by the Constituent Assembly, on their part by their respective Governments or peoples. That is all I wish to say about this matter at this stage because possibly in the course of this session this matter no doubt will come up before the House in more concrete form. But in whatever form it may come up whether now or later, the point I should like to stress is this, that it is something apart from and in a sense independent of the Constitution that we are considering. We pass that Constitution for an Independent Sovereign Democratic India, for a Republic as we choose, and the second question is to be considered separately at whatever time it suits this House. It does not in any sense fetter this Constitution of ours or limit it because this Constitution coming from the people of India through their representatives represents their free will with regard to the future governance of India.

Now, may I beg again to repeat what I said earlier and that is this: that destiny has cast a certain role on this country. Whether anyone of us present here can be called men or women of destiny or not I do not know. That is a big word which does not apply to average human beings, but whether we are men or women of destiny or not, India is a country of destiny (*cheers*), and so far as we represent this great country with a great destiny stretching out in front of her, we also have to function as men and women of destiny, viewing all our problems in that long perspective of destiny and of the World and of Asia, never forgetting the great responsibility that freedom, that this great destiny of our country has cast upon us, not losing ourselves in petty controversies and debates which may be useful but which will in this context be either out of place or out of tune. Vast number of minds and eyes look in this direction. We have to remember them. Hundreds of millions of our own people look to us and hundreds of millions of others also look to us; and remember this, that while we want this Constitution to be as solid and as permanent a structure as we can make it, nevertheless there is no permanence in Constitutions. There should be a certain flexibility. If you make anything rigid and permanent, you stop a Nation's growth, the growth of a living vital organic people. Therefore it has to be flexible. So also, when you pass this Constitution you will, and I think it is proposed, lay down a period of years—whatever

that period may be—during which changes to that Constitution can be easily made without any difficult process. That is a very necessary proviso for a number of reasons. One is this: that while we, who are assembled in this House, undoubtedly represent the people of India, nevertheless I think it can be said, and truthfully, that when a new House, by whatever name it goes, is elected in terms of this Constitution, and every adult in India has the right to vote—man and woman—the House that emerges then will certainly be fully representative of every section of the Indian people. It is right that that House elected so—under this Constitution of course it will have the right to do any thing—should have an easy opportunity to make such changes as it wants to. But in any event, we should not make a Constitution such as some other great countries have, which are so rigid that they do not and cannot be adapted easily to changing condition. Today especially, when the world is in turmoil and we are passing through a very swift period of transition, what we may do today may not be wholly applicable tomorrow. Therefore, while we make a Constitution which is sound and as basic as we can, it should also be flexible and for a period we should be in a position to change it with relative facility.

May I say one word again about certain tendencies in the country which still think in terms of separatist existence or separate privileges and the like? This very Objectives Resolution set out adequate safeguards to be provided for minorities, for tribal areas, depressed and other backward classes. Of course that must be done, and it is the duty and responsibility of the majority to see that this is done and to see that they win over all minorities which may have suspicions against them, which may suffer from fear. It is right and important that we should raise the level of the backward groups in India and bring them up to the level of the rest. But it is not right that in trying to do this we create further barriers, or even keep on existing barriers, because the ultimate objective is not separatism but building up an organic nation, not necessarily a uniform nation because we have a varied culture, and in this country ways of living differ in various parts of the country, habits differ and cultural traditions differ. I have no grievance against that. Ultimately in the modern world there is a strong tendency for the prevailing culture to influence others. That may be a natural influence. But I think the glory of India has been the way in which it has managed to keep two things going at the same time: that is, its infinite variety and at the same time its unity in that variety. Both have to be kept, because if we have only variety, then that means separatism and going to pieces. If we seek to impose some kind of regimented unity that makes a living organism rather lifeless. Therefore, while it is our bounden duty to do everything we can give full opportunity to every minority or group and to raise every backward group or class, I do not think it will be a right thing to go the way this country has gone in the past by creating barriers and by calling for protection. As a matter of fact nothing can protect such a minority or a group less than a barrier which separates it from the majority. It makes it a permanently isolated group and it prevents it from any kind of tendency to bring it closer to the other groups in the country.

I trust, Sir, that what I have ventured to submit to the House will be borne in mind when these various clauses are considered and that ultimately we shall pass this Constitution in the spirit of the solemn moment when we started this great endeavour.

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

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The Constituent Assembly reassembled after lunch at Three of the Clock,

Mr. Vice-President (Dr. H. C. Mookherjee) in the Chair.

**Giani Gurmukh Singh Musafir** (East Punjab : Sikh): Mr. President, like my Honourable friend Shri Deshbandhu Gupta, I cannot say that Dr. Ambedkar, President of the Drafting Committee does not deserve any congratulation. On several matters he deserves congratulation for several reasons and the Committee's labour in framing this first constitution is certainly praise worthy. In spite of that, if anybody discovers any error, he mentions it, according to the measure of his understanding.

Now I want to say something regarding Article 5 which is embodied in the Part relating to the rights of citizenship. Some of my friends have already drawn our attention to the fact that it would be very difficult for illiterate people to appear before a magistrate for filing their declarations. But I look at it also from another point of view. From both points of view, some sort of amendment is essential, because in this Article no distinction has been made between a foreigner and the Hindus and the Sikhs coming from Pakistan. Those that are still perforce in Pakistan will have no right of acquiring citizenship after this constitution has been framed. I think this Article should be so amended that they might be regarded as the citizens of this land, whenever they come here. There is yet another point. Just at present non-Muslims are coming from East Bengal. If, therefore, any provision is made in this constitution to the effect that they would not be able to come, after this Constitution has been passed, then the process of their migration will gain momentum. We are not able to look fully well after the refugees who have come here already. From this point of view, too, I consider it expedient that suitable amendment should be made in this item.

Another point which I want to mention is regarding the Fundamental rights, namely the one which concerns our basic rights. They have been stated in grandiloquent style, but the many limitations made therein have lessened the grandiloquence. Seth Damodar Swarup had moved an amendment on behalf of his party, which was lost. The object of his amendment was to point out that Assembly which is not elected on the basis of joint electorate and adult franchise, is not representative of the masses; but we did not agree with him and the House rejected his amendment. But this much is very clear that although our Assembly was not elected on the basis of joint electorate and adult franchise. Yet this Constituent Assembly has to look to the interest of the masses at the time of framing the constitution. Articles 9 to 13, where the people's rights have been embodied, answer the objection raised by Seth Sahib. For instance, there is equality of right on the basis of religion, race or caste, meaning thereby that there shall be no discrimination on grounds of Caste. Untouchability is abolished. Freedom of speech is guaranteed and in awarding punishment, no discrimination shall be made on grounds of creed or caste. All these things have been incorporated and they are all very good; but I have objection against some of the limitations. For example, in Article 13, freedom of speech has been guaranteed, freedom of movement throughout the country without any distinction has been given and there is freedom to acquire and to dispose of property—all these things have been embodied. But the limitation imposed in item (5) of Article 13 should not have been there. In the face of these limitations, all these grand clauses which have been embodied in it will lose some of their grandeur. Even now I have this complaint anybody may admit it or not; but I strongly believe, that those of our brethren who have come from Pakistan—although in some places they have been treated well, yet distinction has certainly been made and their rehabilitation has not been liked. Wherever they have gone, difficulties have certainly been raised

in rehabilitating them freely and comfortably. Therefore from the point of view of refugee problem, too, there should not be any limitation regarding the freedom of movement throughout the country and of acquiring and disposing of property. Those who cannot acquire plots should have the liberty of acquiring cultivable lands. I have received telegrams from everywhere that this limitation should be done away with so that this old evil of disunion might disappear.

Third thing which I want to say is about the language. This is a very important question but I had not thought it to be so intricate as made out by our learned men and research scholars. Till the time this question had not come to me in its present form, I never thought there was any difference between Hindi and Hindustani. It never occurred to me that Hindi is a separate language from Hindustani. In this connection I recall a Panjabi couplet of my own which means "Ignorance was bliss to me; knowledge has landed me into a difficult situation" or, in other words, I wish I had not known about it; now when I have known it I am in a puzzle what to do. But one thing is quite clear. As a principle we should agree to keep only one script in our Constitution. There should be one script and one language for the whole of India, as has been stated by our friend Seth Govind Das Ji and several other speakers.

I also agree that our first constitution should be adopted in the National language. This is my firm faith and my confirmed opinion. So far as language is concerned, it undoubtedly varies from place to place; there is no doubt about it. There seems to be some difficulty about language question. Some Honourable members have gone to the extent of threatening that if a particular decision is taken they would stop attending the House or would have to take some steps as a protest. In our armed forces, Roman script, Urdu script as well as Devnagri script are prevalent. If we have to keep only one script than we ought to see in which of these three scripts all our languages can be written and reproduced correctly. I would go to this extent, that if all the advocates of provincial languages so agree, then I would be prepared for the position that Bengalis should leave their Bengali script, Tamilians and Telugus give up their scripts and Punjabis leave their Punjabi script and all these languages should be written in Devnagri script and I would have no objection. Under the present conditions however this seems to be somewhat difficult, though it would create a sense of oneness. If all of us differ in every other respect, at least we must be one in one respect. We must unite no one point, that is we must agree to have one common script, in which all different languages may be written. If it is done we shall be saved from several perplexities. In case this is not possible, then every provincial language must be given equal importance in that particular province.

Then remains the question of language; regarding that I want to say this that I have seen all the translations of this draft constitution. I have seen its Hindi translation, and have read its Urdu and Hindustani translations. I have used the word "seen" about Hindi translation for the reason that I have talked to several of my friends who are supporters of Hindi. None of them could explain the purport of the Hindi translation to me. Our great poet of Panjab Dr. Iqbal, used to write his poems in Persian. I have read several of his books in Persian but when he realised that his Persian poetry was like a wild flower for the people, out of which nobody got any fragrance, then he began writing in Urdu. If you see the language of his Urdu poems, you will find that he was obliged to use a simple diction so that his thoughts may reach the people. Just listen; I repeat one of his couplets to you : —

*"Iqbal bara upadeshak hai,  
Man baton men moh leta hai,  
Guftar ka woh ghazi to bana  
Kirdar ka ghazi ban na saka."*

[Giani Gurmukh Singh Musafir]

Now tell me what you will call this language—Hindi, Urdu or Hindustani? To which language do the words ‘updeshak’, ‘Man’, and ‘Moh’ belong? If the language in which my friend, Chaudhary Ranbir Singh, delivered his speech the other day, is Hindi then I am a supporter of Hindi. Now, we have to see what is most suitable and most practicable. If you ask me about the Punjab I can tell you that all those papers, which are supporters of Hindi, are printed in Urdu script. It is not a question of personal or individual convenience but of finding a most suitable and practicable solution.

So what I mean, is that our language should be easy and commonly understandable. I suggest that a committee be appointed for coining the terms, and after the terms have been coined and the simplification of language decided upon then I think there will be no difficulty in the way of solving the language question. There is a short-coming in us all and particularly in Punjabis, that we tend to give a religious tinge to every problem. We pitch ourselves against each other on the basis of religion. The matter may be simple but by giving it a religious colour we create a mess.

There is a talk of division of provinces on linguistic basis. On that point our constitution is almost silent; only a vague hint has been given. In the Punjab this question too has taken a religious turn although it is a very simple one. So, as was said by one speaker in the morning, it is a controversial matter. It should be postponed, and this principle should be accepted that if provinces are formed on a linguistic basis, then all the developed languages will be given due consideration.

My time is almost finished, but I want to say something about the minorities. I have not given much thought to this question because I have been a Congress worker. Even now I am the President of the Provincial Congress. To my mind, rights of the minorities will be quite safe in the hands of the Congress Governments. But at present the question of reservation is before us. This is true that on the basis of religion I belong to a minority community, and I am proud of the fact that I have never viewed this question from a communal angle. Regarding this, I would like to state that the Sikh community has always been proud of the fact that it has bravely made sacrifices in making the country a strong nation. That was the reason which prompted revered Pandit Malviyaji to remark that every Hindu family must have a Sikh son. Shri Savarkar had once advised the co-religionists of Dr. Ambedkar that if they wished to change their religion they could become Sikhs. I had then enquired from Shri Savarkarji as to how could he, being himself a Hindu and an Arya Samajist, give such advice? (A voice—Savarkar is not an Arya Samajist.) Then, I withdraw my words. Anyway, he replied to me that though he had not studied Sikhism, this much he knew that when he was at the Andamans there were several old and distinguished Sikh prisoners with him, in whom he had found intense patriotism, passion for national service and sacrifice in abundance. Judged from that he could say that they were good people and for that reason he had advised co-religionists of Dr. Ambedkar to embrace Sikhism. From the point of view of the minorities themselves, I venture to say that without weightage reservation is of no use. I think that if our hearts are freed from mutual suspicions and we gain each other's confidence then several provisions can be embodied which would help us in forging one nation. Governors and the President can be vested with the power of nomination in cases where minorities fail to secure their adequate place under election. If any such method is devised whereby reservation is done away with, then it would be a test of the majority also, as well as a step forward towards forging one nation. We have seen how the reservation and separate electorates have worked under the British regime; instead of becoming one nation, the country had been torn to pieces. This treatment simply aggravated the malady. We should take a

lesson from that; we should know what steps we ought to take for knitting the country into one nation. Majority community ought to find out the ways for filling up the shortage, if any, in the representation of the minorities.

With this end in view let us proceed in a way whereby one united nation may emerge. There is no time left; otherwise I had to say much more on this subject.

**Mr. Vice-President (Dr. H. C. Mookherjee):** I have received notice of an amendment from Mr. Naziruddin Ahmad to the following effect :—

“That the Draft Constitution be referred to a Select Committee consisting of such members, elected or nominated by the Honourable the President in such manner as he thinks proper, to report thereon by such date as the Honourable the President thinks proper.”

I rule it out of order on the ground that in the rules for the consideration and passing of the Draft Constitution there is no provision for reference to a select Committee. Acceptance of this amendment would amount to an amendment of the rules already framed. This cannot be done without reference to the Steering Committee. Not only that. Rule 31(4) says:

“The Chairman may disallow any amendment which he considers to be frivolous or dilatory.”

I consider this a dilatory amendment. I therefore rule it out of order.

**The Honourable Rev. J. J. M. Nichols-Roy** (Assam : General): Mr. Vice-President, Sir, it is indeed a great privilege to associate myself in rendering tribute to Dr. Ambedkar and the other members of the Drafting Committee for the stupendous task they have undertaken to bring out this Draft Constitution. They all deserve our best thanks.

To me, the structure of the Constitution depicted in this draft looks good though it requires certain modifications in some details and important matters. By this constitution, India is to have unity in diversities, India with diverse races, colours, creeds, languages and cultures and with varied degrees of civilisation is being moulded into one Nation that will work together for the good of the common whole. This is not a small task. India is like the different States in the continent of Europe which have not been able to form a united sovereign country. But by the help of God and the wisdom given to our leaders India is having unity in the midst of diversities. This unity is not to be achieved by eliminating all diversities and putting all component parts into one mould by a stroke of the pen, for such an attempt will cause terrible revolution and great distress everywhere. The process for achieving the unity of India is by evolution as provided in this draft constitution.

The provisions for freedom of worship etc. etc. for minorities and for certain special areas and for hill tribes are the necessary stages for evolving unity in the midst of diversities. The wisdom of our leaders and of the majority community in acknowledging the necessity for allowing diversities in this unity structure is greatly appreciated and will be greatly appreciated by all. This is God's own method. God's own creation everywhere is unity with diversities. I thank Sardar Patel, the Chairman of the Advisory Committee for Minorities etc. He appreciated the needs of minorities and special tribal hill areas.

I must especially thank the Drafting Committee for accepting the draft for the creation of District Councils with autonomy in the hill districts in Assam which in the Sixth Schedule are called autonomous districts. These hill districts, inhabited by tribal hill people, will under this constitution be able to develop themselves according to their own genius and culture. The result, I believe, will be charming if these autonomous districts are nurtured to develop themselves in their own way without disturbing the main purpose of unity underlying the constitution presented in the draft. These tribes, though small in themselves, have been self-governing bodies from time immemorial. The India of tomorrow will surely stand to gain if the schemes for development of

[The Honourable Rev. J. J. M. Nichols-Roy]

these areas are duly financed by the Government of India as proposed in the draft. Certain improvements in the Sixth Schedule will have to be made in the draft. I hope the House will accept the amendments which will be moved in due course.

While I fully appreciate the attitude expressed by Dr. Ambedkar and others as regards the strengthening of the Centre, I have to express that my views are very strong against the unbalanced strengthening of the Centre at the cost of causing weakness to the component parts thereof. It will be like the picture of an unbalanced man with a very big head but with bony and lean limbs. Such a head in that very condition will not be able to stand.

In perusing the printed amendments to Article 131 it appears that the Drafting Committee wants that the Governor should be appointed by the President. Powers are therefore proposed to be centralised. I hope the Drafting Committee will revise their view and find it undesirable to move it. I think this country has long given up the idea of nominated governorship with discretionary powers. The Drafting Committee has also given an alternative proposal for the appointment of Governors from a panel of four candidates to be elected by Members of the Legislative Assembly of the State. The argument of some of the members of the Committee is that the co-existence of an elected Governor and a Prime Minister responsible to the Legislature might lead to friction and consequent weakness in administration; but at the same time the existence of a nominated Governor with discretionary powers might cause obstruction and deadlock. I have had experience as a Minister with eight nominated Governors. I am strongly of the opinion that an elected Governor will be better substitute. This matter will be discussed at length when the amendments to Article 131 are moved in this House. I shall have occasion to say more about this then.

In the matter of Finance this draft is very unsatisfactory—particularly in reference to smaller Provinces. It does not give a fair deal to the Provinces. Poor Provinces like Assam and Orissa have reasons to be particularly disappointed. Those Provinces should not be weakened financially. Even one weak limb of the body will make the whole body weak. If India is to live and prosper, the States which are its components parts should function as healthy organs of the body politic of India. To come to the point, I want to say that the provisions of Articles 253 and 254 cannot be appreciated by us. They are couched almost in the same language as that of section 140 of the Government of India Act of 1935. The good wishes of the Government of India have so far remained a dead letter while the backward Provinces like Orissa and Assam remain where they were before. Even this year, Sir, our Assam Province is being greatly hit by the financial policy of the Central Government. We were in great hopes that our most essential needs such as building up of institutions for educating and training personnel in various nation-building activities would be satisfied, but we are told that these have to be postponed or delayed. The construction of strategic highways and roads absolutely essential for giving relief to our distressed people living on the border of Pakistan and for the protection of the country are proposed not to be pushed on with the same rapidity as it is essentially necessary to be done for we are told that not even one-fourth of the money required for these schemes for the current year will be available to us. The great Congress organisation has declared that our goal is a co-operative commonwealth, but when rural centres for an all round development of the villages are proposed to be opened on co-operative principles, the money required for the fulfilment of the schemes in this connection is not forthcoming. Our Assam Government in order to raise the maximum finances it is capable of doing, within the provincial list, has exhausted all the sources of taxation; but our province is yet faced with a deficit of about a crore, while its substantial income is only over four crores. But Assam would have had enough to bear its own responsibilities without begging from the Centre, had not the Central Government taken away the export duty on tea. Tea and petroleum are produced in Assam. If the excise and export duties on

tea and petroleum are allotted to us, which give about eight crores of rupees annually from Assam alone to the coffers of the Government of India, we shall have enough to finance our development schemes all round. Why should not this export duty be given to Assam, at least the largest share of it, every year?

An Expert Committee was appointed to investigate these questions and the Premier of Assam, Mr. G. N. Bardoloi himself led the deputation before the Committee. While the Committee conceded that a portion of the export duty on jute could be given to Bengal (a small portion of which comes to Assam also) and that a portion of the excise duty on tobacco might be given to the Province of Madras, the Committee did not consider it desirable to concede anything in favour of Assam on account of tea and petroleum produced in Assam. Is this just and equitable? Assam is kept under this system of eternal doles from the Centre. It passes our comprehension why this difference is made. Is it because Assam does not have a strong voice in the Centre? For many years during the rule of the British, Assam has been crying hoarse against this injustice committed by the central financial authorities in the past; but all our cries and condemnation of that injustice have gone unheeded by the Centre. Why reduce this producing province which could have had enough to support itself to a state of a beggar perpetually? Sir, I hope any strengthening of the Centre financially in this manner while robbing a province of its legitimate right will not be supported by any one. I believe that this just House with reasonable minds and sympathetic hearts will see that the province gets a fair deal. Facts should be faced.

I think myself that the authorities have been so busy with other matters that their attention could not be drawn in the past to this matter of life and death for Assam. We are today appealing to all the Honourable Members to come to our rescue at this time. Let it not be forgotten that Assam is a Frontier province which is subject to aggression from all sides. It is the duty of the whole Union to attend to this from the very beginning before evil days come. It is also very necessary for India to keep the bordering areas supplied with the necessities of life in order to keep them satisfied, otherwise adverse elements will cause great trouble which may cost India ten times more than the amount of money which may be spent during peaceful time. It will be a shortsighted policy to deprive our Assam province of its export duty on tea and to reduce its legitimate share of excise duties on tea and petroleum etc. In the past the bureaucratic Government overlooked the claims of backward Provinces like Assam or Orissa, but how can we imagine that this Constituent Assembly will allow the perpetuation of the same wrong which was done by the alien Government? I hope, Sir, that when the amendments to right this wrong are brought before this House, they will receive full support from all the Members of this august Assembly.

Before I close, Sir, I must also say that adult franchise is necessary as the basis of election. The people everywhere must feel that freedom has come to them and that they have a share in the shaping of the administration of the country. This has been the hope given by the Congress in the past and any deviation from this principle will cause disappointment and arouse agitation in the country. It is true that the common man in the villages does not understand much, but it is the duty of the politicians to educate the common man in the right direction. We have adopted democratic principles, and the salvation of our country is to educate the common man and trust that he will be guided to exercise his right of franchise in the right direction.

I do not want to take the time of this House with other observations and criticisms which I would have liked to make, but before I conclude, I want to say that if we are going to build up a democratic State, we must make everyone in this country, however humble and poor he may be, feel that he has a share in the making of a better country. We must cultivate the spirit of fraternity and this should have full sway in this country of ours

[The Honourable Rev. J. J. M. Nichols-Roy]

so that everyone of us, however humble and low we might be, can feel proud of this country to which we belong. God also will no doubt help us when we are saturated with this spirit of honesty and fraternity.

**Mr. Mohammed Ismail Sahib** (Madras : Muslim): Mr. Vice-President, Sir, I thank you, in the first instance, for having allowed me some time though almost at the last stage of this general debate. I shall touch only on a few of the points I wanted to place before the House and try to compress my ideas within the short time which I understand has been kindly allowed to me by you.

Sir, it is indeed a great speech in which the Honourable Dr. Ambedkar has commended the consideration of the Draft Constitution to the House. For lucidity, for persuasiveness, impressiveness and logic I do not think that it could be beaten. All congratulations to him. But this does not mean that one is agreeing with everything that is said by him in the speech. For example, take the question of provincial autonomy, the relationship between the Centre and the States. He pleads more really for a unitary type of State. He says that a balance has been struck between federalism and the unitary type of Government. But I am inclined to think, when I go through the Draft Constitution, that the emphasis is too much upon the unitary nature of the State. In my view, this is not conducive to the happiness and prosperity of the country. Ours is a vast country of great distances and huge population. However much the Centre may be anxious to accord uniform treatment to the various parts of the country, still, in the very nature of things, there will be drawbacks and shortcomings. This will naturally lead to discontent, and conflict. It is for this reason that many political thinkers have been of the view that a federal type of Government is more suitable than anything else for such a country as ours. We in India need not be afraid of anything like disintegration or undue clashes and conflicts between the various parts of the country. The example of the United States of America has been cited. What has happened there really? This country which has got more than forty States, all autonomous, have as one unit, stood two of the severest wars ever known to the history of mankind, and these States have also stood together and have dealt with and confronted successfully the stress and strain of post-war problems that faced them after the last two wars. Take again the case of Russia. The States of Russia are called autonomous Republics. It is said that they have got even control over external affairs. What has happened? That country with all these autonomous republics, has been able to withstand the deadly and terrible onslaught of the last war, and today she is as one big country, able to pull on in the face of so many hardships and difficulties. Therefore, it is not so much the type of Government, or the number of powers which we give to the Centre that really matters. It is the character of the personnel which runs the Government, and it is the character of the people that really counts in these matters. Sir, in spite of the Russian States being autonomous republics, what has happened? Russian has become totalitarian. The Centre has come, in actual fact, to be over-weighted with powers. That is human nature. Here, it is said, on occasions, our Constitution will become unitary. But, in the nature of things, when once it becomes unitary, the tendency will be to stay on the unitary type of Government. I say that the federal system is more suited to the conditions of our country than the unitary type.

The conditions in different parts of the country are different. Therefore they have to be dealt with by the people who are in more intimate touch with those conditions from day to day. In this connection. I shall just touch on one point. That is to say, when the province is deprived of so much of its

autonomous powers, there is a proposal which does not agree with this framework, *viz.*, that of the election of the Governor through adult franchise. The Governor himself is only a constitutional head if he is not a figure-head and to go through all the paraphernalia and trouble of having him elected by tens of millions of people in a province is not necessary and it really bristles, with possible difficulties and probable hardships apart from huge expenditure it would involve. The Governor must of course be elected by certain agencies in the provinces and States themselves and that is in keeping with the provincial autonomy of my pleading. Such an agency might take the form of an electoral college consisting probably of members of the legislature in a province, members of the municipalities and district boards and I would even go, if friends would like it, to the extent of including members of the Panchayat Board as well. After all it may mean only about fifty or sixty thousand voters in a big province while according to adult franchise it will run into crores, and when the Governor is also elected by the people through adult franchise it is only natural that on occasions he will come into conflict with the ministry which will claim to be the spokesmen of the people.

Regarding Fundamental Rights, the Mover of the Resolution said that the exceptions have not eaten up the rights, but as a matter of fact they have actually eaten up the rights. He says everyone of these exceptions can be supported by at least one decision of the Supreme Court of America. To say so is on a par with the argument advanced by the British politicians when the Government of India Act of 1935 was on the anvil of the Parliament in Great Britain. They said they were including in that Act things which were followed in Great Britain as a matter of convention. They said that things were there and they had come into being and therefore it was that they were putting them into that Act. To say that the Supreme Court has decided in a certain way, has decided that certain exceptions are quite legal and all right and therefore such exceptions must come into our Constitution—to say that is different from saying that the people will have the freedom of going to Supreme Court or Federal Court whenever a fundamental right is in question in doubt. This freedom of the people to go to the Federal Court even as against the Government will really imbue them with a sense of real freedom and that will also have a salutary check on the Government which is very necessary in democracy.

Some of my friends claimed that this Constitution is a political Constitution but really is it so—I don't know. It deals with untouchability, temple-entry and religious instruction. I don't blame the Constitution or its drawers for this. I say it is quite right in noting these things; but one important fundamental thing I want to refer to and that is regarding religious instruction. The Constitution says that religious instruction shall not be provided in any of the State schools. Taking this provision with the compulsory elementary education which is being introduced in almost all the provinces. It means that the Government is against religious instruction, it is against people getting instruction in their own religion even if they wanted it. Therefore until 15 years of age up to which age the children have to be sent to these elementary schools they shall not have an opportunity in these schools of having any instruction in religion. But it is the right of the people to have instructions in their respective religion. That right is not derogatory to the neutrality or secular nature of the State. The State would not impose any religious instruction upon people who do not like it. They only give facilities for the people if they want to give instruction to their children in their own religion.

Then, Sir, I have to refer to the question of minorities. Some friends said that reservation must go; some said it must go because it is not of much use and some said that reservation as such must go. They said that it was goodwill that was required and not reservation. It is really true that goodwill is required; it is essential even in the working of this elaborate bulky constitution



[Mr. Mohammed Ismail Sahib]

and without goodwill any elaborate scheme will be of no avail. But on that plea goodwill might be taken as a substitute for many other provisions in the Draft Constitution; nevertheless, those provisions are there. Goodwill has to be grounded on something and it can't live on air. There has to be something for goodwill to be based upon and for it to grow and that is the elementary rights—fundamental rights and safeguards given to minorities. Therefore it is that my community wants this reservation though it alone does not satisfy their requirements. I don't mean to say that it satisfies the people who want representation in the legislatures. They want themselves to be given the right of really representing their views and the feelings and aspirations before the legislature. Will these people who are the occupants of these reserved seats under joint electorates be able to express the view of the community as such? When I say this we should not rake up the past and I don't want to refer to the past and kindle and stir up controversies and disputes. We should take up this question on its own merits—whether it is reasonable or not we should consider. In my view there should not only be reservation of seats but these seats should be filled up through separate electorates. I don't find any other alternative if you want to give the right to these minorities to express themselves before the majority community, before the country and before the legislature. This is all that is meant by this electorate. It is no barrier between one community and another and if there was any trouble in the past it was not due to this system of election, but it was due to other things. As I have told you, I don't want to enter into the past. Again, when we talk of these separate electorates communalism is brought forward. In this connection I would only give the House the benefit of a quotation from one of the Ministers, a Congress Minister in the Madras Assembly, about ten days ago. A question was put regarding communal representation for the admission of students to a certain college.

One of the Members put the question to the Minister:

“How is the Minister justified in preserving and fostering communalism even within the ranks of the Hindus themselves?”

Then the Minister for Education answers:

“It is not the Government that do it. It is there. The communities exist. It is an unwise man that does not take note of the things that exist. People are born and die in these various communities.”

Then the Minister further added:

“The Government wanted to put an end to this communalism. But without giving equal opportunities to the various communities to come up that could not be done.”

That is the view expressed by a Congress leader belonging to the majority community who is now working an important portfolio in one of the important provinces of the country.

Therefore, Sir, that is the position. There is no harm in recognising those communities and this is not a position peculiar to our country. When I was a young-man I used to follow the national movement of Egypt. When they first wanted independence, a community called the Copts came up. This community started a counter-movement. They wanted to be assured of their rights under independence and then Zaghlul Pasha, the leader of Egypt called those people and asked them to formulate their demands. The demands were brought forward in due course of time and he considered them. He then said that those demands alone would not secure the minority's rights and position; that they would not even give them the right or proper expression. He said that he was giving them more. That was how the minority was treated in that country. Until then, whenever there was anything about Egypt there

would be something about the Copts as well. But all this changed. From that day of settlement until now we do not hear the name of the Copts at all. Now they are a contented people. They are all living today as one people. I hope the House will consider this question in a dispassionate manner, excluding any emotionalism or sentiment from the subject.

**Shri Algu Rai Shastri** (United Provinces : General): \*[Mr. President, as there is only one hour left at our disposal I would request that the time for discussion be extended by a day. Many members have expressed a desire to speak and so far no closure has been moved. It appears that the House wants to have more discussion on the subject. The issue is of great importance and, as Shri Diwakar said yesterday, it should not be disposed of hurriedly. At least one day's extension should be given for its consideration. Only some of those persons whose names are already with you would like to speak. I beg to make one more submission. Sir, the entire time today has been given by you to those whom you consider to be the members of minority communities. They have placed their view point before the House. Will you not now give an opportunity to those whom you consider to be members of majority communities to place their views? Some reasoned reply to objections raised here must be permitted to be made here so that the world may be influenced to believe that whatever decisions are being taken in this House, are based on reasoning and not on a majority vote. If any one wants to meet the objections raised here, he must be given an opportunity to do so. There is the question of language, the question of our relations with Great Britain and other problems of this kind. These are very important matters and require thorough elucidation in the House. I would, therefore request you kindly to give us one day more for discussion. We must have at least one day more so that others also place their views on these matters.

**Mr. Vice-President** : You want one extra day !

**Pandit Govind Malaviya** (United Provinces : General): May I support that request. I think we are discussing a very important matter, for which there will be no other opportunity and I think, even when three days have already been devoted to this, so long as there are a number of Members of this House who have yet to express their views before it on this matter, I think we shall be doing nothing wrong in extending the time.

**The Honourable Shri B. G. Kher** (Bombay : General): Tomorrow again a request will be made that one more day should be granted. There will be plenty of opportunities when amendments are moved and all these points could be brought out. We have been treated to a variety of views indifferent languages and sufficient light or darkness has been thrown on a subject which has been before us for two years. I sympathise with Members who want to speak and to be heard, but I do submit that there ought to be some finality to such general discussion and when you have already extended the time by one day I thought that was enough. I suggest there should be no more extensions.

**Shri Mahavir Tyagi** (United Provinces : General): As long as there is one Member who wants to record his opinion on this subject, he should be given a full opportunity to express himself. I therefore submit, that not only one, but if tomorrow we want another day, then another day must be given.

**Mr. Vice-President** : I have here the names of about forty gentlemen who want to speak. At the same time I have to point out that I have been keeping a note of the principal items touched upon by the previous speakers, and I find that they concern more or less six different points. Already about thirty Members have spoken and they have gone round these six different

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\* [ ] Translation of Hindustani speech.

[Mr. Vice-President]

points. If the House is certain that the gentlemen who come here-after will be able to do something more than cover these six points, then there will be some justification. But I am in your hands. I am perfectly prepared to extend the time, provided you can convince me that something new will be contributed.

**Pandit Govind Malaviya :** Would you like us to submit to you a precis of the points we wish to raise?

**Mr. Vice-President :** Perhaps you have misunderstood me and that deliberately.

I have never suggested that I wanted a precis. But those who have sat down here and listened—you came only today and so you do not know the points that have been touched upon.....

**Pandit Govind Malaviya:** But I have taken the proceedings home and studied them !

**Mr. Vice-President :**... the Members whose names are already with me, if they can convince me or convince themselves that they have something new to contribute, then I am prepared to consider the proposition.

**Mr. Hussain Imam :** (Interruption)....

**Shri Suresh Chandra Majumdar** (West Bengal : General) : When there are forty names outstanding even a day's extension may not suffice. So you must go on for the whole week!

**Shri Vishwambhar Dayal Tripathi** (United Provinces: General) : I suggest two more days should be given for this discussion.

**Mr. Vice-President :** All right, I will give one day more. But I do hope the time will be used for some useful purpose.

**Shri Alladi Krishnaswami Ayyar** (Madras: General): Sir, before making a few remarks on the Draft Constitution, I should like to join in the tribute of praise to the Honourable Dr. Ambedkar for the lucid and able manner in which he has explained the principles of the Draft Constitution, though I owe it to myself to say that I do not share the views of my honourable Friend in his general condemnation of village communities in India. I must also express my emphatic dissent from his observation that Democracy in India is only a top-dressing on Indian soil. The democratic principle was recognised in the various indigenous institutions of the country going back to the earliest period in her history. Democracy in its modern form is comparatively recent even in European history, as its main developments are only subsequent to the French Revolution and to the American War of Independence. The essential elements of democracy as understood and practised at the present day are even of much later date and have gained currency and universal support during the last war and after its termination.

Before I proceed to make my remarks on the Draft Constitution, in view of certain observations of my honourable Friend Mr. T. T. Krishnamachari on the work of the Drafting Committee and the part taken by its members, I owe it to myself and to the House to explain my position. As a member of the Committee, in spite of my indifferent health, I took a fairly active part in several of its meetings prior to the publication of the Draft Constitution and sent up notes and suggestion for the consideration of my colleagues even when I was unable to attend its meetings. Subsequent to the publication of the draft, for reasons of health, I could not take part in any of its deliberations, and I can claim no credit for the suggestions as to the modifications of the draft.

In dealing with the Draft Constitution, it is as well to remember that the main features of the Constitution in regard to several particulars were settled by the Assembly after due consideration of the reports of various committees; this Assembly is not starting afresh after two years of work. I doubt if even, some of the Members who animadverted upon certain features of this constitution settled by this House could disclaim responsibility for the decisions already reached. The federal framework of the Constitution with an over-riding power in the Centre, the need for a concurrent list and the items therein, the composition of the Houses, the relative powers of the two Houses of Parliament and in the provincial legislatures, the mode of election of the President and of the Governors, the relationship between the legislature and the executive, the constitution and powers of the Supreme Court and of the High Courts, the fundamental rights to be guaranteed to the citizen and a number of other matters relating to the constitutional framework, were settled by this House or considered by the Committees appointed by this House. In so far as the Drafting Committee has embodied in the articles as framed the considered decisions of this Assembly, the Drafting Committee can in no way be responsible for the decisions already reached, while it may be quite open to the House to revise those decisions on special grounds. In regard to such of the provisions of the draft as have not been considered by this House, it is open to this House, to come to any conclusion, consistently with the resolutions already reached and with the general framework of the Constitution.

The main criticisms on the Draft Constitution range under the following heads:—

*Criticism 1.*—It draws largely upon foreign constitutions and there is nothing indigenous about it. There is not much force in this criticism when it is remembered that federalism in its modern form is of recent growth, since the American Revolution and America has furnished the example to all the later federations. It cannot be denied that there is a strong family resemblance between the several federations and that each later constitution has drawn upon and profited by the experience and working of the earlier federal constitutions of the world. In this connection, it is as well to remember that even the Soviet Constitution has not departed from certain accepted principles of federal government.

*Criticism 2.*—The Centre is made too strong at the expense of the units. In view of the complexity of industrial, trade and financial conditions in the modern world and the need for large scale defence programmes, there is an inevitable tendency in every federation in the direction of strengthening the federal government. The Draft Constitution in several of its provisions has taken note of these tendencies instead of leaving it to the Supreme Court to strengthen the Centre by a process of judicial interpretation. I might point out in this connection that the U.S. Supreme Court, by the wide interpretation which it has put upon the General Welfare clause as well as on the trade and commerce clause in the Constitution, has practically entered into every sphere of state activity, so that it may be in a position to regulate the economic activities, the relationship between capital and labour, the hours of labour and so on, taking advantage of these two clauses.

*Criticism 3.*—The existence of a large list of concurrent subjects might lead to the Centre encroaching upon the provincial sphere and giving a unitary bias or character to the constitution. A study of the several items in the Concurrent List shows that they mainly relate to matters of common concern all over India. Whatever criticisms might be levelled against the British administration in India, the enactment of the great codes which has secured uniformity of law and legal administration has been its special merit. It is common knowledge that even the Indian States have adopted the great

[Shri Alladi Krishnaswami Ayyar]

Indian Codes. Instead of not having a Concurrent List or curtailing the list of concurrent subjects, I would advocate the Concurrent List being extended and applied to the States in Part III. The existence of a Concurrent List in no way detracts from the federal character of the constitution, there being an independent provincial list of subjects.

*Criticism 4.*—The constitution does not give sufficient importance to village communities which are an essential feature of India's social and political life. With the large powers vested in the provincial or state legislatures in regard to local self-government and other matters, there is nothing to prevent the provincial legislatures, from constituting the villages as administrative units for the discharge of various functions vested in the State governments.

*Criticism 5.*—The criticism regarding the fundamental rights was that they are hedged in by so many restrictions that no value can be attached to the rights guaranteed under the constitution. The great problem in providing for and guaranteeing fundamental rights in any constitution is where to draw the line between personal liberty and social control. True liberty can flourish only in a well ordered state and when the foundations of the state are not imperilled. The Supreme Court of the U.S.A. in the course of its long history has read a number of restrictions and limitations based upon the above principle into the rights expressed in wide and general terms. The Draft 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 recognised in any well ordered state. It cannot be denied that there is a danger in leaving the courts, by judicial legislations to speak, to read the necessary limitations, according to idiosyncracies and prejudices it may be of individual judges.

The problem of minorities has been solved by common agreement in a manner satisfactory to the various parties concerned, and the draft Constitution merely seeks to give effect to the agreement reached. As has been pointed out in the spirited address of our Prime Minister this morning, while regimented unity will not do, nothing should be done which will tend to perpetuate the division of the nation into minorities and to prevent the consolidation of the nation.

The next criticism is that the common man is ignored and there is no socialistic flavour about the Constitution. Sir, the Constitution, while it does not commit the country to any particular form of economic structure or social adjustment, gives ample scope for future legislatures and the future Parliament to involve any economic order and to undertake any legislation they choose in public interests. In this connection, the various Articles which are directive principles of social policy are not without significance and importance. While from the very nature they can not be justiciable or enforceable legal rights in a court of law, they are none the less, in the language of Article 29, fundamental in the governance of the country and it is the duty of the State to apply the principles in making laws. It is idle to suggest that any responsible government or any legislature elected on the basis of universal suffrage can or will ignore these principles.

The financial provisions in the draft Constitution have also come in for strong comment from my honourable friend Shri T. T. Krishnamachari. While an independent source or sources of revenue are certainly necessary for the proper functioning of a federal government, there is a distinct tendency, however, in the several federations, for the Central Government to act as the taxing agency, taking care to make adequate provision for the units sharing in the proceeds as also for the central or national Government granting subsidies. After all, it cannot be forgotten that the tax payer is the individual

citizen or a corporation—whichever the taxing agency might be—and the multiplication of taxing agencies is not a matter of convenience to the citizens. I doubt whether in the present uncertain state of the country it is possible to overhaul the whole financial structure and attempt a re-distribution on entirely new lines. That is why a provision has been made for a Financial Commission at the end of ten years. Possibly the draft is defective in that special provision has not been made for the re-arranging of the lists in regard to financial matters in light of the recommendations of the Financial Commission without having recourse to the procedure as to Constitutional Amendments.

In regard to the subject of taxation, Professor Wheare makes the following observations in his recent Treatise on Federalism:—

“There can be no final solution to the allocation of financial resources in a Federal system. There can only be an adjustment and re-allocation in the light of changing circumstances.”

We then had the criticism that the Constitution is far too detailed and elaborate and contained more number of articles than any other known Constitution. This criticism does not take note of the fact that we are not starting a Constitution a new after a Revolution. The existing administrative structure which has been worked so long cannot altogether be ignored in the new framework. The second point that the critics have failed to take note of is that unlike other constitutions, the draft Constitution contains detailed provision as to the constitution and power of the Supreme Court and the High Courts and also Articles relating to the Constitution of the units themselves. If we could eliminate all those Articles, our Constitution also could be rendered simpler and shorter.

In regard to the Judiciary, the draft Constitution also recognises the importance of an independent judiciary for the proper working of democracy, and especially of a Federal Constitution. The Supreme Court, under the Draft Constitution, has wider powers than any other court under any Federal system in the world.

More than any other provision in the Constitution, I should think the boldest step taken by this Assembly is in the matter of universal adult suffrage with a belief in the common man and in his power to shape the future of the country. For this institution to work properly too great a care cannot be taken in the matter of the preparation of proper electoral rolls and a uniform principle being adopted in the different parts of India. I would commend for the consideration of the House the suggestions made by my friend, the Honourable Shri Santhanam, in the course of his speech yesterday.

There are other matters which require very close and critical examination by this Assembly before the Constitution is finally adopted, such as citizenship, the formation of new States, and the position of the Indian States which have been grouped together under the able leadership and guidance of our Sardar. The position of the States which are not represented in the Constituent Assembly will also have to be considered and dealt with before the Constitution is completed as otherwise complicated legal questions might arise in regard to the relationship of these States *vis-a-vis* the Union of India.

There are two other points also which have been touched upon in the course of the debate. These relate to the emergency powers vested in the Government and to the ordinance-making power. One point that has to be remembered in this connection is that any power exercised by the President is not to be exercised on his own responsibility. The word ‘President’ used in the Constitution merely stands for the fabric responsible to the Legislature. Whether it is Ordinance or whether it is the use of the emergency power, the Cabinet is responsible to the popularly elected House. It should be remembered too that during the last debate it was the representatives.....

**Prof. N. G. Ranga** (Madras : General) : There is too much noise in the House. Another debate seems to be going on in that corner of the House.

**Mr. Vice-President** : Order in the House, please.

**Shri Alladi Krishnaswami Ayyar** : I may mention that during the last debate the representatives from the Provinces were more anxious, including the Ministers, than anybody else, to have emergency powers. It is they, having regard to the actual working of the administration, who wanted these emergency powers given to them. How exactly the emergency power is to be provided for, whether any changes are necessary, all that is another matter. So far as the ordinance making power is concerned, the Ordinances will be passed normally when the Assembly is not in session. If the Assembly is in session, I do not think that the representatives elected under universal suffrage are likely to be less insistent upon their rights than the Members of this House elected on a comparatively narrow ticket.

A brief survey of the draft Constitution must convince the Members that is based upon sound principles of democratic government and contains within itself elements necessary for growth and expansion and is in line with the most advanced democratic Constitution of the world. It is well to remember that a Constitution is after all what we make of it. The best illustration of this is found in the Constitution of the United States which was received with the least enthusiasm when it was finally adopted by the different States but has stood the test of time and is regarded as a model Constitution by the rest of the democratic world.

**Shri K. Hanumanthaiya** (Mysore) : Mr. Vice-President, Sir, Dr. Ambedkar was pleased to make a reference to the Indian States and made an appeal that so far as the units are concerned, there need not be any difference in the constitutional set-up between the Provinces and States. I am glad that such an opinion is given, I think, though for the first time. Hitherto, every State was allowed to have a Constituent Assembly of its own and even the Unions of States were permitted to summon Constituent Assemblies for the purpose of framing their own constitutions. Many of us are wondering whether the Constituent Assemblies to be summoned in the States and Union of States are free to make their own constitution, whether they were in consonance with the Indian Constitution or not. I want to suggest some ways by which we can attain the desired end.

In Mysore, Sir, the Constituent Assembly has done almost half of its work, and when it was about to appoint a Drafting Committee, it thought it fit that the opinions of the other Assemblies in the States and also the opinion of this honourable House may be of much value in coming to final conclusions. Therefore it has appointed a Committee of five members to get into touch with the representatives of other States' Assemblies and if possible with this House also. The personnel of the Committee has been announced. I hope the Members representing the States in this House will be able to sit separately together either officially or unofficially and evolve a policy acceptable to this House and to the country. The constituent assemblies in various States and Unions of States will no doubt take the advice that may be given to them by the States representatives in this House. But there are certain impediments in the way which I would like to point out.

The States, as you know, Sir, even under the British regime were enjoying a certain amount of autonomy more in degree than the provinces were allowed to enjoy and that autonomy, I might say, has never been misused. Every State, whatever the degree of its autonomy, has always had the interests of India at heart and acted accordingly. We, the States people, feel that the Units of the Federation may not have sufficient autonomy in the draft as it

stands to manage their own affairs well and efficiently. The draft as it stands—I beg to differ from Dr. Ambedkar—is rather too much over-Centralised. It practically makes the Indian Union a Unitary State and not a Federal State. In their anxiety to make the Centre strong, they have given too much legislative and financial powers to the Centre, and have treated the provinces and States as though they were mere districts of a province. This tendency, I am afraid, will not make for what is called the strength of the Centre. Let me tell all those who are concerned in drafting this Constitution that mere accumulation of files in the Imperial Secretariat does not make for the strength of the Centre. The strength of the Centre, if I understand correctly, consists in having a strong Army, a strong Navy and a strong Air Force and in the possession of sufficient money for these purposes, instead of it taking a begging bowl before the States and provinces. Beyond that, if they take too much power and accumulate their legislative lists, what happens is that the initiative that should come from provinces will not be there and the provinces will be reduced to mere automations. I have read experts on constitutions and one of the accepted tests whether a country enjoys freedom is to see how far the units and the local bodies enjoy freedom and autonomy. Different people understand the strength of the Centre in different ways and the Drafting Committee have merely understood that the mere accumulation of files in the Imperial Secretariat makes for the strength of the Centre. This is a great impediment in the way of the States people agreeing to have a common constitutional set-up for the units. Before the States agree to come on a par with the Provinces—I am talking here for all the units, States as well as provinces—they will have to be assured real autonomy, not autonomy to injure the interests of the State as a whole, but sufficient powers and responsibility to manage their affairs well and efficiently. We have forgotten whom we repeatedly call the Father of Nation. He said that the constitution should be a pyramid-like structure with the Centre occupying the apex. But the present set-up is absolutely topsy-turvy. The fear is there in the minds of the States people, that the Centre is taking too much power.

There is one other matter which has not been brought sufficiently to light and I hope I would not be misunderstood if I say that the States Ministry as such has caused more dissatisfaction to the States people than even the Political Department did previously. I have heard it said by the representatives of the States people in the House that the States Ministry has failed to take the opinion of the States people into consideration at all. They are more after the Princes and their Dewans. The people are really nowhere in the picture. It seems as though the Princes and the Dewans get everything and the people nothing. If the integration of States has taken place today, it is not because the Princes wanted it or their Dewans manoeuvred for it. It is because the people in the States who participated in the freedom movement had created such a position that the Princes had no other course except to follow this line, and it is a sorrowful thing that we have forgotten the people in our anxiety to placate the Princes and their Dewans. This psychology of the States Ministry has to be reversed as soon as possible in order to make the people really feel that they are one with the rest of India and they are in safe hands.

Then, Sir, the States have been enjoying in the matter of taxation much more latitude than the provinces. We have conceded three subjects and in order to meet the expenditure in connection with these three subjects, sufficient money may be provided. For example, most of the States collect income-tax just now. We have no objection if it goes to the Centre, but the other taxing heads ought to be left to the States themselves in order to meet their own expenditure. In fact the complaint is repeatedly made that the merging States today are not enjoying even as beneficent a Government as they were enjoying under the Princes. That is the opinion of the accredited



[Shri K. Hanumanthaiya]

representatives of the people. This is a very sorrowful feature. We expected that after the Princes went away and after the States were merged with the provinces they would get better amenities and better opportunities than they were accustomed to previously. It is a bitter feeling that is expressed by the States representatives. In the Orissa States and the Deccan States the administration under Congress Governments is not as beneficent as it was under the Princes' administration. I am not merely speaking as a representative of Mysore, but I have had occasion to talk with other States representatives and this is their opinion.

Then, Sir, Delhi happens to be the capital for the present. Most of us from the South, from Bengal and from other parts of the country, feel that Delhi is not suited to be the capital of India for various reasons. Historically Delhi has developed a course; it has got all the empires it had buried in its tombs scattered all about the place, and we do not want our new Government to go that way. I have got not a sentimental reason only. Here in Delhi excepting for two months either we have to sweat or shiver and in this extremity of climates, it is almost impossible to do any hard work. The capital of a country, it is reasonable to expect, should be in the centre of the country and we can locate our capital either in the C. P. or somewhere near about.

**The Honourable Shri B. G. Kher** (Bombay-General): Bombay is better!

**Shri K. Hanumanthaiya**: Sir, I might say, after I have gathered the opinions of many of my colleagues, I am saying that C. P. is preferred. For example, it may be Betulin C. P. Sir, there is an argument that having expended so much money on Delhi, is it wise for us to expend further sums of money for another capital? In Delhi, we can still locate some of the Central offices. Now East Punjab is hunting after a capital and they want to make Ambala as its capital. We can make over half of our Government buildings here to East Punjab Government and take money from them. In the financial proposals I see that after the partition of the Punjab it has not been able to maintain itself and wants a subsidy from the Centre. If you make Delhi part of the Punjab, there will be no necessity for us to pay the subsidy, for it will then be a self-sufficient province. From this point of view and from the point of view of public opinion also it is better and in the interests of the country and its future, Delhi should cease to be the capital of India. We must be able to build a fresh capital in the Centre Provinces. Thank you very much, Sir.

**Mr. Vice-President** : Pandit Govind Malaviya.

**Pandit Govind Malaviya** : Since we are carrying on till tomorrow, may I have the privilege of speaking tomorrow?

**Mr. Vice-President** : I think you had better speak now.

**Pandit Govind Malaviya** : Sir, before I say anything else. I should like to offer my cordial congratulations to ourselves and to the Drafting Committee and its versatile Chairman, our friend, Dr. Ambedkar, for the very excellent work which they have done in giving us this Draft Constitution. It was a difficult problem which they had to face and they have tackled it most excellently. There may be many things in the Draft Constitution which one might have wished to be slightly different, but then that must be so about anything which can be produced anywhere.

The reason, Sir, why I requested you to allow me an opportunity to take a few minutes of this House was not to put before this House all the points about which I wish the Draft was slightly different. In such matters, differences can remain, but after all they do not matter very much so long as a thing is tacitly good. For instance, in the Draft Constitution there are some things which personally I should have preferred to be slightly different.

There is the election of the President, Sir, by proportional representation by single transferable vote. I do not feel happy about it; I should have preferred that it should have been by a straight vote. The proportional method might prove extremely unhealthy but I do not wish to take one moment more of your time than is absolutely necessary. I can only mention that by the way. There is, Sir, the right in the hands of the President to nominate fifteen members to the Upper Chamber; I should have felt happier without that. Then there is the federal judiciary about which we have a fixed minimum limit, but we have no maximum limit. I am sorry, Sir, I came only today. I did not know this discussion was continuing. I have not brought my papers, etc. I was not prepared to speak just now. I am just saying a few things as they strike me. There is the minimum limit but there is no maximum limit fixed to it. I can contemplate a situation where the executive, the Government of India, might abuse that provision by adding to the federal judiciary a number of new judges and getting the work done by them and in that manner bypassing any inconvenient older judiciary. I do not suggest that it will happen, but when we are framing a constitution for the future administration of the country, the more cautious we are the better. I should, therefore, have preferred that there should be an upper ceiling also to the number of judges of the federal judicature.

Sir, there are many other similar things in the constitution to which I might have referred, as I said, about which I should have felt happier if they were slightly different, but that was not the main purpose of my taking the time of this House and I shall not inflict that upon you. What I particularly wish to suggest, Sir, is about the Preamble to this Constitution. We shall be failing in our duty to our country, to the entire history of our country, to the entire culture and civilization of our country, to the entire ideology of our people if we adopt that bald preamble which we have put into the Draft Constitution.

I should very much like that we should have in it a reference to the Supreme Power which guides the destinies of the whole world. The reason why I make this suggestion is not merely that we have it in many constitutions of the world. It is not on that ground that I make that suggestion. As I said, the entire background that we have in this country demands that we should do it. I will make only one submission about it as I do not wish to take up the time of the House and wish to be as brief as possible. We sit here as representatives of the people of India. Today, in this country, if we were to devise some method of finding out as to what the views of the people are in that matter, I am certain that more than ninety per cent of our people, if not more, will be staunch believers in God Almighty. They will desire that our preamble should have such a reference. I submit, Sir, that we shall be failing in our duty as representatives of our people if we,—even if some of us, even if all of us, do not believe in God—I say ‘even’, I do not say that it is so—but, even if that be so, I respectfully submit that we shall be failing in our duty to our people and to our country whom we represent here, if we do not bring that into the Preamble, because, as I said, more than ninety per cent of the people of this country believe in God and would like to have a reference to the Almighty in the Preamble. The great point about our culture has been, the great point about our philosophy has been, the great point about our social structure has been that, while we have with complete tolerance allowed unmolested place in society to every school of thought to the atheist and the agnostic, yet, as a whole, as a people, we have always had a strong and fervent belief in the higher Power which guides us. An all pervading, an active and living belief in, and devotion to God, has been, since the very beginning of our long and glorious history, the fundamental basis, the very foundation, the supreme essence of the very life of our people.

[Pandit Govind Malaviya]

Mahatma Gandhi's life, the life of the builder of our nation today, was one beautiful, unchequered sermon to that effect. He died with the name of God on his lips. Everyday, he practised Ramdhun and I submit that the glorious impression which our country has made everywhere in the world, in the international circles and gatherings, the great impression which our great Prime Minister has made recently in the Conferences where representatives of all the countries of the Commonwealth were present, is due to the philosophical background of our country, which has in the ultimate shape taken the form of our beloved Prime Minister's present brilliant and soothing policy which we have pursued under the leadership of Mahatma Gandhi. I submit, Sir, that we will be unjust to our people and to our country if we do not do that. I hope therefore that my friend Dr. Ambedkar and others will consider that aspect and will remedy that defect or omission as I feel it to be.

The other point that I should like to mention is that in our Constitution we should have our own name for our country. I cannot understand our having a Constitution in which our country should be called 'India'. I shall not suggest any particular name; I shall be content with any name which appeals to the whole House. But, what I submit is that it will be wrong to leave India as the name of our country. We may, for some time, if necessary, put down after our own name within brackets 'India', or say, "(Known in English as India)", as the Irish have done. But, to put down India as the name of our country appears to me to be ridiculous. That is the second point which I wish to bring before this House for its consideration.

The third point, Sir, that, I wish to submit is a little delicate. I hope no friend of mine will misunderstand me. In his speech, our friend Dr. Ambedkar referred to the question of minorities. He referred to the proceedings of the Irish Conferences about partition. But, he forgot that if there was a Cosgrave to say there, "To Hell with your safeguards; we do not want to be ruled by you," there was the entire English Government to back him up. We have none so here now. I am certain that no minority now will genuinely wish to have any such separate State. Therefore, I have got one submission to make. I do not say that we should not provide safeguards for minorities. By all means, we should do so; we should give them every assurance possible, not only in words, but in actual deed; but what I submit, Sir, is that the Article in the Draft Constitution about reservation of seats should have one further clause added to it—I do not want to disturb it—I do not want in any way to take away from it; by all means let the minorities have that reservation. The clause as it stands today, says that the reservation shall automatically go after ten years unless otherwise decided upon. All I want, Sir, is that if the minorities themselves or any section of the minorities themselves desire, even before the lapse of those ten years, to do away with this reservation or special representation, then, that Article of the Constitution should not be allowed to come in the way. As I said, I hope I will not be misunderstood. It is not my desire in the least degree to take away from the safeguards which have been provided; I only want that the possibility of the minorities themselves desiring and deciding to give up that reservation should not be ruled out. I hope, Sir, this will be done.

Then, Sir, I wish to submit that, at the end of our constitution, we should have a provision for a statutory revision of it after a certain period. I know that the provisions for amending the Constitution have been prepared with great thought. But, notwithstanding all that has been said, I still feel that the provision is not of a very easy nature. I should like to make it clear that I am not a believer in very easy provisions for changes or amendments to a Constitution. I firmly believe that it should be a very difficult thing to get through any amendments to a Constitution. But, for the first time at the

beginning, for once only, I should like that there should be a Statutory provision in our Constitution that after the experience of a few years, one review will take place, and as a result of that review, any changes which are suggested should be considered and dealt with by the method of simple majority. I should like to have that provision for only once. I am not dogmatic about the details of that suggestion. It may be after three years, five years or seven years. But, my purpose is that after we have experience of three or five years, once at least we should have a statutory review which should be there automatically and then after consulting the experience of people in the Provinces and at the Centre, we should adopt whatever changes may be necessary. After that, I should personally like to make the provision for amendments to the Constitution as difficult and as rigid as may be possible. I am anxious, Sir, not to let your bell ring. I shall therefore stop here. These are the few suggestions which I wish to place before the House and I am grateful to you for having given me this opportunity to do so.

**Shri R. K. Sidhwa** (C. P. and Berar : General): Sir, before we adjourn, may I know the final programme regarding the motion under discussion.

**Mr. Vice-President :** After tomorrow nobody will have the face to say that more time is wanted.

The House stands adjourned till 10 A. M. tomorrow.

The Assembly then adjourned till Ten of the Clock, on Tuesday, the 9th November 1948.

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