



SPEECHES
DELIVERED BY
Dr. BABASAHEB AMBEDKAR

before the
CONSTITUENT ASSEMBLY OF INDIA.

- (1) TUESDAY, THE 17th DECEMBER, 1946
- (2) THURSDAY, THE 04th NOVEMBER, 1948
- (3) FRIDAY, THE 25th NOVEMBER, 1949

COMPILED BY
Dr. ANANT KALSE
PRINCIPAL SECRETARY
MAHARASHTRA LEGISLATURE SECRETARIAT

VIDHAN BHAVAN, MUMBAI.
DECEMBER, 2015.

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F O R E W O R D

It gives me great pleasure to say a few words about the speeches delivered by Dr. Babasaheb Ambedkar before the Constituent Assembly of India on (1) Tuesday, the 17th December, 1946, (2) Thursday, the 4th November, 1948 & (3) Friday, the 25th November, 1949.

The Constituent Assembly of India prepared the Draft Constitution of India which is a sacrosanct document for all of us. Dr. Babasaheb Ambedkar, while introducing the draft Constitution as settled by the Drafting Committee, said that fulfillment of the ideas will ultimately depend on the spirit in which the leaders and administrators of the country implement this Constitution of ours and on the spirit in which they approach the vast problems that are being faced by us.

I sincerely hope that readers would find these speeches very useful, educative and it helps to realise the herculean efforts made by various eminent personalities in drafting and finalising a formidable document, which governs the destiny of our country.

Vidhan Bhavan :
Mumbai,
14th December, 2015.

Dr. ANANT KALSE,
Principal Secretary,
Maharashtra Legislature Secretariat.

THE CONSTITUTION OF INDIA

FIRST DAY IN THE CONSTITUENT ASSEMBLY

The Constituent Assembly of India met for the first time in New Delhi on 9 December, 1946 in the Constitution Hall which is now known as the Central Hall of Parliament House at Eleven of the Clock. Decorated elegantly for the occasion, the Chamber wore a new look on that day with a constellation of bright lamps hanging from the high ceilings and also from the brackets on its walls.

Overwhelmed and jubilant as they were, the hon'ble members sat in semi-circular rows facing the Presidential dias. The desks which could be warmed electrically were placed on sloping green-carpeted terraces. Those who adorned the front row were Pandit Jawaharlal Nehru, Maulana Abul Kalam Azad, Sardar Vallabhbhai Patel, Acharya J.B. Kripalani, Dr. Rajendra Prasad, Smt. Sarojini Naidu, Shri Hare-Krushna Mahatab, Pandit Govind Ballabh Pant, Dr. B.R. Ambedkar, Shri Sarat Chandra Bose, Shri C. Rajagopalachari and Shri M. Asaf Ali. Two hundred and seven representatives, including nine women were present.

The inaugural session began at 11 a.m. with the introduction of Dr. Sachchidananda Sinha, the temporary Chairman of the Assembly, by Acharya Kripalani. While welcoming Dr. Sinha and others, Acharyaji said : “As we begin every work with Divine blessings, we request Dr. Sinha to invoke these blessings so that our work may proceed smoothly. Now, I once more, on your behalf, call upon Dr. Sinha to take the Chair.”

Occupying the Chair amidst acclamation, Dr. Sinha read out the good-will messages received from different countries. After the Chairman's inaugural address and the nomination of a Deputy Chairman, the members were formally requested to present their credentials. The First Day's proceedings ended after all the 207 members present submitted their credentials and signed the Register.

Seated in the galleries, some thirty feet above the floor of the Chamber, the representatives of the Press and the visitors witnessed this memorable event. The All India Radio, Delhi broadcast a composite sound picture of the entire proceedings.

Dr. Sachchidananda Sinha was the first president (temporary chairman) of the Constituent Assembly when it met on December 9, 1946. Dr. Rajendra Prasad then became the President of the Constituent Assembly, and would later become the first President of India. The Vice President of the Constituent Assembly was Professor Harendra Coomar Mookerjee, a former Vice-Chancellor of Calcutta University and a prominent Christian from Bengal, who also served as the Chairman of the Constituent Assembly's Minorities Committee; he was appointed Governor of West Bengal after India became a republic.

SOME FACTS

The Constituent Assembly took almost three years (two years, eleven months and seventeen days to be precise) to complete its historic task of drafting the Constitution for Independent India. Over the course of this period (two years, eleven months and seventeen days), the Assembly held eleven sessions sitting on a total of 165 days. Of these, 114 days were spent on the consideration of the Draft Constitution.

As to its composition, members were chosen by indirect election by the members of the Provincial Legislative Assemblies, according to the scheme recommended by the Cabinet Mission. The arrangement was: (i) 292 members were elected through the Provincial Legislative Assemblies; (ii) 93 members represented the Indian Princely States; and (iii) 4 members represented the Chief Commissioners' Provinces. The total membership of the Assembly thus was to be 389. However, as a result of the partition under the Mountbatten Plan of 3 June, 1947, a separate Constituent Assembly was set up for Pakistan and representatives of some Provinces ceased to be members of the Assembly. As a result, the membership of the Assembly was reduced to 299.

STATEWISE MEMBERSHIP OF THE CONSTITUENT ASSEMBLY OF INDIA AS ON 31 DECEMBER, 1947 PROVINCES- 229

S.No. (1)	State (2)	No. of Members (3)
1.	Madras	49
2.	Bombay	21
3.	West Bengal	19
4.	United Provinces	55

PROVINCES- 229—Contd.

(1)	(2)	(3)
5.	East Punjab	12
6.	Bihar	36
7.	C.P. and Berar	17
8.	Assam	8
9.	Orissa	9
10.	Delhi	1
11.	Ajmer-Merwara	1
12.	Coorg	1

INDIAN STATES-70

1.	Alwar	1
2.	Baroda	3
3.	Bhopal	1
4.	Bikaner	1
5.	Cochin	1
6.	Gwalior	4
7.	Indore	1
8.	Jaipur	3
9.	Jodhpur	2
10.	Kolhapur	1
11.	Kotah	1
12.	Mayurbhanj	1
13.	Mysore	7

PROVINCES- 229—Contd.

(1)	(2)	(3)
14.	Patiala	2
15.	Rewa	2
16.	Travancore	6
17.	Udaipur	2
18.	Sikkim and Cooch Behar Group	1
19.	Tripura, Manipur and Khasi States Group	1
20.	U.P. States Group	1
21.	Eastern Rajputana States Group	3
22.	Central India States Group (including Bundelkhand and Malwa)	3
23.	Western India States Group	4
24.	Gujarat States Group	2
25.	Deccan and Madras States Group	2
26.	Punjab States Group I	3
27.	Eastern States Group I	4
28.	Eastern States Group II	3
29.	Residuary States Group	4
Total . .		299

On 13 December, 1946, Pandit Jawaharlal Nehru moved the Objectives Resolution.

1. This Constituent Assembly declares its firm and solemn resolve to proclaim India as an Independent Sovereign Republic and to draw up for her future governance a Constitution;

2. WHEREIN the territories that now comprise British India, the territories that now form the Indian States, and such other parts of India as are outside British India and the States as well as such other territories as are willing to be constituted into the Independent Sovereign India, shall be a Union of them all; and

3. WHEREIN the said territories, whether with their present boundaries or with such others as may be determined by the Constituent Assembly and thereafter according to the law of the Constitution, shall possess and retain the status of autonomous Units, together with residuary powers and exercise all powers and functions of government and administration, save and except such powers and functions as are vested in or assigned to the Union, or as are inherent or implied in the Union or resulting therefrom; and

4. WHEREIN all power and authority of the Sovereign Independent India, its constituent parts and organs of government, are derived from the people; and

5. WHEREIN shall be guaranteed and secured to all the people of India justice, social economic and political : equality of status, of opportunity, and before the law; freedom of thought, expression, belief, faith, worship, vocation, association and action, subject to law and public morality; and

6. WHEREIN adequate safeguards shall be provided for minorities, backward and tribal areas, and depressed and other backward classes; and

7. WHEREBY shall be maintained the integrity of the territory of the Republic and its Sovereign rights on land, sea, and air according to justice and the law of civilized nations; and

8. This ancient land attains its rightful and honoured placed in the world and make its full and willing contribution to the promotion of world peace and the welfare of mankind.

This Resolution was unanimously adopted by the Constituent Assembly on 22 January 1947.

Late in the evening of 14 August, 1947 the Assembly met in the Constitution Hall and at the stroke of midnight, took over as the Legislative Assembly of an Independent India.

On 29 August, 1947, the Constituent Assembly set up a Drafting Committee under the Chairmanship of Dr. B.R. Ambedkar to prepare a Draft Constitution for India. While deliberating upon the draft Constitution, the Assembly moved, discussed and disposed of as many as 2,473 amendments out of a total of 7,635 tabled.

The Constitution of India was adopted on 26 November, 1949 and the hon'ble members appended their signatures to it on 24 January, 1950. In all, 284 members actually signed the Constitution. On that day when the Constitution was being signed, it was drizzling outside and it was interpreted as a sign of a good omen.

The Constitution of India came into force on 26 January, 1950. On that day, the Assembly ceased to exist, transforming itself into the Provisional Parliament of India until a new Parliament was constituted in 1952.

Sessions of the Constituent Assembly

First Session :	9-23 December, 1946
Second Session :	20-25 January, 1947
Third Session :	28 April - 2 May, 1947
Fourth Session :	14-31 July, 1947
Fifth Session :	14-30 August, 1947
Sixth Session :	27 January, 1948
Seventh Session :	4 November, 1948 - 8 January, 1949
Eighth Session :	16 May - 16 June, 1949
Ninth Session :	30 July - 18 September, 1949
Tenth Session :	6-17 October, 1949
Eleventh Session :	14-26 November, 1949

[The Assembly met once again on 24 January, 1950, when the members appended their signatures to the Constitution of India.]

COMMITTEES UNDER THE CONSTITUENT ASSEMBLY

1. Committee on the Rules of procedure - Rajendra Prasad
2. Steering Committee - Rajendra Prasad
3. Finance and Staff Committee - Anugrah Narayan Sinha
4. Credential Committee – Alladi Krishnaswamy Iyer
5. House Committee - B. Pattabhi Sitaramayya
6. Order of Business Committee – K. M. Munshi
7. Ad hoc Committee on the National Flag - Rajendra Prasad
8. Committee on the Functions of the Constituent Assembly-
G. V. Mavalankar
9. States Committee – Jawaharlal Nehru
10. Advisory Committee on Fundamental Rights, Minorities Tribal
and Excluded Areas - Vallabhbhai Patel
11. Minorities Sub-Committee - Harendra Coomar Mookerjee
12. Fundamental Rights Sub-Committee - J. B. Kripalani
13. North-East Frontier Tribal Areas and Assam. Excluded &
Partially Excluded Areas Sub-Committee - Gopinath Bardoloi
14. Excluded and Partially Excluded Areas (Other than those in Assam)
Sub-Committee - A. V. Thakkar
15. Union Powers Committee – Jawaharlal Nehru
16. Union Constitution Committee – Jawaharlal Nehru
17. Drafting Committee - B. R Ambedkar

THE CONSTITUTION OF INDIA
PREAMBLE

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens:

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity; and to promote among them all

FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

SPEECH

**Delivered by Dr. Babasaheb Ambedkar
before the Constituent Assembly
Tuesday, the 17th December, 1946**

The Constituent Assembly of India met in the Constitution Hall, New Delhi, at Eleven of the Clock, Mr. Chairman (The Hon'ble Dr. Rajendra Prasad) in the Chair.

The following Member presented, Her credential and signed the Register. The Hon'ble Mrs. Vijayalakshmi Pandit.

Mr. Chairman : I am happy to welcome Srimathi Vijayalakshmi Pandit after the great work she have been able to achieve in the International Conference in America. (Cheers). I am sure the whole House will join me in that welcome as is apparent from the cheering. (Applause).

Is there any other member who wishes to sign the Roll? (None.)

RESOLUTION RE: AIMS AND OBJECTS-contd.

Mr. Chairman : We shall proceed to the discussion of the Resolution and the amendments. I have got a long list of members who wish to speak. The list covers more than 50 names. I do not know how I can accommodate all the 50 speakers who have sent in their may. There may also be some others who wish to speak. I would therefore select according to me own choice. I am not sure that, that may not cause complaint in some quarter or other, but I suppose that, that is the only way. I want to suggest to the speakers to be as brief as they can, because after all we have got to go through this work, finish this Resolution and take up

other business. Sitting, as we are doing now for two hours a day, if every speaker takes 15 minutes, that means 6 days and if we sit both in the morning and evening, it means 3 days. I do not think we can afford so much time on this Resolution. I would therefore request the speakers to be as brief as they can without my fixing any time-limit. Ten minutes may be taken as a reasonable limit. I would call upon Mr. Masani.

Mr. M. R. Masani (Bombay : General) : Mr. Chairman, in rising to speak on this Resolution, I would like to make it clear at the outset that I, do not as a member of one of the several communities, into which unfortunately, our nation is today divided, but as an Indian first and last. (Hear). I do so even though I owe my origin to the very smallest or tiniest of our national minorities. It was one of those groups of people who received that welcome, that hospitality and that protection to which Babu Purushottamdas Tandon referred in his speech in seconding this Resolution. I hope, Sir, that these minorities which exist in our country, will, along with the majority, continue their progress towards becoming a nation, a process which in this ancient country was happening through the absorption of new groups that came into it through the centuries, but a process which seems to have been retarded through the rigidity of caste and through the exclusiveness of society in the past few centuries. I would only observe at this stage that the conception of a nation does not permit the existence of perpetual or permanent minorities. Either the nation absorbs these minorities or, in course of time, it must break up. Therefore, while welcoming the clause in this Resolution which promises adequate safeguards for the minorities, I would say that it is a good thing that we have these legal and constitutional safeguards, but that ultimately no legal

safeguard can protect small minorities from the overwhelming domination of big masses, unless on both sides an effort is made to get closer and become one corporate nation, a homogeneous nation. That process has been shown to us by the United States of America, where peoples of different races have, with one unfortunate exception, been absorbed into one nation.

There must have been indeed very few members of this House who were not deeply moved, and who did not feel elevated, by the noble speech with which the Mover of this Resolution introduced it. In this House. He peered into the future and tried to see what shape the destiny of the people of India would take and, in response to the appeal which he made that we should consider this Resolution as something fundamental and avoid legal disputes and quibbling over its terms. I would like, in the very few minutes that, Sir, you have placed at my disposal, to draw the attention of this House to what I might call the social or long-term aspect of this Resolution and to try to understand what kind of society or State, what way of life this Resolution offers to the people of this country. I feel, Sir, that immediate disputes aside, that is the part of the Resolution at which the common people of the country will look with the closest attention.

I approach this part of the Resolution, Sir, as a Democratic Socialist, a Socialist who feels that democracy needs to be extended from the Political to the economic and social spheres and that, if socialism does not mean that, then it means nothing at all. I welcome- this Resolution in spite of the fact that neither the word 'Democracy' nor the word 'Socialist' finds a place in its Preamble. It is perhaps just as well that those words have been avoided because, as one of us here Put it in his Presidential

Address at the Meerut Congress, terms like Socialism or Democracy can be made to cover Multitude of sins. The fog of words often covers realities. We know the French Revolution was made in the name of fraternity but, towards the end of that Resolution. a cynic remarked-

“ When I saw what men did in the name of fraternity, I resolved if I had a brother to call him cousin ”

That I fear, is true of other revolutions as well. As a Socialist, Sir, I welcome this aspect of the Resolution because, as the Mover has rightly pointed out, the content of economic democracy is there although the label is not there. The ‘Resolution, in my view clearly rejects the present social structure, it rejects the social status quo. There can be no other meaning to the words in clause 5 which refer to justice social, economic and political. I do not think anyone here would argue that ‘the present state of our society is based on justice. I think it has an estimated that today if our national income were to be divided into three equal thirds, 5 out of 100 Indians get one third of our national income, another 33 get the second third and the big mass of 62 get the remaining portion. That surely is not social or economic justice and, therefore, as I understand this Resolution, it would not tolerate the wide and gross inequalities which exist in our country. It would not tolerate the exploitation of a man’s labour by somebody else. It certainly means that every one who toils for the common good will get his fair share of the fruits of his labour. It also means that the people of this country, so far as any constitution can endow them, will get social security-the right to work or maintenance by the Community. The Resolution also provides for equality of opportunity. Equality of opportunity, Sir, presupposes equal facilities in education and

in the development of the talent that is latent in each one of us, To-day, among our masses a fund of latent talent exists which has no chance to come out and contribute to our national good. Equality of opportunity certainly assumes that every child in this country, every boy and girl, will get an equal opportunity to develop those faculties which he or she possesses in order contribute to the common good.

That, Sir, is the socialist aspect of the Resolution. It does not provide for Socialism. It would be wrong to provide for such a thing, because this House has no mandate to go in for far-reaching economic changes in the country. Those changes can be brought about by a properly constituted Parliament when it comes into existence with the mandate of the people. All that we can do as an Assembly here, is to frame a constitution which will allow those far-reaching changes which are necessary to be made and I submit, Sir, that this Resolution goes as far as it can in satisfying the most ardent socialist amongst us.

As I said, Sir, I approach this as a Democratic Socialist and, if Socialism is there, so is Democracy or the content of Democracy included in the Resolution. I do not think the word 'Republic' there is adequate. As Pandit Jawahar Lal Nehru himself has stated; it is conceivable that a Republic may not be democratic. If we cast our eyes around the globe to-day, we shall see several instances of this and therefore, apart from saying that we shall be a Republic, it is necessary that we should make it clear, as clauses 4 and 5 do, that in our view Democracy does not mean a Police State, where the Secret Police can arrest or liquidate people without trial. It does not mean a totalitarian State where one party can seize power and keep opposition parties suppressed and not give them the freedom to

function freely and with equal facilities. It cannot mean a Society or State where an individual is made a robot or where is reduced to “a small screw in the big machine of State”. Pandit Jawahar Lal Nehru has pointed out that this Resolution is based on Democracy, and that all our past bears witness to the fact that we stand for Democracy and for nothing less. But it is not only our past which is a guarantee of our democratic faith. It is also our present.

Our national life has many different trends in it but, almost unanimously, we all stand for the freedom of the individual and for a democratic State. And to show how widely differing schools of thought in our midst can agree with almost one voice on this desire to distribute power to our common people, to distribute political and economic power so widely that no one man or group of people can exploit or dominate the rest, I will cite to you first the testimony of one who is not present amongst us, one who, was referred to by the Mover as the Father of our Nation. I refer to Mahatma Gandhi. (Cheers). These are his words as quoted in ‘A Week with Gandhi’ by Louis Fischer:-

“ The centre of power now is in New Delhi, or in Calcutta and Bombay, in the big cities. I would have it distributed among the seven hundred thousand ;villages of India....

“ There will then be voluntary co-operation between these seven hundred thousand units, voluntary co-operation-not co-operation induced by Nazi methods. Voluntary co-operation will produce real freedom and a new order vastly superior to the new order in Soviet Russia.....

“ Some say there is ruthlessness in Russia, but that it is exercised for the lowest and the poorest and is good for that reason. For me, it has very little good in it. ”

And as if to find an echo of that in a thinker of a very different school, I shall now cite a sentence or two from a recent Picture of Socialism drawn by the leader of the Indian Socialist Party, Jai Prakash Narain. I regret, Sir—, that he has not joined us in our here, but this is what he says and it sounds almost like an echo of Gandhiji’s thought: “The State under Socialism threatens, as in Russia, far from withering away, to become an all-powerful tyrant maintaining a strangle-hold over the entire life of the citizen. This leads to totalitarianism of the type we witness in Russia today. By, dispersing the ownership and management of industry and by developing the village into a democratic village republic, we break this strangle-hold to a very’ large extent and attenuate the danger of totalitarianism. Thus my picture of a socialist India is the picture of an economic and political democracy In this democracy, men will neither be slaves to capitalism nor to a party or the State. Man will be free. ”

Sir, it is a fashion of our day to argue that the social and economic changes that are at present required cannot be made unless individual liberty and democracy are first destroyed and an all-powerful State can push its programmes through. This Resolution, if I read it aright, is a refutation of that thesis. It envisages far-reaching social changes-social justice in the fullest sense of the term but’it works for those social changes through the mechanism of political Democracy and individual liberty. To those defeatists who say that this cannot be done, this Resolution says it can be done, and we have the intention and the determination to do it. The

central problem of our times is whether the State is to own the people or the people are to own the State. Where the State belongs to the people, the State is a mere instrument subordinate to the people and it serves the people. It only takes away the liberty of the individual to the extent that the people really desire it. Where the State owns the people, the people are mere robots in a big machine—pushed about here and there by the whims of an all-powerful dictator or an all-powerful party. It is because I believe, Sir, that this Resolution points the direction to a constitution where the people will be in power, where the individual will occupy the centre of the stage and the development of the individual personality will be the main aim of our social good, that I support this part of the Resolution, this aspect of it, for I believe that, as the fathers of the United States Constitution put it, every individual Indian has an “inalienable right to Life, Liberty and pursuit of Happiness”. (Cheers.)

Mr. F. R. Anthony (Bengal General) : Mr. President, Sir, I have risen to support the amendment moved by Dr. Jayakar. I have given the most earnest consideration to the Resolution involved by Pandit Nehru and to the amendment as it has been moved by Dr. Jayakar. I appreciate the solemn character of the main Resolution, and I am not going to support the amendment purely by arguing technical or legal reasons in support of it. I appreciate the fact that the first part of that main Resolution affirms our solemn resolve to proclaim India as an independent Sovereign Republic. That, I realise, is an article of faith with the Congress Party. It represents the supreme objective for which they have fought so long and so arduously. No one could, should, more than that, would dare ask them not to reiterate that pledge of theirs on this, the first and the most

appropriate occasion. Apart from that, I think it is a pledge which is enshrined in the heart of every Indian. I also appreciate the fact that constitutional precedent shows that assemblies such as ours have at the very first opportunity declared their main and fundamental objective. And ours is to proclaim India as a Sovereign Independent Republic. Pandit Jawahar Lal Nehru has asked us, quite rightly, not to read into this word "Republic" any unnecessary bogeys. It is only meant to indicate a constitution in contradistinction to a monarchical form of government. At the same time, he emphasised that it does not preclude units, autonomous units, from joining this Republic and retain- in to themselves a monarchical form of government. The reason why I have supported Dr. Jayakar's amendment are that, I believe that it fulfils essentially both these things. The amendment respects the Congress pledge. it affirms our solemn resolve to frame constitution for A free and democratic Sovereign State. The words used may not be identical. I would prefer the words to have been adopted from the main Resolution, but I believe that from the constitutional point of view, the connotations of these two phrases are virtually identical. Further, Dr. Jayakar's amendment meets the second need, to proclaim at this first stage our fundamental objective of framing a constitution for a free and democratic Sovereign State. What I believe Dr. Jayakar's amendment really seeks to do is to ask us to defer a declaration on the remaining parts of that main Resolution. That is, those parts relating to the Indian States, to the powers and functions of the Provinces and to the powers and functions of the Union. That, I believe is the intention of this amendment-to ask us to defer a declaration, however just it may be a declaration which may expose us to the charge, however

baseless, that we are prejudging matters of detail which have to be traversed in this Assembly and on which decisions should be made after they have been fully canvassed and discussed here. That is why, Sir, I feel that Dr. Jayakar's amendment should be supported. It ought to be adopted because it is dictated, if I may say so, with all humility, by considerations of statesmanship, by the desire of every one of us to see the greatest measure of agreement and goodwill between the two major parties and by the desire of every one of us to see this great country of ours embracing, giving strength to and being given strength by those who make up her children.

Dr. Syama Prasad Mookherjee (Bengal: General) : Mr. Chairman, Sir, I believe in the course of the chequered history of our country, we have often passed motions and resolutions from different political parties and platforms embodying our demands for an Independent Sovereign State for our motherland. But so far as today's Resolution is concerned, it has a deep and special significance. It is for the first time in the history of our country, since we came under British rule, that we have met to frame our own constitution. It is a great responsibility-in fact, as the Hon'ble the Mover of the Resolution reminded us, it is a solemn and sacred trust which we Indians have agreed to perform and we propose to do so to the best of our ability. Now, Sir, the amendment which has been moved by Dr. Jayakar raises certain questions of fundamental importance. I am sorry I cannot support the amendment. The effect, of the amendment practically is that we cannot pass a resolution of this description at all until the Sections have met and made their recommendations. Dr. Jayakar wants that we should not pass this Resolution until both the Indian States and the

Muslim League are enabled to attend the Constituent Assembly. So far as the Indian States are concerned, they cannot come even if they wish to, until the Sections have met and settled the provincial constitutions, which means how many months none can foretell. So far as the Muslim League is concerned, no doubt, every one regrets that the Muslim League has not found it possible to attend the preliminary session of the Constituent Assembly. But what guarantee is there that, if this Resolution is postponed till the 20th January next, as Dr. Jayakar suggests, the Muslim League will come and attend the session?

I feel, Sir, that the question should really be looked at from a different point of view. Does this Resolution raise issues which are in any way inconsistent with the Cabinet Mission's Scheme of May the 16th?—If it does raise issues which are inconsistent with that scheme, then obviously we are prejudging matters, we are raising matters which, it may be said, we have no right to do at this stage. Now, that document to my mind is something like a puzzle picture. You can interpret it in so many ways looking at it from different angles of vision. But looking at the Resolution as it stands, what is the declaration that it is making now? It enumerates certain fundamental things which are within the frame-work of the Scheme itself. I know that if we go into some details. I have to refer to at least one matter on which many of us hold divergent views, namely, the question of residuary powers. But that is a matter which the Cabinet Mission's Scheme has included within the contemplated framework of the Constitution. That is a matter on which the Indian National Congress has expressed its opinion; that is a matter, I believe, on which the Muslim League also has expressed its opinion. Some of us differ from that standpoint and urge a

stronger Centre in India's paramount interest. We shall do so at an appropriate stage later on. Pandit Jawahar Lal Nehru, as the mover of the Resolution, has also made it clear that we are not now framing a constitution for India; we are only passing a resolution at this stage, at the preliminary stage, outlining generally the shape that the future constitution of India should take. In other words, when the time actually comes for us to frame the Constitution, I believe, Sir, it will be open to any one to, bring up any matter that he chooses before the House as an amendment to any proposal that may be made and which is bound to be considered on its merits. The passing of this Resolution, I take it, can be no legal bar whatever against any member bringing forward any amendment to the draft Constitution that this Assembly may frame at a later stage. If assurances are forthcoming, on these two issues, namely, that the Resolution as drafted does not go against the main features of the Cabinet Mission's Scheme, and also that it does not commit the Constituent Assembly in a definite manner with regard to the details of the Constitution that is yet to come. I see no reason why any obstacle should be put forward to passing the Resolution at this stage.

The Resolution has an importance of its own. After all, we are sitting here not in our individual capacity, but we claim to represent the People of this great land. Our sanction is not the British Parliament; our sanction is not the British Government; our sanction is the people of India (cheers). And if that is so, we have to say something, not merely to frame rules and regulations,-we have to say something concrete to the people of India as to why we have assembled here on the 9th December 1946. If what Dr. Jayakar says had been the correct position,. then this Constituent

Assembly should not have been called at all; in fact, Dr. Jayakar need not have attended the meeting. He should have informed the Governor General,—”I regret I cannot accept your invitation because I feel you are doing wrong in calling the Constituent Assembly as the Muslim League and the Indian States are not attending.” But having come here, for us to raise this issue is practically to walk into the trap, of the Muslim League and to strengthen the hands of reactionaries in Great Britain. I know that Dr. Jayakar will be the last man to do such a thing. I admire his courage of conviction; in fact, every one who feels that a certain thing should be done, must be able to come forward and present his view point. But we may also respectfully point out to Dr. Jayakar the great danger that lies in the innocent looking amendment that he has put forward before the House, and I hope that he will. withdraw the amendment in due course when the time comes.

I would like just to say a few words with regard to another aspect of the question. The Resolution is there, but, how are we going to implement it? What are the impediments that we already see before us which may prevent us from carrying this Resolution into effect? Now, one, of course, is the status of the Constituent Assembly in the absence of the Muslim League. Dr. Jayakar yesterday referred to some analogy of a dinner party. He said, “If guests are invited and some guests do not come, then how can you have the dinner party?” But he forgot to say what will be the fate of the guests who have already arrived? If he is going to be the host and invites six guests, suppose five of them come and one is absent, is he then going to starve those five guests of his and turn them out of his house and say, “the sixth has not come and you are not going to get your food?”

Obviously not. Here also the hunger for freedom for those who have come has to be satisfied. Mr. Churchill said that the absence of the Muslim League in the Constituent Assembly was something like the absence of the bride in the Church when the marriage was going to take place. I do not know, when the Indian States come in and also the Muslim League, how many brides the Constituent Assembly is going to have ultimately. In any case, if that is Mr. Churchill's point of view, he should not play the role of a seducer. He should have asked Mr. Jinnah to go back to India and join the Constituent Assembly and place his point of view before the people of India. No one has said that the Muslim League should not come. In fact, we want that the Muslim League should come so that we can meet each other face to face. If there are difficulties, if there are differences of opinion, we do not wish that we should carry only by majority votes. That may have to be done as a last resort, but obviously, every attempt must be made, will be made to come to an agreement as regards the future Constitution of India. But why is the Muslim League-being prevented from coming? My charge is that the Muslim League is not coming because of the encouragement it receives from British attitude. The Muslim League has been encouraged to feel that if it does not come, it may be able to veto the final decision of the Constituent Assembly. The power of veto in some form or another has again passed into the hands of the Muslim League, and that is the danger that threatens the future activities of this great Assembly. Sir, I am not going to discuss in detail, because this is neither the time nor the occasion when I can discuss, the various provisions of the British statements. But, I would certainly say this: that "his Constituent Assembly, although it is a British creation for the time being, once it has

come into existence, it has the power, if it has the will, to assert its right and to do what is best and proper for the attainment of India's freedom, for the good of the people of India irrespective of caste, creed or community. (Hear, hear).

Now, Sir, we have said, at any rate, the Indian National Congress has said—because that was one of the major parties with whom negotiations went on—that they stand by the Cabinet Mission Scheme of May 16. It gladdened my heart yesterday when the Hon'ble Sardar Vallabhai Patel got up, interrupting Dr. Jayakar, and said that the Congress has not accepted anything beyond the Statement of May 16, 1946. (Cheers) That I consider to be an announcement of fundamental importance, We have got to make it clear as to what we are here for. I say that our attitude should be something like this: We shall give the Cabinet Mission Scheme of May 16, a chance; genuinely, honestly we shall see if we can come to an agreement with the other parties and elements on the basis of the Scheme on May 16, 1946. But subsequent interpretations, if any, we are not going to accept. Or if any party chooses to deviate from the Scheme and break away, we shall proceed and frame the Constitution as we wish.

There has been considerable difference of opinion with regard to one clause of the Statement of May 16, 1946, and that is with regard to the question of grouping. Now, it is for the Congress to decide, as one of the major parties involved, what interpretation it is going to accept ultimately. If the interpretation as given by His Majesty's Government is not accepted, and if the Congress considers that the interpretation put upon that portion of the Statement by it (the Congress) is correct, then of course a crisis may come. That is a question which has to be decided apart from a

discussion on this Resolution. In fact, the greater the delay in making a decision on that question, the greater will be the atmosphere of unreality; so far as the proceeding of this House are concerned. But, after that question is decided, supposing the interpretation put by His Majesty's Government is accepted, whether by a reference to the Federal Court, or not, I need not go into, then we shall go on. We shall proceed with our work. The Muslim League may come or may not come if it comes, well and good; and even if it does not come, it cannot retard India's freedom and we must claim to proceed with our business in This I feel, Sir, that if a crisis does come, as I visualise, it is likely to come, if our country is to be free, it is not going to be in accordance with constitutional means. In view of the developments that have taken place during the last few days, our task will not be performed so easily. But let me emphasise that whatever has to be done, it has to be done through the agency of this Constituent Assembly and none other. If ultimately we have to function we shall function on our own responsibility and prepare a constitution which we shall be able to place before the bar of world opinion and satisfy everyone that we have treated the people of India, minorities and all, in a just and equitable manner.

After all, what happened with regard to the South African question? We have today in our- midst, the Hon'ble Mrs. Pandit, who has come back to her motherland after a great victory. But even there she was not supported by our self-constituted trustee-His Majesty's Government in Great Britain. In fact the vote went against India so far as Great Britain was concerned. But she won. The Indian Delegation won before the bar of world opinion. Similar may be the case with regard to the Constituent

Assembly also. If we take courage in both hands and frame constitution which will be just and equitable to all, then we shall be able, if need be, to declare this Constituent Assembly as the first Parliament of a Free and Sovereign Indian Republic. (Loud cheers.) We then may be able to worm our own National Government and enforce our decision on the people of this land. As I said a few minutes ago, our sanction is not the British people of the British Government. Our sanction is the, people of India and therefore we have to make the ultimate appeal to the people of our country.

Sir, when we talk about minorities, it is suggested as if the Muslim League represents, the only minority in India. But that is not so. There are other minorities. Coming from Bengal with all her tragic suffering, let me remind the House that Hindus also constitute a minority in at least four Provinces in India and, if minority rights are to be protected, such rights must affect every minority which may vary from Province to Province.

Only last night, Lord Simon made the startling announcement that the Constituent Assembly sitting in Delhi consists of Only Caste Hindus. So many false-statements have been uttered during the last few days in England that it is difficult to keep count of them all. But who are represented 'xi this House today? There are Hindus; there are some Muslims too. At east there are Muslims from one Muslim province who come as representatives of a Government which is functioning there in spite of the Muslim League. There are the representatives of the Province of Assam which is supposed to be part and parcel of Mr. Jinnah's Pakistan to-come. That Province is also officially represented by the majority of the people of that province. You have the Scheduled Castes. All the Scheduled Caste members Who have been elected to the

Constituent Assembly are here. Even Dr. Ambedkar who may not agree with us in all matters is present here, (applause) , and I take it, it will be possible for us to convert him, or reconvert him and to get him to our side, (renewed applause) when we go to discuss in detail the interests of those whom he represents. There are other Scheduled Caste members also present here. The Sikhs are present here; all of them. The Anglo-Indians are present and so are the Indian Christians. So, how did it lie in the mouth of Lord Simon..... (A Voice: Parsis also are present here.) Yes, last but not least, the Parsees also are present here. So, how did it lie in the mouth of Lord Simon or anybody else. (A Voice: The Tribal representatives are here). Tribal areas and the Adibasis are here represented by my friend Mr. J. Singh. In fact, every element that has been elected to the Indian Constituent Assembly is here barring the Muslim League. The Muslim League represents a section. I take it a large section, may be a very large section of the Muslim community, but it is absolutely false to suggest that this Constituent Assembly consists only of one section of the people, the Caste Hindus, as though Caste Hindus have been born only too I oppress the others and to fashion out something which will be disastrous to the interests of India. Now, is it suggested that if one section of the Indian people chooses to be absent from the Constituent Assembly, India should continue to remain a slave country? (A Voice: "No"). That reply has to be given to the people of this country who are absent and also their instigators. I would say, Sir, that we should say to the British people once and for all, "We want to remain friendly with you. You started Your career in this country as traders. You came here as supplicants before the Great Mughal. You wanted to exploit the wealth of this country. Luck was in

your favour. By forgery, fraud and force, you succeeded in establishing these are all matters of history-your Government in this country, but not with the willing co-operation of the People of this land. You introduced separate electorates, you introduced religion into Indian politics. That was not done by Indians. You did it, only to perpetuate your rule in this country. You have created vested interests in this country which have become powerful enough now and which cannot be destroyed with their own willing co-operation. In spite of all these, if you really want that you and India should remain as friends in the future, we are prepared to accept your hand of co-operation. But for heaven's sake, it is not the business of the British Government to interfere so far as the domestic problems of India are concerned. Every country will have its own domestic problems and unfortunately India has her domestic problems too, and those domestic problems must ultimately be settled by the people of this country." I hope, Sir, as we are not framing a constitution now, as we are only laying down a general outline of the things that we want to do in the future, the House will refuse to listen to narrow technicalities. We shall go ahead with our work in spite of all difficulties and obstacles and help to create that great India, united and strong, which will be the motherland of not this community or that, not this class or that, but of every person, man, woman and child, inhabiting this great land, irrespective of race, caste, creed or community, where everyone will have an equal opportunity, an equal freedom, an equal status so that he or she could develop himself or herself to the best of his or her talents and serve faithfully and fearlessly this beloved common motherland of ours.

Mr. Chairman : Dr. Ambedkar.

Dr-. B. R. Ambedkar (Bengal: General) : Mr. Chairman, I am indeed very grateful to you for having called me to speak on the Resolution. I must however confess that your invitation has come to me as a surprise. I thought that as there were some 20 or 22 people ahead of me, my turn, if it did come at all, would come tomorrow. I would have preferred that as today I have come without any preparation whatsoever. I would have liked to prepare myself as I had intended to make a full statement on an occasion of this sort. Besides you have fixed a time limit of 10 minutes. Placed under these limitations, I don't know how I could do justice to the Resolution before us. I shall however do my best to condense in as few words as possible what I think about the matter.

Mr. Chairman, the Resolution in the light of the discussion that has gone on since yesterday, obviously divides itself into two parts, one part which is controversial and another part which is non-controversial. The part which is non-controversial is the part which comprises paragraphs (5) to (7) of this Resolution. These paragraphs set out the objectives of the Future constitution of this country. I must confess that, coming as the Resolution does from Pandit Jawaharlal Nehru who is reputed to be a Socialist, this Resolution, although non-controversial, is to my mind very disappointing. I should have expected him to go much further than he has done in that part of the Resolution. As a student of history, I should have preferred this part of the Resolution not being embodied in it at all. When one reads that part of the Resolution, it reminds one of the Declaration of the Rights of Man which was pronounced by the French Constituent Assembly. I think I am right in suggesting that, after the lapse

of practically 450 years, the Declaration of the Rights of Man and the principles which are embodied in it has become part and parcel of our mental makeup. I say they have become not only the part and parcel of the mental make-up of modern man in every civilised part of the world, but also in our own country which is so orthodox, so archaic in its thought and its social structure, hardly anyone can be found to deny its validity to repeat it now as the Resolution does is, to say the least, pure pedantry. These principles have become the silent immaculate premise of our outlook. It is therefore unnecessary to proclaim as forming a part of our creed. The Resolution suffers from certain other lacuna. I find that this part of the Resolution, although it enunciates certain rights, does not speak of remedies. All of us are aware of the fact that rights are nothing unless remedies are provided whereby people can seek to obtain redress when rights are invaded. I find a complete absence of remedies. Even the usual formula, that no man's life, liberty and property shall be taken without the due process of law, finds no place in the Resolution. These fundamental set out are made subject to law and moralist. Obviously what is law, what is morality will be determined by the Executive of the-day and when the Executive may take, one view another Executive may take another view and we do not know what exactly would be the position with regard " to fundamental rights, if this matter is left to the Executive of the day. Sir, there are here certain provisions which speak of justice, economical, social and political. If this Resolution has a reality behind it and a sincerity, of which I have not the least doubt, coming as it does from the Mover of the Resolution, I should have expected some provision whereby it would have been possible for the State to make economic, social and political justice a

reality and I should have from that point of view expected the Resolution to state in most explicit terms that in order that there may be social and economic justice in the country, that there would be nationalisation of industry and nationalisation of land, I do not understand how it could be possible for any future Government which believes in doing justice socially, economically and politically, unless its economy is a socialistic economy. Therefore, personally, although I have no objection to the enunciation of these propositions, the Resolution is, to my mind, somewhat disappointing. I am however prepared to leave this subject Where it is with the observations I have made.

Now I come to the first part of the Resolution, which includes the first for paragraphs. As I said from the debate that has gone on in the House, this has become a matter of controversy. The controversy seems to be centred on the use of that word 'Republic'. It is centred on the sentence occurring in paragraph 4 "the sovereignty is derived from the people". Thereby it arises from the point made by my friend Dr. Jayakar yesterday that in the absence of the Muslim League it would not be proper for this Assembly to proceed to deal with this Resolution. Now, Sir, I have got not the slightest doubt in my mind as to the future evolution and the ultimate shape of the social, political and economic structure of this great country. I know to-day we are divided politically, socially and economically; We are a group of warring camps and I may go even to the extent of confessing that I am probably one of the leaders of such a camp. But, Sir, with all this, I am quite convinced that given time and circumstances nothing in the world will prevent this country from becoming one. (Applause) : With all our castes and creeds, I have not the slightest hesitation that we shall in

some form be a united people. (Cheers). I have, no hesitation in saying that notwithstanding the agitation of the Muslim League for the partition of India some day enough light would dawn upon the Muslims themselves and they too will begin to think that a United India is better even from them. (Loud cheers and applause).

So far as the ultimate goal is concerned, I think none of us need have any apprehensions. None of us need have any doubt. Our difficulty is not about the ultimate future. Our difficulty is how to make the heterogeneous mass that we have today take a decision in common and march on the way which leads us to unity. Our difficulty is not with regard to the ultimate, our difficulty is with regard to the beginning. Mr. Chairman, therefore, I should have thought that in order to make us willing friends, in order to induce every party, every section in this country to take on to the road it would be an act of greatest statesmanship for the majority party even to make a concession to the prejudices of people who are not prepared to march together and it is for that, that I propose to make this appeal. Let us leave aside slogans, let us leave aside words which frighten people. Let us even make a concession to the prejudices of our opponents, bring them in, so that they may willingly join with us on marching upon that road, which as I said, if we walk long enough, must necessarily lead us to unity. If I, therefore, from this place support Dr. Jayakar's amendment, it is because I want all of us to realise that whether we are right or wrong, whether the position that we take is in consonance with our legal rights, whether that agrees with the Statement of May the 16th or December 6th, leave all that aside. This is too big a question to be treated as a matter of legal rights. It is not a legal question

at all. We should leave aside all legal considerations and make some attempt, whereby those who are not prepared to come, will come. Let us make it possible for them to come, that is my appeal.

In the course of the debate that took place, there were two questions which were raised, which struck me so well that I took the trouble of taking them down on a piece of paper. The one question was, I think, by my friend, the Prime Minister of Bihar who spoke yesterday in this Assembly. He said, how can this Resolution prevent the League from coming into the Constituent Assembly? Today my friend, Dr. Syama Prasad Mookherjee, asked another question. Is this Resolution inconsistent with the Cabinet Mission's Proposal? Sir, I think they are very important questions and they ought to be answered and answered categorically. I do maintain that this Resolution whether it is intended to bring about the result or not, whether it is a result of cold calculation or whether it is a mere matter of accident is bound to have the result of keeping the Muslim League out. In this connection I should like to invite your attention to paragraph 3 of the Resolution, which I think is very significant and very important. Paragraph 3 envisages the future constitution of India. I do not know what is the intention of the mover of the Resolution. But I take it that after this Resolution is passed, it will act as a sort of a directive to the Constituent Assembly to frame a constitution in terms of para' 3 of the Resolution. What does para. 3 say? Para 3 says that in this country there shall be two different sets of polity, one at the bottom, autonomous Provinces or the States or such other areas as care to join a United India. These autonomous units will have full power. They will have also residuary powers. At the top, over the Provincial units, there will be a Union

Government, having certain subjects for legislation, for execution and for administration. As I read this part of the Resolution, I do not find any reference- to the idea of grouping, an intermediate structure between the Union on the one hand and the provinces on the other. Reading this para. in the light of the Cabinet Mission's Statement or reading, it even in the light of the Resolution passed by the Congress at its Wardha session, I must confess that I am a great deal surprised at the absence of any reference to the idea of grouping of the provinces. So far as I am personally concerned, I do not like the idea of grouping (hear, hear) I like a strong united Centre, (hear, hear) much stronger than the Centre, we had created under the Government of India Act of 1935. But, Sir, these opinions, these wishes have no bearing on the situation at all. We have travelled a long road. The Congress Party, for reasons best known to itself consented, if I may use that expression, to the dismantling of a strong Centre which had been created in this country as a result of 150 years of administration and which, I must say, was to me a matter of great admiration and respect and refuge. But having given up that position, having said that we do not want a strong Centre, and having accepted that there must be or should be an intermediate polity, a sub-federation between the Union Government and the Provinces I would like to know why there is no reference in para. 3 to the idea of grouping. I quite understand that the Congress Party, the Muslim League and His Majesty's Government are not ad idem on the interpretation of the clause relating to grouping. But I always thought that, -I am prepared to stand corrected if it is shown that I am wrong, -at least. it was agreed by the Congress Party that if the Provinces which are placed within different groups consent to

form a Union or Sub-federation, the Congress would have no objection to that proposal. I believe I am correct in interpreting the mind of the Congress Party. The question I ask is this. Why did not the Mover of this Resolution make reference to the idea of a Union of Provinces or grouping of Provinces on the terms on which he and his party, was prepared to accept it? Why is the idea of Union completely effaced from this Resolution? I find no answer. None whatever. I therefore say in answer to the two questions which have been posed here in this Assembly by the Prime Minister of Bihar and Dr. Syama Prasad Mookherjee as to how this Resolution is inconsistent with the Statement of May 16th or how this Resolution is going to prevent the Muslim League from entering this Constituent Assembly, that here is para. 3 which- the Muslim League is bound to take advantage of and justify its continued absentation. Sir, my friend Dr. Jayakar, yesterday, in arguing his case for postponing a decision on this issue put his case. If I may say so, without offence to him, somewhat in a legalistic manner. The basis of his argument was, have you the right to do so? He read out certain portions from the Statement of the Cabinet Mission which related to the procedural part of the Constituent Assembly and his contention was that the procedure that this Constituent Assembly was adopting in deciding upon this Resolution straightaway was inconsistent with the procedure that was laid down in that Paper. Sir, I like to put the matter in a somewhat different way. The way I like to put it is this. I am not asking you to consider whether you have the right to pass this Resolution straightaway or not. It may be that you have the right to do so. The question I am asking is this. Is it prudent for you to do so? Is it wise for you to do so? Power is one thing; wisdom is quite a different

thing and I want this House to consider this matter from the point of view, not of what authority is vested in this Constituent Assembly, I want this House to consider the matter from another point of view, namely, whether it would be wise, whether it would be statesmanlike, whether it would be prudent to do so at this stage. The answer that I give is that it would not be prudent, it would not be wise. I suggest think another attempt may be made to bring about a solution of the dispute between the Congress and the Muslim League. This subject is so vital, so important that I am sure it could never be decided on the mere basis of dignity of one party or the dignity of another party. When deciding the destinies of nations, dignities of people, dignities of leaders and dignities of parties ought to count for nothing. The destiny of the country ought to count for everything. It is because I feel that it would be in the interest not only of this Constituent Assembly so that it may function as one whole, so that it may have the reaction of the Muslim League before it proceeds to decision that I support Dr. Jayakar's, amendment-we must also consider what is going to happen with regard to the future, if we act precipitately. I do not know, what plans the Congress Party, which holds this House in its possession, has in its mind? I have no power of divination to know what they are thinking about. What are their tactics, what is their strategy, I do not know. But applying my mind as an outsider to the issue that has arisen, it seems to me there are only three ways by which the future will be decided. Either there shall have to be surrender by the one party to the wishes of the other-that is one way. The other way would be what I call a negotiated peace and the third way would be open war. Sir, I have been hearing from certain members of the Constituent Assembly that they are prepared to go

to war. I must confess that I am appalled at the idea that anybody in this country should think of solving the political problems of this country by the method of war. I do not know how many people in this country support that idea. A good many perhaps do and the reason why I think they do, is because most of them, at any rate a great many of them believe that the war that they are thinking of, would be a war on the British. Well, Sir, if the war that is contemplated, that is in the mind, % of people, can be localised, circumscribed, so that it will not be more than a war on the British, I probably may not have much objection to that sort of strategy. But will it be a war on the British only? I have no hesitation and I do want to place before this House in the clearest terms possible that if war comes in this country and if that war has any relation to the issue with which we are confronted to-day, it will not be a war on the British. It will be a war on the Muslims. It will be a war on the Muslims or which is probably worse, it will be a war on a combination of the British and the Muslims. I cannot see how this contemplated war be, of the sort different from what I fear it will be. Sir, I like to read to the House a passage from Burke's great speech on Conciliation with America. I believe this may have some effect upon the temper of this House. The British people as you know were trying to conquer the rebellious colonies of the United States, and bring them under their subjection contrary to their wishes. In repelling this idea of conquering the colonies this is what Burke said :—

“First, Sir, permit me to observe, that the use of force alone is but temporary; it may subdue for a moment; but it does not remove the necessity of subduing again; and a nation is not governed, which is perpetually to be conquered.

“My next objection is its uncertainty. Terror is riot always the effect of force an amendment is not a victory. If you do not succeed, you are without resource for, conciliation failing, force remains; but, force failing, no further hope of reconciliation is left. Power and authority are sometimes bought by kindness; but they can never be begged as alms by an impoverished and defeated violence....

“A further objection to force is, that you impair the object by you very endeavours to preserve it. The thing you fought for is not the thing which you recover; but depreciated, sunk, wasted and consumed in the contest.”

These are weighty words which it would be perilous to ignore. If there is anybody who has in his mind the project of solving the Hindu-Muslim problem by force, which is another name of solving it by war, in order that the Muslim's may be subjugated and made to surrender to the Constitution that might be prepared without their contend. This country would he involved in prepetually conquering, them. The conquest would not be once and for ever. I do not wish to take more time than I have taken and I will conclude by again referring to Burke. Burke— has said somewhere that it is easy to give power, it is difficult to give wisdom. Let us, prove by our conduct that if this Assembly has arrogated to itself sovereign powers it is prepared to exercise them with wisdom. That is the only way by which we can carry with ,is all sections of the country. There is no other way that can lead us to unity. Let us not have no doubt on that point—

Sardar Ujjal Singh (Punjab: Sikh) : Sir, I stand here to support the Resolution which was so ably and eloquently moved by Pandit Jawaharlal Nehru. Sir, the Resolution places before this Assembly the objective which

we must have in view before we start on our labour. This is undoubtedly a unique and solemn occasion in the history of India when the chosen people of this country have assembled here to prepare a charter of liberty and a scheme of governance for the people and by the people. Sir, before we sit to work we must send a message of hope and cheer to the dumb millions of this country and to the world outside whose eyes at this moment are fixed upon us. And I believe this Resolution will give a new hope of an early realization of their dreams to the teeming millions, the dumb masses of this country, who have been struggling hard for the last many years to achieve freedom. Sir, in this matter of the fight for freedom, as in many others, history repeats itself. Ours is not the only country which has to struggle so long and so hard. The Goddess of Liberty must take her due toll of sacrifice from everyone. It may be that the struggle is violent and has been violent elsewhere, and nonviolent in this country. For this and for many other things for which this country stands today and hopes to achieve in the future, we owe a great debt of gratitude to that master-mind, Mahatma Gandhi, whom Pandit Nehru described as the Father of the Indian Nation.

Sir, the Constituent Assembly is the culmination of the final stage of the struggle for freedom. The Resolution before this House is an expression- of the pent-up emotions of the millions of this country. It can be divided into three parts. The first part deals with the declaration of an Independent Sovereign Republic of India. 'The' second deals with autonomous units, having residuary powers with a Union of them all i.e., including the Indian States. The third part deals with social and economic freedom and justice to all and with adequate safeguards for the minorities,

backward classes and tribal areas. Opinions may differ. with regard to the exact wording of the Resolution or its brevity in certain respects, but taken as a whole its is an expression of the will of the people of this country.

Sir, my Hon'ble friend, Dr. Jayakar, for whom I have got the, highest respect, objected to this Resolution being moved and taken into consideration on the floor of this House at this stage on the ground that we are. a' this preliminary session, precluded from taking into consideration any other matter excepting those three which are set out in paragraph 19 of the Cabinet Mission's Statement. He further suggested that the House would be well advised to take this matter on the 20th of January, when we meet again after we adjourn for the Christmas. My Hon'ble friend probably knows, when we meet again on the 20th of January for completing our unfinished business, we will be meeting again in a preliminary session and if he objects to this Resolution being taken into consideration today, his objection holds good also when we meet again on the 20th of January. (Hear, hear).

Sir, the second point that lie suggested was that we should postpone its consideration for a few weeks so that the Muslim League and the States may have an opportunity to have their say on this matter. I am one of those who regret very much that the Muslim League is not present here today in this House and also value and seek the co-operation of the Muslim League. But it is not the fault of this House that those friends are absent today and we do not know when they may join us. It is not, therefore, fair to this House, having assembled here, to wait indefinitely without knowing when the other party is coming in. With regard to the States, if my Hon'ble friend were to study the State Paper, he- would find that it is clearly laid

down that States will come at the last stage when we after completing our provincial constitutions, reassemble for the Union Constitution making. Are we to postpone a resolution of this nature to the very last stage when a good part of our constitution has been framed? A resolution of this importance must be considered and adopted at the beginning of our work.

Another objection to this Resolution was taken by Dr. Ambedkar that he did not find the word “grouping” mentioned anywhere. Dr. Ambedkar should know that grouping is an optional matter and, if I may say so, almost all of us are against grouping. Even the State Paper leaves it to the option of the Sections or the Provinces. In a resolution of this kind the Mover could not put in what the Sections may decide otherwise or the Provinces may decide otherwise.

The Indian States may find some objection to the word “Republic” being used in the Resolution. Indian States have been used to the monarchical system of government and they may have some fears on that score but in the light of the speech of Pandit Nehruji those fears are entirely unjustified. In an Indian Republic the people of the Indian States. If they so choose can retain a monarchical form of government in their own part of the country.

I believe, Sir, that the exact scheme when it emerges from the labours of the Constituent Assembly will be such as will be acceptable to all the elements in Indian life and will be suited to the talents and the peculiar conditions of this country.

The second portion of the Resolution deals with the Union and the autonomous units, residuary powers being given to the units. Some of us may have serious objection to the residuary powers being given to the Units, but this proposal is in accord with the State Paper Scheme and is an essential part of paragraph 15. It may be a bitter pill for most of us, but it has got to be swallowed.

The third part of the Resolution gives an assurance to the minorities and the backward classes that their interests will be adequately safeguarded. Now, Sir, in this connection my community feels that the safeguard, should not only be adequate but should be satisfactory to the Sikhs and the other minorities concerned. With your permission, Sir, I would like to acquaint the House with the solemn assurances given to the Sikhs in the Congress Resolution of December 1929, passed at the Lahore Session of the Indian National Congress. The relevant portion of the Resolution, which related to the Sikhs and the minorities read, as follows :

“ No solution thereof (i.e., the communal problem) in any future constitution of India will be acceptable to the Congress which does not give full satisfaction to the Muslims, Sikhs, other minorities. ”

Ever since this resolution was passed, the Sikhs have made a common cause and have fought the country's battle for freedom side by side with the Congress. Unfortunately, when the British Mission came and formulated their proposals, i.e., the Statement of May 16, although they admitted the Sikhs to be one of the three main communities in India, they completely failed to provide any protection or safeguards for the Sikhs in the case of the Mussalmans, the Mission pointed out that there was a real

apprehension of their culture, and political and social life becoming submerged in a unitary India, in which the Hindus would be a dominant element. They however entirely failed to realise the same plight of the Sikhs in the Punjab which is the Holy Land and the Homeland of the Sikhs under a Muslim majority. It was the height of injustice on the part of the Cabinet Delegation not to have provided similar safeguards for the Sikhs in the Punjab and the 'B' Section, as they had provided for the Muslims in the Union. Sir Stafford Cripps, while speaking in the House of Commons the other day, remarked that they could not give similar rights to the Sikhs in the Punjab and the 'B' Section as they had given to the Mussalmans in the Union, as a similar right would have had to be given to other minorities. May I ask whether the Mission took into consideration the other minorities when they provided safeguards for the Mussalmans in the Union Centre? They did not consider the Sikhs although they were admitted to be one of the main communities of India. On the other hand, I feel that the Sikhs have a stronger claim for having similar safeguards in the Punjab than the Mussalmans have in the Union Centre. I also feel and believe that any safeguards given to the Sikhs in Section 'B' and in the Punjab will be a guarantee for the protection of the rights of other minorities in that area. As nothing was done by the Mission, a wave of indignation went throughout the entire Sikh community and their indignation rose to the highest pitch. A resolution was passed by the Sikhs at a special meeting held at Amritsar—their holy centre, that the Constituent Assembly should be boycotted and the Sikhs did boycott the Assembly. The Congress, however, accepted the proposals of the Cabinet Mission, and eminent leaders of the Congress appealed to the Sikhs to accept the proposals also. Sardar Patel

particularly pleaded the cause of the Sikhs at the All-India Congress Committee session in Bombay and our sincere thanks are due to, him. In the House of Lords on the 18th July last, while speaking on a debate, the Secretary of State made significant reference to the Sikhs in the following words :

“ It is, however, essential that fullest consideration should be given to their claims for they are a distinct and important community, but on population basis adopted they lose their weightage. This situation will, to some extent, we hope, be remedied by their full representation in the Advisory Committee of Minorities set up under paragraph 20 of the Statement of May 16. ”

He further said :

“ Over and above that, we have represented to the two major parties who were both most receptive in this matter that some special means of giving the Sikhs a strong position in the affairs of the Punjab or in the N.-W. Group should be devised. ”

This assurance though satisfactory in some respects was not sufficient to change the attitude of the Sikh community towards the Constituent Assembly. Then on the 9th August, the Congress Working Committee passed a resolution appealing to the Sikhs to reconsider their position. The resolution stated :

“ The Committee are aware that injustice has been done to the Sikhs and they have drawn attention of the Cabinet Delegation to it. We are, however, strongly of the opinion that the Sikhs would serve their cause and the cause of the country's freedom better by participation in the

Constituent Assembly than by keeping out of it. It therefore appeals to the Sikhs to, reconsider their decision and express their willingness to take part in the Constituent Assembly. The Working Committee assures the Sikhs that Congress will give them all possible support in redressing their legitimate grievances and in securing adequate safeguard. ” The Sikhs reviewed the whole position on the 14th August. The resolution of the Congress Working Committee carried the greatest weight with them, and it was on that account that the Panthic Board, which was called at a special meeting, decided to lift the ban on participation in the work of the Constituent Assembly. The resolution of the Panthic Board decided to give the Constituent Assembly a trial to secure for the Sikhs similar safeguards as were given to the Mussalmans in the Union. The Sikh members are here assembled according to, that mandate. I have great faith in the Congress leaders and sincerely hope that the assurances given to the Sikhs will be implemented without delay as the time has come for the translation of those solemn words into action.

I am sorry to take the time of the House in going in a little detail into the Sikh position, but I thought it my duty to acquaint the House with the Sikh case. Let me, however, make it clear that the safeguards which the Sikhs demand for their due and strong position in the Punjab and the North-West, are meant to be provided within the Indian Republic and not outside. They are anxious that all communities may live together in harmony and peace. They are prepared to live happily with their Mussalman brothers in the Punjab and the North-West, even treating them as elder brothers, but not as a superior ruling race or a separate nation. The Sikhs, therefore, cannot tolerate the partition of this great and ancient land. They will stoutly oppose the establishment of Pakistan and all that it implies or stands for.

Sir, if I may be permitted to say, the Sikhs have a burning passion for freedom. No single community in the history of India has struggled so long and so hard as the Sikhs have done to drive away foreign hordes from this land; and in recent times, their record of sacrifice in the battle of country's freedom is second to none. They will continue to march with the Congress in its fight for independence with unabated zeal and vigour. (Hear, hear). They, however, want their separate entity and position to be maintained and strengthened so that they may be able to contribute their full quota to the service of the country.

Sir, I realise that it is a stupendous task that this august Assembly has set itself to accomplish. There are hurdles and obstacles in our way, but I feel certain that we will be able to cross those hurdles and overcome all those obstacles if we deliberate with caution, act with decision and, if need be, oppose with firmness. With these words, Sir, I support the Resolution (Cheers).

Seth Govind Das (C. P. and Berar: General) : Mr. Chairman, in the Central Assembly and in the Council of State I speak in English as the Rules demand it; but hereafter so many English speeches I would like to speak in the language of my country.

I have come to speak for the Resolution and against the amendments. While speaking in favour of the Resolution I cannot resist the desire to offer my thanks to the Hon'ble Dr. Jayakar for his beautiful speech. I was surprised to hear of Dr. Jayakar's amendment yesterday. Dr. Jayakar and I have been friends since the days of the Swaraj' Party- I can understand his amendment. I can understand his desire to defer voting on the Resolution

until the Muslim League joins; but I fail to understand the logic of the arguments advanced by him in support of his contention. I do not want to speak on the legal aspect of his arguments. That is the work of the lawyers. What surprises me is his assertion that if we passed the Resolution now, we will finish our work without achieving what we desire. That puts me in mind of the days prior to 1920; when our Moderates were at a loss to know what to do and saw everywhere nothing but frustration and disappointment. We have not met here simply to sit together, talk a lot and then disperse without achieving any result. It will be our duty to see that we achieve results. Just at present it is not necessary to say what we are going to do and how far we are going to proceed. Suffice it to say that we shall achieve speedy and substantial results. Dr. Jayakar has spoken of war. The Congress people and the people who believe in the principle of Satyagraha always desire peace and no war. They, however, want true peace and not the peace of the graveyard.

The greatest gift that Mahatmaji has, given to the world is Satyagraha. Satyagrahis want peace but when they see that true peace is Impossible without having resort to war they , get ready to give their lives in a war of Ahinsa. I, therefore, say we do not want war. We want peace. We neither want to fight with the Muslims nor with the British Govern—————
 ————— [English translation of
 Hindustani speech begins. —————
 —————

[Seth Govind Das]

ment. If, however, the British Government wishes to fight with us making Muslims their Shikhandi; we will not do what Bhisham Patama did. We

will not lay down our arms because Shikhandi is made to stand against us. We do desire our brethren of the Muslim League to come and cooperate with us. If, however, with all our solicitations, with all our patience and with all our desire for peace, they do not come, we are not going to stop our work for them. Dr. Jayakar has not told us whether our Muslim brethren would join us if we postponed the consideration of the Resolution till the 20th January. If we were assured that they would join us, Pandit Jawahar Lal Nehru, I think, would perhaps, be the first person to say that if his Muslim brethren were coming in, he would postpone Resolution. Panditji told us in so many words that the Resolution was an undertaking—a pledge. When one signs a pledge, he signs it with full sense of responsibility of what he was doing. As this Resolution is a pledge when we pass it, we will pass it with a full sense of our responsibility.

The Resolution speaks of a Republic. There may be a difference of opinion whether the Republic should be a democratic republic or a socialist republic. But, to discuss it at this juncture, would be meaningless. Whenever the world is in need of a thing it creates it. Keeping in view the condition of the world and the plight of India, we can say that our republic will be both democratic and socialist. I desire to tell the people, who feel chary of socialism and tremble at hearing of its tenets, that not only the people who have nothing are miserable but the people who possess everything, are also in sorrow. The former are miserable because they labour under the desire to possess everything and the later are unhappy because they have to resort to hundreds and thousands of knaveries and evasions. They perform acts that are not in the least considered fair in the eyes of Justice. If these people, while ignoring justice, pretend to protect

and champion ; It, I tell you, they never get true happiness. I am myself of the people who possess everything; but I feel that if true peace is to be realized, it can only be realized through socialism. No other system can give us true peace. There can be no doubt that our republic will be both democratic and socialist.

As to preventing us doing this work; I desire, to make it known that both' the British Government and the Muslim League cannot stop us from doing what We intend to do. Our country is so vast and its population is so great that even the British Government cannot now put obstacles in the way of its freedom and progress.

To my brethren of the Muslim League, I desire to say some thing; and say it with all the emphasis at my disposal, that if the British, who are foreigners, put obstacles in the path of our freedom, nobody, in history, will held them blameworthy; but, if persons, who are born in this country. Who are bred in it, and who consume its produce, try to come in the way of its freedom they will be censured by their own progeny. As for the British, they cannot block our way to freedom; but so far as our Muslim League brethren are concerned, they may take it from me in plain words that if they allied themselves with the British to keep this country in slavish sub ingation, future generations will hold them blameworthy and they will gel' this stigma without stopping us from achieving our freedom.

If the British Government adhering to the Statements issued in the last few days, tried not to enact a new Government of India Act, in the light of the decisions of this Constituent Assembly, I tell them that their efforts in, his respect are doomed to failure. They have always tried to keep India and

other countries under their subjugation by not allowing them to solve their own problems. If, they played the same game will this country now, the time will perhaps never come for the presentation of a Government of India Act in the British Parliament and no Indo-British Treaty will ever be signed. I do not say this on behalf of the Congress. I see the future, when, if the British failed to translate the decisions of this Constituent Assembly into some solid form of action, a parallel government will be set up here and the whole of England will have to fight it. People coming from across the seven seas will not 'be able to win our war of Ahimsa. I fully believe in it.

I do not want to take more time; but before the chit comes to me asking me to stop, I appeal to you that you should pass this Resolution not as a resolution but as a pledge with full sense of responsibility of what you do and go forward in the manner of a free country.

Mr. Chairman: It is now 1 o'clock. The House stands adjourned till Eleven o'clock tomorrow morning. In the afternoon we, have got a meeting of the Rules Committee and we shall not be able to meet here.

The Assembly then adjourned till Eleven of the Clock, on Wednesday, the

18th December, 1946.

SPEECH

Delivered by Dr. Babasaheb Ambedkar

before the Constituent Assembly

Thursday, the 04th November, 1948

The Constituent Assembly of India met in the Constitution Hall, New Delhi on Thursday 4th November 1948.

The President Dr. Rajendra Prasad addressed the House. He explained what would be the programme of the business. This was followed by discussion.

In the afternoon session, the President called upon Dr. Ambedkar to move his motion. Accordingly, Dr. Ambedkar introduced the Draft Constitution to the Assembly for consideration.

After the Draft Constitution was presented to the Constituent Assembly on 4th November 1948, a brief general discussion followed which is called the first reading of the Constitution. The second reading commenced on 15th November 1948. In the second reading, the Constitution was discussed clause by clause in detail. The discussion concluded on the 17th October 1949.

The Constituent Assembly again sat on the 14th November, 1949, for the Third Reading. This was finished on the 26th November, 1949 when the Constitution was declared as passed and thereafter the President of the Assembly signed it.

Thursday, the 4th November 1948

The Constituent Assembly of India met in the Constitution Hall, New Delhi, at Eleven of the clock, Mr. President (The Honourable Dr. Rajendra Prasad) in the Chair.

MOTION *re.* DRAFT CONSTITUTION

Mr. President: I think we shall now proceed with the discussion. I call upon the Honourable Dr. Ambedkar to move his motion.

The Honourable Dr. B. R. Ambedkar (Bombay: General) : Mr. President, Sir, I introduce the Draft Constitution as settled by the Drafting Committee and move that it be taken into consideration.

The Drafting Committee was appointed by a Resolution passed by the Constituent Assembly on August 29, 1947.

The Drafting Committee was in effect charged with the duty of preparing a Constitution in accordance with the decisions of the Constituent Assembly on the reports made by the various Committees appointed by it such as the Union Powers Committee, the Union Constitution Committee, the Provincial Constitution Committee and the Advisory Committee on Fundamental Rights, Minorities, Tribal Areas, etc. The Constituent Assembly had also directed that in certain matters the provisions contained in the Government of India Act, 1935, should be followed. Except on points which are referred to in my letter of the 21st February 1948 in which I have referred to the departures made and alternatives suggested by the Drafting Committee, I hope the Drafting Committee will be found to have faithfully carried out the directions given to it.

The Draft Constitution as it has emerged from the Drafting Committee is a formidable document. It contains 315 Articles and 8 Schedules. It must be admitted that the Constitution of no country could be found to be so bulky as the Draft Constitution. It would be difficult for those who have not been through it to realize its salient and special features.

The Draft Constitution has been before the public for eight months. During this long time friends, critics and adversaries have had more than sufficient time to express their reactions to the provisions contained in it. I daresay some of them are based on misunderstanding and inadequate understanding of the Articles. But there the criticisms are and they have to be answered.

For both these reasons it is necessary that on a motion for consideration I should draw your attention to the special features of the Constitution and also meet the criticism that has been levelled against it.

Before I proceed to do so I would like to place on the table of the House Reports of three Committees appointed by the Constituent Assembly #(1) Report of the Committee on Chief Commissioners' Provinces (##)(2) Report of the Expert Committee on Financial Relations between the Union and the States, and (###)(3) Report of the Advisory Committee on Tribal Areas, which came too late to be considered by that Assembly though copies of them have been circulated to Members of the Assembly. As these reports and the recommendations made therein have been considered by the Drafting Committee it is only proper that the House should formally be placed in possession of them.

Turning to the main question. A student of Constitutional Law if a copy of a Constitution is placed in his hands is sure to ask two questions. Firstly what is the form of Government that is envisaged in the Constitution; and secondly what is the form of the Constitution? For these are the two crucial matters which every Constitution has to deal with. I will begin with the first of the two questions.

In the Draft Constitution there is placed at the head of the Indian Union a functionary who is called the President of the Union. The title of this functionary reminds one of the President of the United States. But beyond identity of names there is nothing in common between the form of Government prevalent in America and the form of Government proposed under the Draft Constitution. The American form of Government is called the Presidential system of Government. What the Draft Constitution proposes is the Parliamentary system. The two are fundamentally different.

Under the Presidential system of America, the President is the Chief head of the Executive. The administration is vested in him. Under the Draft Constitution the President occupies the same position as the King under the English Constitution. He is the head of the State but not of the Executive. He represents the Nation but does not rule the Nation. He is the symbol of the nation. His place in the administration is that of a ceremonial device on a seal by which the nation's decisions are made known. Under the American Constitution the President has under him Secretaries in charge of different Departments. In like manner the President of the Indian Union will have under him Ministers in charge of different Departments of administration. Here again there is a fundamental difference between the

two. The President of the United States is not bound to accept any advice tendered to him by any of his Secretaries. The President of the Indian Union will be generally bound by the advice of his Ministers. He can do nothing contrary to their advice nor can he do any thing without their advice. The President of the United States can dismiss any Secretary at any time. The President of the Indian Union has no power to do so long as his Ministers command a majority in Parliament.

The Presidential system of America is based upon the separation of the Executive and the Legislature. So that the President and his Secretaries cannot be members of the Congress. The Draft Constitution does not recognise this doctrine. The Ministers under the Indian Union are members of Parliament. Only members of Parliament can become Ministers. Ministers have the same rights as other members of Parliament, namely, that they can sit in Parliament, take part in debates and vote in its proceedings. Both systems of Government are of course democratic and the choice between the two is not very easy. A democratic executive must satisfy two conditions - (1) It must be a stable executive and (2) it must be a responsible executive. Unfortunately it has not been possible so far to devise a system which can ensure both in equal degree. You can have a system which can give you more stability but less responsibility or you can have a system which gives you more responsibility but less stability. The American and the Swiss systems give more stability but less responsibility. The British system on thither hand gives you more responsibility but less stability. The reason for this is obvious. The American Executive is a non-Parliamentary Executive which means that it is not dependent for its existence upon a majority in the Congress, while the British system is a

Parliamentary Executive which means that it is not dependent for its existence upon a majority in the Congress, while the British system is a Parliamentary Executive which means that it is dependent upon a majority in Parliament. Being a non-Parliamentary Executive, the Congress of the United States cannot dismiss the Executive. A Parliamentary Government must resign the moment it loses the confidence of a majority of the members of Parliament. Looking at it from the point of view of responsibility, a non-Parliamentary Executive being independent of parliament tends to be less responsible to the Legislature, while a Parliamentary Executive being more dependent upon a majority in Parliament become more responsible. The Parliamentary system differs from a non-Parliamentary system in as much as the former is more responsible than the latter but they also differ as to the time and agency for assessment of their responsibility. Under the non-Parliamentary system, such as the one that exists in the U.S.A., the assessment of the responsibility of the Executive is periodic. It is done by the Electorate. In England, where the Parliamentary system prevails, the assessment of responsibility of the Executive is both daily and periodic. The daily assessment is done by members of Parliament, through questions, Resolutions, No-confidence motions, Adjournment motions and Debates on Addresses. Periodic assessment is done by the Electorate at the time of the election which may take place every five years or earlier. The Daily assessment of responsibility which is not available under the American system is it is felt far more effective than the periodic assessment and far more necessary in a country like India. The Draft Constitution in recommending the Parliamentary system of Executive has preferred more responsibility to more stability.

So far I have explained the form of Government under the Draft Constitution. I will now turn to the other question, namely, the form of the Constitution.

Two principal forms of the Constitution are known to history - one is called Unitary and the other Federal. The two essential characteristics of a Unitary Constitution are : (1) the supremacy of the Central Polity and (2) the absence of subsidiary Sovereign polities. Contrariwise, a Federal Constitution is marked: (1) by the existence of a Central polity and subsidiary polities side by side, and (2) by each being sovereign in the field assigned to it. In other words. Federation means the establishment of a Dual Polity. The Draft Constitution is, Federal Constitution inasmuch as it establishes what may be called a Dual Polity. This Dual Polity under the proposed Constitution will consist of the Union at the Centre and the States at the periphery each endowed with sovereign powers to be exercised in the field assigned to them respectively by the Constitution. This dual polity resembles the American Constitution. The American polity is also a dual polity, one of it is known as the Federal Government and the other States which correspond respectively to the Union Government and the States Government of the Draft Constitution. Under the American Constitution the Federal Government is not a mere league of the States nor are the States administrative units or agencies of the Federal Government. In the same way the Indian Constitution proposed in the Draft Constitution is not a league of States nor are the States administrative units or agencies of the Union Government. Here, however, the similarities between the Indian and the American Constitution come to an end. The differences that distinguish them are more fundamental and glaring than the similarities between the two.

The points of difference between the American Federation and the Indian Federation are mainly two. In the U.S.A. this dual polity is followed by a dual citizenship. In the U.S.A. there is a citizenship of the U.S.A. But there is also a citizenship of the State. No doubt the rigours of this double citizenship are much assuaged by the fourteenth amendment to the Constitution of the United States which prohibits the States from taking away the rights, privileges and immunities of the citizen of the United States. At the same time, as pointed out by Mr. William Anderson, in certain political matters, including the right to vote and to hold public office, States may and do discriminate in favour of their own citizens. This favoritism goes even farther in many cases. Thus to obtain employment in the service of a State or local Government one is in most places required to be a local resident or citizen. Similarly in the licensing of persons for the practice of such public professions as law and medicine, residence or citizenship in the State is frequently required; and in business where public regulation must necessarily be strict, as in the sale of liquor, and of stocks and bonds, similar requirements have been upheld.

Each State has also certain rights in its own domain that it holds for the special advantage of its own citizens. Thus wild game and fish in a sense belong to the State. It is customary for the States to charge higher hunting and fishing license fees to non-residents than to its own citizens. The States also charge non-residents higher tuition in State Colleges and Universities, and permit only residents to be admitted to their hospitals and asylums except in emergencies.

In short, there are a number of rights that a State can grant to its own citizens or residents that it may and does legally deny to non-residents, or grant to non-residents only on more difficult terms than those imposed on residents. These advantages, given to the citizen in his own State, constitute the special rights of State citizenship. Taken all together, they amount to a considerable difference in rights between citizens and non-citizens of the State. The transient and the temporary sojourner is everywhere under some special handicaps.

The proposed Indian Constitution is a dual polity with a single citizenship. There is only one citizenship for the whole of India. It is Indian citizenship. There is no State citizenship. Every Indian has the same rights of citizenship, no matter in what State he resides.

The dual polity of the proposed Indian Constitution differs from the dual polity of the U.S.A. in another respect. In the U.S.A. the Constitutions of the Federal and the States Governments are loosely connected. In describing the relationship between the Federal and State Government in the U.S.A., Bryce has said:

“ The Central or national Government and the State Governments may be compared to a large building and a set of smaller buildings standing on the same ground, yet distinct from each other.”

Distinct they are, but how distinct are the State Governments in the U.S.A. from the Federal Government? Some idea of this distinctness may be obtained from the following facts :—

1. Subject to the maintenance of the republican form of Government, each State in America is free to make its own Constitution.

2. The people of a State retain for ever in their hands, altogether independent of the National Government, the power of altering their Constitution.

To put it again in the words of Bryce :

“ A State (in America) exists as a commonwealth by virtue of its own Constitution, and all State Authorities, legislative, executive and judicial are the creatures of, and subject to the Constitution.”

This is not true of the proposed Indian Constitution. No States (at any rate those in Part I) have a right to frame its own Constitution. The Constitution of the Union and of the States is a single frame from which neither can get out and within which they must work.

So far I have drawn attention to the difference between the American Federation and the proposed Indian Federation. But there are some other special features of the proposed Indian Federation which mark it off not only from the American Federation but from all other Federations. All federal systems including the American are placed in a tight mould of federalism. No matter what the circumstances, it cannot change its form and shape. It can never be unitary. On the other hand the Draft Constitution can be both unitary as well as federal according to the requirements of time and circumstances. In normal times, it is framed to work as a federal system. But in times of war it is so designed as to make it work as though it was a unitary system. Once the President issues a Proclamation which he is authorised to do under the Provisions of Article 275, the whole scene can become transformed and the State becomes a unitary state. The Union under the Proclamation can claim if

it wants (1) the power to legislate upon any subject even though it may be in the State list, (2) the power to give directions to the States as to how they should exercise their executive authority in matters which are within their charge, (3) the power to vest authority for any purpose in any officer, and (4) the power to suspend the financial provisions of the Constitution. Such a power of converting itself into a unitary State no federation possesses. This is one point of difference between the Federation proposed in the Draft Constitution, and all other Federations we know of.

This is not the only difference between the proposed Indian Federation and other federations. Federalism is described as a weak if not an effete form of Government. There are two weaknesses from which Federation is alleged to suffer. One is rigidity and the other is legalism. That these faults are inherent in Federalism, there can be no dispute. A Federal Constitution cannot but be a written Constitution and a written Constitution must necessarily be a rigid Constitution. A Federal Constitution means division of Sovereignty by no less a sanction than that of the law of the Constitution between the Federal Government and the States, with two necessary consequences (1) that any invasion by the Federal Government in the field assigned to the States and vice versa is a breach of the Constitution and (2) such breach is a justiciable matter to be determined by the Judiciary only. This being the nature of federalism, a federal Constitution have been found in a pronounced form in the Constitution of the United States of America.

Countries which have adopted Federalism at a later date have attempted to reduce the disadvantages following from the rigidity and legalism which are inherent therein. The example of Australia may well be referred to in

this matter. The Australian Constitution has adopted the following means to make its federation less rigid :

(1) By conferring upon the Parliament of the Commonwealth large powers of concurrent Legislation and few powers of exclusive Legislation.

(2) By making some of the Articles of the Constitution of a temporary duration to remain in force only “*until Parliament otherwise provides.*”

It is obvious that under the Australian Constitution, the Australian Parliament can do many things, which are not within the competence of the American Congress and for doing which the American Government will have to resort to the Supreme Court and depend upon its ability, ingenuity and willingness to invent a doctrine to justify its exercise of authority.

In assuaging the rigour of rigidity and legalism the Draft Constitution follows the Australian plan on a far more extensive scale than has been done in Australia. Like the Australian Constitution, it has a long list of subjects for concurrent powers of legislation. Under the Australian Constitution, concurrent subjects are 39. Under the Draft Constitution they are 37. Following the Australian Constitution there are as many as six Articles in the Draft Constitution, where the provisions are of a temporary duration and which could be replaced by Parliament at anytime by provisions suitable for the occasion. The biggest advance made by the Draft Constitution over the Australian Constitution is in the matter of exclusive powers of legislation vested in Parliament. While the exclusive authority of the Australian Parliament to legislate extends only to about 3 matters, the authority of the Indian Parliament as proposed in the Draft

Constitution will extend to 91 matters. In this way the Draft Constitution has secured the greatest possible elasticity in its federalism which is supposed to be rigid by nature.

It is not enough to say that the Draft Constitution follows the Australian Constitution or follows it on a more extensive scale. What is to be noted is that it has added new ways of overcoming the rigidity and legalism inherent in federalism which are special to it and which are not to be found elsewhere.

First is the power given to Parliament to legislate on exclusively provincial subjects in normal times. I refer to Articles 226, 227 and 229. Under Article 226 Parliament can legislate when a subject becomes a matter of national concern as distinguished from purely Provincial concern, though the subject is in the State list, provided a solution is passed by the Upper Chamber by 2/3rd majority in favour of such exercise of the power by the Centre. Article 227 gives the similar power to Parliament in a national emergency. Under Article 229 Parliament can exercise the same power if Provinces consent to such exercise. Though the last provision also exists in the Australian Constitution the first two are a special feature of the Draft Constitution.

The second means adopted to avoid rigidity and legalism is the provision for facility with which the Constitution could be amended. The provisions of the Constitution relating to the amendment of the Constitution divide the Articles of the Constitution into two groups. In the one group are placed Articles relating to (a) the distribution of legislative powers between the Centre and the States, (b) the representation of the States in Parliament, and (c) the powers of the Courts. All other Articles

are placed in another group. Articles placed in the second group cover a very large part of the Constitution and can be amended by Parliament by a double majority, namely, a majority of not less than two thirds of the members of each House present and voting and by a majority of the total membership of each House. The amendment of these Articles does not require ratification by the States. It is only in those Articles which are placed in group one that an additional safeguard of ratification by the States is introduced.

One can therefore safely say that the Indian Federation will not suffer from the faults of rigidity or legalism. Its distinguishing feature is that it is a flexible federation.

There is another special feature of the proposed Indian Federation which distinguishes it from other federations. A Federation being a dual polity based on divided authority with separate legislative, executive and judicial powers for each of the two polities is bound to produce diversity in laws, in administration and in judicial protection. Up to a certain point this diversity does not matter. It may be welcomed as being an attempt to accommodate the powers of Government to local needs and local circumstances. But this very diversity when it goes beyond a certain point is capable of producing chaos and has produced chaos in many federal States. One has only to imagine twenty different laws-if we have twenty States in the Union-of marriage, of divorce, of inheritance of property, family relations, contracts, torts, crimes, weights and measures, of bills and cheques, banking and commerce, of procedures for obtaining justice and in the standards and methods of administration. Such a state of affairs not only weakens the State but becomes intolerant to the citizen who moves

from State to State only to find that what is lawful in one State is not lawful in another. The Draft Constitution has sought to forge means and methods whereby India will have Federation and at the same time will have uniformity in all basic matters which are essential to maintain the unity of the country. The means adopted by the Draft Constitution are three

- (1) a single judiciary,*
- (2) uniformity-in fundamental laws, civil and criminal, and*
- (3) a common All-India Civil Service to man important posts.*

A dual judiciary, a duality of legal codes and a duality of civil services, as I said, are the logical consequences of a dual polity which is inherent in a federation. In the U. S. A. the Federal Judiciary and the State Judiciary are separate and independent of each other. The Indian Federation though a Dual Polity has no Dual Judiciary at all. The High Courts and the Supreme Court form one single integrated Judiciary having jurisdiction and providing remedies in all cases arising under the constitutional law, the civil law or the criminal law. This is done to eliminate all diversity in all remedial procedure. Canada is the only country which furnishes a close parallel. The Australian system is only an approximation.

Care is taken to eliminate all diversity from laws which are at the basis of civic and corporate life. The great Codes of Civil & Criminal Laws, such as the Civil Procedure Code, Penal Code, the Criminal Procedure Code, the Evidence Act, Transfer of Property Act, Laws of Marriage Divorce, and Inheritance, are either placed in the Concurrent List so that the necessary uniformity can always be preserved without impairing the federal system.

The dual polity which is inherent in a federal system as I said is followed in all federations by a dual service. In all Federations there is a Federal Civil Service and a State Civil Service. The Indian Federation though a Dual Polity will have a Dual Service but with one exception. It is recognized that in every country there are certain posts in its administrative set up which might be called strategic from the point of view of maintaining the standard of administration. It may not be easy to spot such posts in a large and complicated machinery of administration. But there can be no doubt that the standard of administration depends upon the calibre of the Civil Servants who are appointed to these strategic posts. Fortunately for us we have inherited from the past system of administration which is common to the whole of the country and we know what are these strategic posts. The Constitution provides that without depriving the States of their right to form their own Civil Services there shall be an All India service recruited on an All- India basis with common qualifications, with uniform scale of pay and the members of which alone could be appointed to these strategic posts throughout the Union.

Such are the special features of the proposed Federation. I will now turn to what the critics have had to say about it.

It is said that there is nothing new in the Draft Constitution, that about half of it has been copied from the Government of India Act of 1935 and that the rest of it has been borrowed from the Constitutions of other countries. Very little of it can claim originality.

One likes to ask whether there can be anything new in a Constitution framed at this hour in the history of the world. More than hundred years have rolled over when the first written Constitution was drafted. It has been followed by many countries reducing their Constitutions to writing. What the scope of a Constitution should be has long been settled. Similarly what are the fundamentals of a Constitution are recognized all over the world. Given these facts, all Constitutions in their main provisions must look similar. The only new things, if there can be any, in a Constitution framed so late in the day are the variations made to remove the faults and to accommodate it to the needs of the country. The charge of producing a blind copy of the Constitutions of other countries is based, I am sure, on an inadequate study of the Constitution. I have shown what is new in the Draft Constitution and I am sure that those who have studied other Constitutions and who are prepared to consider the matter dispassionately will agree that the Drafting Committee in performing its duty has not been guilty of such blind and slavish imitation as it is represented to be.

As to the accusation that the Draft Constitution has produced a good part of the provisions of the Government of India Act, 1935, I make no apologies. There is nothing to be ashamed of in borrowing. It involves no plagiarism. Nobody holds any patent rights in the fundamental ideas of a Constitution. What I am sorry about is that the provisions taken from the Government of India Act, 1935, relate mostly to the details of administration. I agree that administrative details should have no place in the Constitution. I wish very much that the Drafting Committee could see its way to avoid their inclusion in the Constitution. But this is to be said on

the necessity which justifies their inclusion. Grote, the historian of Greece, has said that :

“ The diffusion of constitutional morality, not merely among the majority of any community but throughout the whole, is the indispensable condition of a government at once free and peaceable; since even any powerful and obstinate minority may render the working of a free institution impracticable, without being strong enough to conquer ascendancy for themselves.”

By constitutional morality Grote meant “a paramount reverence for the forms of the Constitution, enforcing obedience to authority acting under and within these forms yet combined with the habit of open speech, of action subject only to definite legal control, and unrestrained censure of those very authorities as to all their public acts combined too with a perfect confidence in the bosom of every citizen amidst the bitterness of party contest that the forms of the Constitution will not be less sacred in the eyes of his opponents than in his own.” (*Hear, hear.*)

While everybody recognizes the necessity of the diffusion of Constitutional morality for the peaceful working of a democratic Constitution, there are two things interconnected with it which are not, unfortunately, generally recognized. One is that the form of administration has a close connection with the form of the Constitution. The form of the administration must be appropriate to and in the same sense as the form of the Constitution. The other is that it is perfectly possible to pervert the Constitution, without changing its form by merely changing the form of the administration and to make it inconsistent and opposed to the spirit of the

Constitution. It follows that it is only where people are saturated with Constitutional morality such as the one described by Grote the historian that one can take the risk of omitting from the Constitution details of administration and leaving it for the Legislature to prescribe them. The question is, can we presume such a diffusion of Constitutional morality? Constitutional morality is not a natural sentiment. It has to be cultivated. We must realize that our people have yet to learn it. Democracy in India is only a top-dressing on an Indian soil, which is essentially undemocratic.

In these circumstances it is wiser not to trust the Legislature to prescribe forms of administration. This is the justification for incorporating them in the Constitution.

Another criticism against the Draft Constitution is that no part of it represents the ancient polity of India. It is said that the new Constitution should have been drafted on the ancient Hindu model of a State and that instead of incorporating Western theories the new Constitution should have been raised and built upon village Panchayats and District Panchayats. There are others who have taken a more extreme view. They do not want any Central or Provincial Governments. They just want India to contain so many village Governments. The love of the intellectual Indians for the village community is of course infinite if not pathetic (laughter). It is largely due to the fulsome praise bestowed upon it by Metcalfe who described them as little republics having nearly everything that they want within themselves, and almost independent of any foreign relations. The existence of these village communities each one forming a separate little State in itself has according to Metcalfe contributed more than any other

cause to the preservation of the people of India, through all the revolutions and changes which they have suffered, and is in a high degree conducive to their happiness and to the enjoyment of a great portion of the freedom and independence. No doubt the village communities have lasted where nothing else lasts. But those who take pride in the village communities do not care to consider what little part they have played in the affairs and the destiny of the country; and why? Their part in the destiny of the country has been well described by Metcalfe himself who says:

“ Dynasty after dynasty tumbles down. Revolution succeeds to revolution. Hindoo, Pathan, Mogul, Maratha, Sikh, English are all masters in turn but the village communities remain the same. In times of trouble they arm and fortify themselves. A hostile army passes through the country. The village communities collect their little cattle within their walls, and let the enemy pass unprovoked.”

Such is the part the village communities have played in the history of their country. Knowing this, what pride can one feel in them? That they have survived through all vicissitudes may be a fact. But mere survival has no value. The question is on what plane they have survived. Surely on a low, on a selfish level. I hold that these village republics have been the ruination of India. I am therefore surprised that those who condemn Provincialism and communalism should come forward as champions of the village. What is the village but a sink of localism, a den of ignorance, narrow-mindedness and communalism? I am glad that the Draft Constitution has discarded the village and adopted the individual as its unit.

The Draft Constitution is also criticised because of the safeguards it provides for minorities. In this, the Drafting Committee has no responsibility. It follows the decisions of the Constituent Assembly. Speaking for myself, I have no doubt that the Constituent Assembly has done wisely in providing such safeguards for minorities as it has done. In this country both the minorities and the majorities have followed a wrong path. It is wrong for the majority to deny the existence of minorities. It is equally wrong for the minorities to perpetuate themselves. A solution must be found which will serve a double purpose. It must recognize the existence of the minorities to start with. It must also be such that it will enable majorities and minorities to merge someday into one. The solution proposed by the Constituent Assembly is to be welcomed because it is a solution which serves this twofold purpose. To diehards who have developed a kind of fanaticism against minority protection I would like to say two things. One is that minorities are an explosive force which, if it erupts, can blow up the whole fabric of the State. The history of Europe bears ample and appalling testimony to this fact. The other is that the minorities in India have agreed to place their existence in the hands of the majority. In the history of negotiations for preventing the partition of Ireland, Redmond said to Carson "ask for any safeguard you like for the Protestant minority but let us have a United Ireland. "Carson's reply was "Damn your safeguards, we don't want to be ruled by you." No minority in India has taken this stand. They have loyally accepted the rule of the majority which is basically a communal majority and not a political majority. It is for the majority to realize its duty not to discriminate against minorities. Whether the minorities will continue or will vanish must depend

upon this habit of the majority. The moment the majority loses the habit of discriminating against the minority, the minorities can have no ground to exist. They will vanish.

The most criticized part of the Draft Constitution is that which relates to Fundamental Rights. It is said that Article 13 which defines fundamental rights is riddled with so many exceptions that the exceptions have eaten up the rights altogether. It is condemned as a kind of deception. In the opinion of the critics fundamental rights are not fundamental rights unless they are also absolute rights. The critics rely on the Constitution of the United States and to the Bill of Rights embodied in the first ten Amendments to that Constitution in support of their contention. It is said that the fundamental rights in the American Bill of Rights are real because they are not subjected to limitations or exceptions.

I am sorry to say that the whole of the criticism about fundamental rights is based upon a misconception. In the first place, the criticism in so far as it seeks to distinguish fundamental rights from non-fundamental rights is not sound. It is incorrect to say that fundamental rights are absolute while non-fundamental rights are not absolute. The real distinction between the two is that non-fundamental rights are created by agreement between parties while fundamental rights are the gift of the law. Because fundamental rights are the gift of the State it does not follow that the State cannot qualify them.

In the second place, it is wrong to say that fundamental rights in America are absolute. The difference between the position under the American Constitution and the Draft Constitution is one of form and not of

substance. That the fundamental rights in America are not absolute rights is beyond dispute. In support of every exception to the fundamental rights set out in the Draft Constitution one can refer to at least one judgment of the United States Supreme Court. It would be sufficient to quote one such judgment of the Supreme Court in justification of the limitation on the right of free speech contained in Article-13 of the Draft Constitution. In *Gitlow Vs. New York* in which the issue was the constitutionality of a New York “criminal anarchy” law which purported to punish utterances calculated to bring about violent change, the Supreme Court said:

“ It is a fundamental principle, long established, that the freedom of speech and of the press, which is secured by the Constitution, does not confer an absolute right to speak or publish, without responsibility, whatever one may choose, or an unrestricted and unbridled license that gives immunity for every possible use of language and prevents the punishment of those who abuse this freedom.”

It is therefore wrong to say that the fundamental rights in America are absolute, while those in the Draft Constitution are not.

It is argued that if any fundamental rights require qualification, it is for the Constitution itself to qualify them as is done in the Constitution of the United States and where it does not do so it should be left to be determined by the Judiciary upon a consideration of all the relevant considerations. All this, I am sorry to say, is a complete misrepresentation if not a misunderstanding of the American Constitution. The American Constitution does nothing of the kind. Except in one matter, namely, the right of assembly, the American Constitution does not itself impose any

limitations upon the fundamental rights guaranteed to the American citizens. Nor is it correct to say that the American Constitution leaves it to the judiciary to impose limitations on fundamental rights. The right to impose limitations belongs to the Congress. The real position is different from what is assumed by the critics. In America, the fundamental rights as enacted by the Constitution were no doubt absolute. Congress, however, soon found that it was absolutely essential to qualify these fundamental rights by limitations. When the question arose as to the constitutionality of these limitations before the Supreme Court, it was contended that the Constitution gave no power to the United States Congress to impose such limitation, the Supreme Court invented the doctrine of police power and refuted the advocates of absolute fundamental rights by the argument that every state has inherent in it police power which is not required to be conferred on it expressly by the Constitution. To use the language of the Supreme Court in the case I have already referred to, it said :

“ That a State in exercise of its police power may punish those who abuse this freedom by utterances inimical to the public welfare, tending to corrupt public morals, incite to crime or disturb the public peace, is not open to question. . . . ”

What the Draft Constitution has done is that instead of formulating fundamental rights in absolute terms and depending upon our Supreme Court to come to the rescue of Parliament by inventing the doctrine of police power, it permits the State directly to impose limitations upon the fundamental rights. There is really no difference in the result. What one does directly the other does indirectly. In both cases, the fundamental rights are not absolute.

In the Draft Constitution the Fundamental Rights are followed by what are called “ Directive Principles ”. It is a novel feature in a Constitution framed for Parliamentary Democracy. The only other constitution framed for Parliamentary Democracy which embodies such principles is that of the Irish Free State. These Directive Principles have also come up for criticism. It is said that they are only pious declarations. They have no binding force. This criticism is of course superfluous. The Constitution itself says so in so many words.

If it is said that the Directive Principle have no legal force behind them, I am prepared to admit it. But I am not prepared to admit that they have no sort of binding force at all. Nor am I prepared to concede that they are useless because they have no binding force in law.

The Directive Principles are like the Instrument of Instructions which were issued to the Governor-General and to the Governors of the Colonies and to those of India by the British Government under the 1935 Act. Under the Draft Constitution it is proposed to issue such instruments to the President and to the Governors. The texts of these Instruments of Instructions will be found in Schedule-IV of the Constitution. What are called Directive Principles is merely another name for Instrument of Instructions. The only difference is that they are instructions to the Legislature and the Executive. Such a thing is to my mind to be welcomed. Wherever there is a grant of power in general terms for peace, order and good government, it is necessary that it should be accompanied by instructions regulating its exercise.

The inclusion of such instructions in a Constitution such as is proposed in the Draft becomes justifiable for another reason. The Draft Constitution as framed only provides a machinery for the government of the country. It is not a contrivance to install any particular party in power as has been done in some countries. Who should be in power is left to be determined by the people, as it must be, if the system is to satisfy the tests of democracy. But whoever captures power will not be free to do what he likes with it. In the exercise of it, he will have to respect these instruments of instructions which are called Directive Principles. He cannot ignore them. He may not have to answer for their breach in a Court of Law. But he will certainly have to answer for them before the electorate at election time. What great value these directive principles possess will be realized better when the forces of right contrive to capture power.

That it has no binding force is no argument against their inclusion in the Constitution. There may be a difference of opinion as to the exact place they should be given in the Constitution. I agree that it is somewhat odd that provisions which do not carry positive obligations should be placed in the midst of provisions which do carry positive obligations. In my judgment their proper place is in Schedules-III A & IV which contain Instrument of Instructions to the President and the Governors. For, as I have said, they are really Instruments of Instructions to the Executive and the Legislatures as to how they should exercise their powers. But that is only a matter of arrangement.

Some critics have said that the Centre is too strong. Others have said that it must be made stronger. The Draft Constitution has struck a balance. However much you may deny powers to the Centre, it is difficult to

prevent the Centre from becoming strong. Conditions in modern world are such that centralization of powers is inevitable. One has only to consider the growth of the Federal Government in the U.S.A. which, notwithstanding the very limited powers given to it by the Constitution, has out-grown its former self and has overshadowed and eclipsed the State Governments. This is due to modern conditions. The same conditions are sure to operate on the Government of India and nothing that one can do will help to prevent it from being strong. On the other hand, we must resist the tendency to make it stronger. It cannot chew more than it can digest. Its strength must be commensurate with its weight. It would be a folly to make it so strong that it may fall by its own weight.

The Draft Constitution is criticized for having one sort of constitutional relations between the Centre and the Provinces and another sort of constitutional relations between the Centre and the Indian States. The Indian States are not bound to accept the whole list of subjects included in the Union List but only those which come under Defence, Foreign Affairs and Communications. They are not bound to accept subjects included in the Concurrent List. They are not bound to accept the State List contained in the Draft Constitution. They are free to create their own Constituent Assemblies and to frame their own constitutions. All this, of course, is very unfortunate and, I submit quite indefensible. This disparity may even prove dangerous to the efficiency of the State. So long as the disparity exists, the Centre's authority over all-India matters may lose its efficacy. For, power is no power if it cannot be exercised in all cases and in all places. In a situation such as maybe created by war, such limitations on the exercise of vital powers in some areas may bring the

whole life of the State in complete jeopardy. What is worse is that the Indian States under the Draft Constitution are permitted to maintain their own armies. I regard this as a most retrograde and harmful provision which may lead to the break-up of the unity of India and the overthrow of the Central Government. The Drafting Committee, if I am not misrepresenting its mind, was not at all happy over this matter. They wished very much that there was uniformity between the Provinces and the Indian States in their constitutional relationship with the Centre. Unfortunately, they could do nothing to improve matters. They were bound by the decisions of the Constituent Assembly, and the Constituent Assembly in its turn was bound by the agreement arrived at between the two negotiating Committees.

But we may take courage from what happened in Germany. The German Empire as founded by Bismark in 1870 was a composite State, consisting of 25 units. Of these 25 units, 22 were monarchical States and 3 were republican city States. This distinction, as we all know, disappeared in the course of time and Germany became one land with one people living under one Constitution. The process of the amalgamation of the Indian States is going to be much quicker than it has been in Germany. On the 15th August 1947 we had 600 Indian States in existence. Today by the integration of the Indian States with Indian Provinces or merger among themselves or by the Centre having taken them as Centrally Administered Areas there have remained some 20/30 States as viable States. This is a very rapid process and progress. I appeal to those States that remain to fall in line with the Indian Provinces and to become full units of the Indian Union on the same terms as the Indian Provinces. They will thereby give the Indian Union the strength it needs. They will save themselves the bother

of starting their own Constituent Assemblies and drafting their own separate Constitution and they will lose nothing that is of value to them. I feel hopeful that my appeal will not go in vain and that before the Constitution is passed, we will be able to wipe off the differences between the Provinces and the Indian States.

Some critics have taken objection to the description of India in Article 1 of the Draft Constitution as a Union of States. It is said that the correct phraseology should be a Federation of States. It is true that South Africa which is a unitary State is described as a Union. But Canada which is a Federation is also called a Union. Thus the description of India as a Union, though its constitution is Federal, does no violence to usage. But what is important is that the use of the word Union is deliberate. I do not know why the word 'Union' was used in the Canadian Constitution. But I can tell you why the Drafting Committee has used it. The Drafting Committee wanted to make it clear that though India was to be a Federation, the Federation was not the result of an agreement by the States to join in a Federation and that the Federation not being the result of an agreement no State has the right to secede from it. The Federation is a Union because it is indestructible. Though the country and the people may be divided into different States for convenience of administration the country is one integral whole, its people a single people living under a single *imperium* derived from a single source. The Americans had to wage a civil war to establish that the States have no right of secession and that their Federation was indestructible. The Drafting Committee thought that it was better to make it clear at the outset rather than to leave it to speculation or to dispute.

The provisions relating to amendment of the Constitution have come in for a virulent attack at the hands of the critics of the Draft Constitution. It is said that the provisions contained in the Draft make amendment difficult. It is proposed that the Constitution should be amendable by a simple majority at least for some years. The argument is subtle and ingenious. It is said that this Constituent Assembly is not elected on adult suffrage while the future Parliament will be elected on adult suffrage and yet the former has been given the right to pass the Constitution by a simple majority while the latter has been denied the same right. It is paraded as one of the absurdities of the Draft Constitution. I must repudiate the charge because it is without foundation. (To know how simple are the provisions of the Draft Constitution in respect of amending the Constitution one has only to study the provisions for amendment contained in the American and Australian Constitutions. Compared to them those contained in the Draft Constitution will be found to be the simplest. The Draft Constitution has eliminated the elaborate and difficult procedures such as a decision by a convention or a referendum. The Powers of amendment are left with the Legislature Central and Provincial. It is only for amendments of specific matters - and they are only few - that the ratification of the State legislatures is required. All other Articles of the Constitution are left to be amended by Parliament. The only limitation is that it shall be done by a majority of not less than two-thirds of the members of each House present and voting and a majority of the total membership of each House. It is difficult to conceive a simpler method of amending the Constitution.

What is said to be the absurdity of the amending provisions is founded upon a misconception of the position of the Constituent Assembly and of the future Parliament elected under the Constitution. The Constituent Assembly in making a Constitution has no partisan motive. Beyond securing a good and workable constitution it has no axe to grind. In considering the Articles of the Constitution it has no eye on getting through a particular measure. The future Parliament if it met as a Constituent Assembly, its members will be acting as partisans seeking to carry amendments to the Constitution to facilitate the passing of party measures which they have failed to get through Parliament by reason of some Article of the Constitution which has acted as an obstacle in their way Parliament will have an axe to grind while the Constituent Assembly has none. That is the difference between the Constituent Assembly and the future Parliament. That explains why the Constituent Assembly though elected on limited franchise can be trusted to pass the Constitution by simple majority and why the Parliament though elected on adult suffrage cannot be trusted with the same power to amend it.

I believe I have dealt with all the adverse criticisms that have been levelled against the Draft Constitution as settled by the Drafting Committee. I don't think that I have left out any important comment or criticism that has been made during the last eight months during which the Constitution has been before the public. It is for the Constituent Assembly to decide whether they will accept the constitution as settled by the Drafting Committee or whether they shall alter it before passing it.

But this I would like to say. The Constitution has been discussed in some of the Provincial Assemblies of India. It was discussed in Bombay, C. P., West Bengal, Bihar, Madras and East Punjab. It is true that, in some Provincial Assemblies serious objections were taken to the financial provisions of the constitution and in Madras to Article 226. But excepting this, in no Provincial Assembly was any serious objection taken to the Articles of the Constitution. No Constitution is perfect and the Drafting Committee it self is suggesting certain amendments to improve the Draft Constitution. But the debates in the Provincial Assemblies give me courage to say that the Constitution as settled by the Drafting Committee is good enough to make in this country a start with. I feel that it is workable, it is flexible and it is strong enough to hold the country together both in peace time and in war time. Indeed, if I may say so, if things go wrong under the new Constitution, the reason will not be that we had a bad Constitution. What we will have to say is, that Man was vile. Sir, I move.

(Web site - <http://164.100.47.132/LssNew/constituent/vol7p1.html>)

[After the speech of Dr.Ambedkar, members of the Constituent Assembly rose and spoke on the Draft Constitution. Here are some excerpts eulogising the work of Dr.Ambedkar and the Drafting Committee – Ed.]

Friday, the 5th November 1948.

The Constituent Assembly of India met in the Constitution Hall, New Delhi, at Ten of the Clock, Mr. President (The Honourable Dr. Rajendra Prasad) in the Chair.

Mr. Frank Anthony (C. P. and Berar: General): Mr. President, Sir, although Dr. Ambedkar is not present in the House I feel that, as a lawyer at least, I ought to congratulate him for the symmetrical and lucid analysis which he gave us of the principles underlying our Draft Constitution. Whatever different views we may hold about this Draft Constitution, I feel that this will be conceded that it is a monumental document at least from the physical point of view, if from no other point of view. And I think it would be churlish for us not to offer a word of special thanks, to the members of the Drafting Committee, because I am certain that they must have put in an infinite amount of labour and skill to be able to prepare such a vast document.....

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Lastly, I wish to endorse the sentiment expressed by Dr. Ambedkar when he commended the provisions on behalf of the minorities. I know that it is an unsavoury subject (after what India has gone through) to talk of minorities or in terms of minority problems. And I do not propose to do that I do not propose to commend these minority provisions, because they have already been accepted by the Advisory Committee; they have been accepted by the Congress Party; they have also been accepted by the Constituent Assembly. But I feel I ought to thank and to congratulate the Congress Party for its realistic and statesmanlike approach to this not easy problem; and I feel we ought particularly to thank Sardar Patel for his very realistic and statesmanlike approach. There is no point in blinking or in shirking the fact that minorities do exist in this country, but if we approach this problem in the way the Congress has begun to approach it, I believe that in ten years there will be no minority problem in this country. Believe

me, Sir, when I tell you that I, at any rate, do not think that there is a single right minded minority that does not want to see this country reach, and reach in the shortest possible time, the goal of a real secular democratic State. We believe - we must believe - that in the achievement of that goal lies the greatest guarantee of any minority section in this country. As Dr. Ambedkar has said ,we have struck a golden mean in this matter. The minorities too have been helpful.....

Finally, Sir, I wish to say that it is not so much on the written word of the printed Constitution that will ultimately depend whether we reach that full stature, but on the spirit in which the leaders and administrators of the country implement this Constitution of ours and on the spirit in which they approach the vast problems that face us; on the way in which we discharge the spirit of this Constitution will depend the measure of our fulfilment of the ideals which we all believe in.

Shri Krishna Chandra Sharma (United Provinces: General): I join in the pleasant task to compliment Dr. Ambedkar for the well worked out scheme he has placed before the House, the hard work he was put in, and his yesterday's able and lucid speech.

Sir, ours is a Democratic Constitution. Democracy involves a Government Constitution is not an end in itself. A Constitution is framed for certain objectives and these objectives are the general good of the people, the stability of the State and the growth and development of the individual. In India when we say the growth and development of the individual we mean his self realisation, self-development and self-fulfilment. When we say the development of the people we mean to say a strong and united nation.....

Sir, in considering a Constitution we have to take not of the fact that the of, by, and for the people. In democracy, the combined wisdom of the people is regarded as superior to that of any single king or tyrant or indeed to a group of men. Moreover, democracy emphasizes the supreme good as being the welfare of the people. Political institutions are justifiable only in so far as they lead to this result and not by any pomp and show attached to them. These being the fundamentals of democracy, we have to judge whether the Constitution placed before us will make India a strong united nation with the possibility of self-fulfilment, self-development and self-realisation of the individual.

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Shri T. T. Krishnamachari (Madras: General) : Mr. President, Sir, I am one of those in the House who have listened to Dr. Ambedkar very carefully. I am aware of the amount of work and enthusiasm that he has brought to bear on the work of drafting this Constitution. At the same time, I do realise that amount of attention that was necessary for the purpose of to it by the Drafting Committee. The House is perhaps aware that of the seven members nominated by you, one had resigned from the House and was replaced. One died and was not replaced. One was away in America and his place was not filled up and another person was engaged in State affairs, and there was a void to that extent. One or two people were far away from Delhi and perhaps reasons of health did not permit them to attend. So it happened ultimately no doubt that we are grateful to him for having achieved this task in a manner which is undoubtedly commendable. But my point really is that the attention that was due to a matter like this has not been given to it by the Committee as a whole. Some time in April the

Secretariat of the Constituent Assembly had intimated me and others besides myself that you had decided that the Union Powers Committee, the Union Constitution Committee and the Provincial Constitution Committee, at any rate the members thereof, and a few other selected people should meet and discuss the various amendments that had been suggested by the members of the House and also by the general public. A meeting was held for two days in April last and I believe a certain amount of good work was done and I see that Dr. Ambedkar has chosen to accept certain recommendations of the Committee, but nothing was heard about this committee thereafter. I understand that the Drafting Committee - at any rate Dr. Ambedkar and Mr. Madhava Rau - met thereafter and scrutinised the amendment and they have made certain suggestions, but technically perhaps this was not a Drafting Committee. Though I would not question your ruling on this matter, one would concede that the moment a Committee had reported that Committee became *functus officio*, and I do not remember your having reconstituted the Drafting Committee.....

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Shri Biswanath Das (Orissa: General): Mr. Vice-President, Sir, at the outset I must thank the Honourable Dr. Ambedkar for the brilliant analysis of the Constitution that he presented to the Constituent Assembly. Sir, I equally thank his colleagues who laboured hard for six long months to forget the Constitution that is presented to this House.....

Shri B. Das (Orissa: General): Mr. Vice President, Sir, at the outset I must pay my tribute to the Drafting Committee that did a greatly arduous work and put into shape and form the Constitution Bill which we are considering today and which we have to alter according to our will, so that

a proper sovereign Constitution will be designed for India. While I pay my tribute to Dr. Ambedkar and his colleagues, I must also pay the tribute that your Advisers deserve.....

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Shri Lokanath Misra (Orissa : General): Sir, this Constituent Assembly which represents the sovereignty of India and which is supposed to give shape and form and prestige to our freedom is here deliberating on a Constitution that is supposed to be the guardian of our future. With that end in view, our leaders have laboured enough and hard and have produced a Draft Constitution which we are now going to discuss.

Sir, my first point is this: that although Dr. Ambedkar has delivered a very brilliant, illuminating, bold and lucid speech completely analyzing the Draft Constitution.....

.....I would have taken some more time to X-ray the speech of Dr. Ambedkar. I bow down to his knowledge. I bow down to his clarity of speech. I bow down to his courage. But I am surprised to see that so learned a man so great a son of India knows so little of India. He is doubtless the very soul of the Draft Constitution and he has given in his Draft something which is absolutely un-Indian. By un-Indian, I mean that however much he may repudiate, it is absolutely a slavish imitation of – nay, much more,— a slavish surrender to the West.

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Kazi Syed Karimuddin (C. P. & Berar : Muslim): Mr. President, Sir, I congratulate Dr. Ambedkar for the introduction of the motion for the

consideration of the Draft Constitution of India. The speech that he delivered was a remarkable one and I am sure that his name is bound to go down to posterity as a great constitution-maker.....

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Prof. K. T. Shah (Bihar: General): Sir, I have to join in the chorus of congratulations that have been offered to the Drafting Committee and its Chairman for the very elaborate Draft Constitution that they have placed before this House. I have particularly to felicitate the Law Minister for the very lucid way in which he has put forward the salient features of the Constitution for our consideration, and given us thought-provoking ideas, with reasons why certain items have been included and why certain others have been put in the manner they have been.....

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Pandit Lakshmi Kanta Maitra (West Bengal: General): Sir, I would be failing in my duty if I do not at the very outset congratulate my Honourable friend and old colleague Dr. Ambedkar, for the magnificent performance he made yesterday. The House appreciates the stupendous amount of time and energy he has spent in giving the constitutional proposals a definite shape.....

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Shri Ramnarayan Singh (Bihar : General) : Sir, I congratulate my Honourable friend Dr. Ambedkar on the opportunity he got of introducing this Constitution bill and I support this motion.....

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Dr. P.S. Deshmukh (C. P. & Berar : General): Sir, I am thankful to you for giving me this opportunity to express my views on the proposed constitution. The time is limited and therefore my observations can only be of a very general nature. When consideration of the various clauses takes place I shall unfortunately not be present here. I am therefore all the more grateful to have these few minutes.

The speech delivered by my Honourable friend Dr. Ambedkar was an excellent performance and it was an impressive commentary on the Draft that has been presented. As is well known, he is an advocate of repute and I think he ably argued what was before him. He would perhaps have shaped the constitution differently if he had the scope to do so. In any case I think he admitted his difficulties fully when he said that after all you can not alter the administration in a day. And if the present constitution can be described in a nutshell it is one intended to fit in with the present administration.....

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Shri S. Nagappa: Mr. Vice-President, Sir, I join the previous speakers in congratulating the Honourable Chairman of the Drafting Committee and all members of it. They have taken care to see that all aspects of all problems and all the reports of the various committees have been consolidated and looked into.....

Sir, I am one of those who plead for a strong Centre, especially as we all know that we have won our freedom very recently. We require sufficient time to consolidate it and to retain it for all time to come. For another reason also the Centre has to be strong. We have been already divided in

so many respects, communally and on religious grounds. Now let us not be divided on the basis of provinces. So, in order to unite all the provinces and to bring about more unity, it is in the country's interests as a whole to have a strong Centre.

Another reason why we should have a strong Centre I will mention presently. Some people say that we should have a strong Centre with a war mentality. I do not think we should have that mentality at all. We have been trained to be non-violent and truthful. These are our principles. When that is the case, there is no likelihood of the Centre having war mentality.

The Honourable Dr. Ambedkar, in introducing his report and the Draft Constitution, mentioned that the Constitution was federal in structure but unitary in character. I believe, Sir, especially at this stage we require such a Constitution. We were told that he has borrowed from the Government of India act. When we find something good in it, we copy it. If we find something useful and suitable to us, to our custom and to our culture, in other constitutions, there is no harm in adopting it.

The minorities have been very well provided for in the Constitution. I am glad about it and the representatives who have returned to this House to safeguard the interests of the minorities are also glad about it. For this we have to congratulate the majority community. We have to congratulate the majority community for conceding certain special privileges to the minorities.....

Sir, I once again thank the Honourable Dr. Ambedkar for having taken the trouble of drafting this Constitution. No doubt, it is an elaborate task but he has done it so successfully and in such a short time.

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Saturday, the 6th November 1948

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.

MOTION *RE* DRAFT CONSTITUTION-(*contd.*)

Shri Arun Chandra Guha (West Bengal: General): Mr. Vice-President, Sir..... Now to the Draft Constitution. I am afraid the Drafting Committee has gone beyond the terms. I am afraid the whole constitution that has been laid before us has gone beyond the main principles laid down by the Constituent Assembly. In the whole Draft Constitution we see no trace of Congress outlook, no trace of Gandhian social and political outlook. The learned Dr. Ambedkar in his long and learned speech has found no occasion to refer to Gandhiji or to the Congress. It is not surprising, because I feel the whole Constitution lacks in Congress ideal and Congress ideology particularly. When we are going to frame a constitution, it is not only a political structure that we are going to frame; it is not only an administrative machinery that we are going to setup; it is a machinery for the social and economic future of the nation.....

As for the Fundamental Rights, Dr. Ambedkar,—he is a learned professor and I acknowledge his learning and his ability and I think the Draft Constitution is mainly his handicraft—in his introductory speech, he has entered into a sort of metaphysical debate. He has introduced a new term; I feel, Sir, there is no right in the world which is absolute. Every right carries with it some obligation; without obligation there cannot be any right.....

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Mr. Vice-President (Dr. H. C. Mookherjee): Before I call upon the next member to address the House, I have here forty slips of members who wish to speak. The matter is so urgent and so important that I should like everybody to have an opportunity of airing his views on the Draft Constitution. May I therefore appeal to the speakers not to exceed the time limit which I have fixed as ten minutes ?

Shri T. Prakasam: (Madras: General): Sir, the Draft Constitution introduced by Dr. Ambedkar, the Honourable Member in charge, is a very big document. The trouble taken by him and those who are associated with him must have been really very great. My Honourable friend Mr. T. T. Krishnamachari when he was speaking explained the handicap under which the Honourable Dr. Ambedkar had been labouring on account of as many as five or six members of the Committee having dropped out and their places not having been filled up.....

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Dr. Joseph Alban D'Souza (Bombay: General): Mr. Vice-President, never before in the annals of the history of this great nation, a history that goes back to thousands of years has there ever been, and probably will there ever be, greater need – nay, Sir, I may even say as much need – as at this most vital and momentous juncture when this Honourable House will be considering clause by clause, article by article, the Draft Constitution for a Free, Sovereign, Democratic Indian Republic – as much need for a quiet and sincere introspection into our individual consciences for the purpose of giving unto Caesar what unto Caesar is due; as much need for a keen spirit of fraternal accommodation and co-operation whereby peace,

harmony and goodwill will be the hall-marks of our varied existence individually as well as collectively; as much need for sufficient breadth of vision so that the complex and the difficult problems that we have to face in connection with this constitutional set-up may be examined primarily from the broader angle of the prosperity and progress of the country as whole; and lastly, as much need for and adequately generous and altruistic display of that well-known maxim “Love thy neighbour as thyself”, so that in the higher interest of the nation as a whole, sentimental, emotional, parochial particularisms may not be allowed unduly to influence the decisions of fundamental policy affecting the nation as a whole.

It has been admitted by several Members – practically by every member who has spoken before me- that the Draft Constitution is an excellent piece of work. May I say that it is a monumental piece of work put up by the Honourable Dr. Ambedkar and his Drafting Committee after months of laborious work which may definitely be qualified as the works of experts, work which is comparative, selective and efficient in character right from the beginning to the end.....

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The Honourable Shri K. Santhanam (Madras General):The Drafting Committee have done a good job of work, but at the same time I am afraid they cannot escape two valid criticisms. The committee, I have taken upon themselves the responsibility of changing some vital provisions adopted in the open House by this Assembly.....

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Shri R. K. Sidhwa (C. P. & Berar : General) : Mr. Vice-President, Sir, as an able and competent lawyer, the Honourable Dr. Ambedkar has presented the Draft Constitution in this House in very lucid terms and he has impressed the outside world and also some of the Honourable Members here, but that is not the Criterion for judging the constitution. This is a constitution prepared for democracy in this country and Dr. Ambedkar has negated the very idea of democracy by ignoring the local authorities and villages.....

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Shri Jainarain Vyas (Jodhpur): *[Mr. Vice-President, Sir, Dr. Ambedkar and his colleagues as also the typist and copyists have to be thanked for the labour expended in preparing the Draft Constitution that is before us. This is a very big Draft and many things have been included in it.....

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Shri B. A. Mandloi (C. P. & Berar : General) : Mr. Vice-President, Sir, Dr. Ambedkar, Chairman of the Drafting Committee, in a very lucid speech explained the salient points of the Draft Constitution. In answer to the questions which are raised, namely, what is the form of the Government and what is the constitution of the country, he has pointed out that it is a federal type of Government with a strong Centre and a parliamentary system of Government with a single judiciary and uniformity in fundamental laws. He has also said that the emphasis has been placed on responsibility rather than on stability. It is strong enough in peace time as well as in war-time. He has answered in his speech the various criticism

leveled against the Draft Constitution and I submit that his speech is a very lucid exposition of the Draft Constitution. The Draft Constitution prepared by the Drafting Committee is based on the reports of the various committees, namely, the Union Power Committee, the Provincial Constitution Committee, the Advisory Committee and the Minority Committee. The Constituent Assembly in its very first session passed a Resolution with respect to the objective of our Constitution. That Resolution was moved by our respected leader Pandit Jawaharlal Nehru, and was unanimously passed. We had to see that our Constitution is based on that fundamental Resolution—on that Objectives Resolution—in which the claims for justice, liberty, equality and fraternity had been granted. I submit that the Draft Constitution is a true reflection of the Objectives Resolution and therefore we can say that it has fulfilled our object.

There is another touch-stone with which to see whether the Draft Constitution answers the purpose of our country and our nation. That touch-stone is whether it would maintain our freedom, our independence and our democratic, secular Government. I am of opinion that looking from that point of view also this Draft Constitution serves our purpose.....

Sir, our Constitution is a Constitution which has been evolved by us from a comparison of the various constitutions prevailing in the civilized countries all over the world. Various good points from all the Constitutions have been taken with such modifications as are necessary in the interests of our country. If we faithfully and honestly work out the Constitution, I feel sure that our country would be prosperous, would be happy, would be strong and we would be able to maintain our independence and not only maintain our independence but would be

fulfilling the great mission of our departed leader, the Father of the Nation, who said that thereafter India would be in such a position as to free the other dependent countries and bring peace and prosperity in the whole world.

With these words, Sir, I submit that the Motion moved by Dr. Ambedkar be accepted by the House.

Pandit Balkrishna Sharma (United Provinces : General): Mr. Vice-President, Sir, so many friends have come here and offered their congratulations to the Honorable the Law Minister who was in charge of this Draft Constitution that it will sound almost a tautology if I repeat the same sentiments again. But I think, I will be failing in my duty if I do not offer my humble and respectful congratulations to the learned Law Minister for the very lucid manner in which he has presented this Draft Constitution for our consideration.

Many friends and critics have come here and leveled certain charges against our Constitution. The one charge which has been repeated by many friends is that ours is a very bulky Constitution. The Mover himself referred to the bulky nature of this document. When we really examine the clauses and articles of the various other Constitutions we come to the conclusion that ours is indeed a bulky Constitution. Sir, as you know, it contains 315 Articles, whereas the Constitution of the British North America, that is Canada, contains only 147 Articles; the Commonwealth of Australia Act contains about 128 Articles; the Union of South Africa Act contains 153 Articles; the Irish Constitution only 63 Articles; the U.S. Constitution contains 28 Articles; the U. S. S. R. Constitution 146 Articles; the Swiss

Federal Constitution 123 Articles; the German Reich Constitution contains 181 Articles, and the Japanese Constitution 103 Articles. A glance at these Constitutions shows that none of them contains more than 200 Articles whereas our Constitution contains 315 Articles.

Critics have tried to make a great deal out of this bulkiness of our Constitution. But we must not forget that ours is a big country of 330 millions and we are making a Constitution for almost one fifth of humanity. Therefore there should be no wonder that our Constitution is bulky.....

Sir, our is a country which has got its own problems. In no country in the world are there what we call the principalities - the States - and there should be no wonder that in order to bring all these various factors inline with the present day democratic principles, the draftsmen of our Constitution could not compress into a few Articles all that they wanted to do. Therefore the charge that has been levelled against our Constitution that it is bulky seems to me to be frivolous.....

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Pandit Thakur Dass Bhargava : Since my friends insist that I should speak in English, I bow to their wishes. It is true that I am able to express myself with greater ease in Hindi but at the same time I do wish that I should be understood by all the members of the House.

Sir, I wish to join in the chorus of praise which has been showered in this House on the Drafting Committee, but I cannot do so without reservation. When I bear in mind the complaints made by some friends here, I do feel that the Drafting Committee has not done what we expected it to do. Some of the members were absent, some did not join, some did

not fully apply their minds..... The real soul of India is not represented by this Constitution, and the autonomy of the villages is not fully delineated here and this camera (holding out the Draft Constitution) cannot give a true picture of what many people would like India to be. The Drafting Committee had not the mind of Gandhiji, had not the mind of those who think that India's teeming millions should be reflected through this camera. All the same, Sir, I cannot withhold my need of praise for the labour, the industry and the ability with which Dr. Ambedkar has dealt with this Constitution. I congratulate him on the speech that he made without necessarily concurring with him in all the sentiments that he expressed before this House.

I think, Sir, that the soul of this Constitution is contained in the Preamble and I am glad to express my sense of gratitude to Dr. Ambedkar for having added the word 'fraternity' to the Preamble. Now, Sir, I want to apply the touch-stone of this Preamble to the entire Constitution. If Justice, Liberty, Equality and Fraternity are to be found in this Constitution, if we can get this ideal through this Constitution, I maintain that the Constitution is good.

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Prof. Shibban Lal Saksena (United Provinces: General) : Mr. Vice-President, we are today called upon to discuss the principles underlying our Draft Constitution. To begin with, I must congratulate the learned Doctor who has placed this motion before us. I have read the speech, which he delivered, several times and I think it is a masterpiece of lucid exposition of our Constitution. I certainly think that there could not have been an abler advocacy for the Draft Constitution.....

.....Lastly, Sir, I thank the Drafting Committee for providing us with a very fine Constitution. I also feel that the suggestions that I have made will be discussed at the amendment stage and finally find a place in the Constitution of our country. Sir, with these words, I commend the motion to the House.

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Shri Sarangdhar Das (Orissa State): Mr. Vice-President, Sir, like all the previous speakers I congratulate the Drafting Committee, and especially its Chairman, Dr. Ambedkar for the hard work that they have put in. But at the same time, there are certain things in his speech with which I cannot agree.....

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Shri R. R. Diwakar (Bombay: General): Mr. Vice-President, Sir, Honourable Members who have spoken before me have covered enough ground and I think I should not take much time of the House in going over the same ground. I would like to make a few points which from my point of view are very important when we are on the eye of giving a new Constitution to our country. One thing which I wish to make quite clear is that the Draft Constitution which is before us is really a monumental work and we all of us have already given congratulations to the Drafting Committee and its Chairman who is piloting it through this House. At the same time I would like to point out that the Drafting Committee has not only drafted the decisions of the Constituent Assembly but in my humble opinion it has gone far beyond mere drafting. I may say that it has reviewed the decisions, it has revised some of the decisions and possibly

recast a number of them. It might be that it was inevitable to do so under the circumstances, but at the same time we, the Members of the Constituent Assembly, should be aware of this fact when we are considering the Draft and when we are thinking in terms of giving our amendments.....

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Monday, the 8th November, 1948

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.

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.....

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Mr. Z. H. Lari (United Provinces : Muslim) :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 Indians oil, which is essentially undemocratic" "It is wiser not trust the legislatures to prescribe forms of administration." With respect, I say he is mainly right.

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Mr. Hussain Imam (Bihar: Muslim):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 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.....

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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.....

.....A lot of criticism has been made about Dr. Ambedkars' 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, 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 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.

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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 every 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 reassuring 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.....

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Shri V. I. Muniswamy Pillai (Madras: General): Mr. Vice-President, Sir, nobody in this august Assembly or outside can be little 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.....

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.....

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.....

Shri Gokulbhai Daulatram Bhatt (Bombay States) :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-Marwara, 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.....

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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.....

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.....

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.

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Mr. Mohammed Ismail Sahib (Madras: Muslim): Mr. Vice-President, 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.....

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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.....

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.....

..... 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.

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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.....

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Tuesday, the 9th November, 1948

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.

Shri R. Sankar (Travancore) : Sir, I must at the very outset congratulate the framers of the Draft Constitution on the very efficient manner in which they have executed their duty; and I must particularly congratulate Dr. Ambedkar on the very lucid and able exposition of the principles of the Draft Constitution that he gave us by his brilliant speech. I do not propose to go into the details of the Draft Constitution but will content myself with dealing with one or two aspects of it. I think the most salient features of the Draft Constitution are a very strong Centre and rather weak but homogeneous Units. Dr. Ambedkar made a fervent appeal to the representatives of the States to take up such an attitude as to make it possible for all the States and the provinces to follow the same line, and in course of time to establish homogeneous Units of the Federation without any distinction between the States and the provinces.....

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Shri M. Ananthasayanam Ayyangar (Madras : General) : Sir, objections of fundamental importance have been raised to the Draft Constitution as it has emerged from the Drafting Committee. I agree that there is nothing characteristic in this Constitution reflecting our ancient culture or our traditions. It is true that it is a patch work of some of the old constitutions of the west, - not even some of the modern constitutions of

the west, - with a replica of the Government of India Act, 1935. It is true that they have been brought together and put into a whole. Dr. Ambedkar is not responsible for this; we alone have been responsible for this character of the Constitution. We have not thought that we must imprint upon this a new characteristic which will bring back to our memories our ancient culture. It is more our fault than the fault of Dr. Ambedkar.....

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Shri Rohini Kumar Chaudhari: (Assam : General) : Sir, I am deeply grateful to you for having given me this opportunity of participating in this debate of momentous importance but before I proceed, I should like to pay my share of tribute to the Members of the Drafting Committee, its worthy President and above all, our Constitutional Adviser whose services to our poor Province, Assam, in the heyday of his youth are still remembered with affection and gratitude.....

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Shri L. Krishnaswami Bharathi: (Madras: General): Mr. Vice-President, Sir,..... Dr. Ambedkar deserves the congratulations of this House for the learned and brilliant exposition of the Draft Constitution. No congratulations are due to him for the provisions in the Draft for the simple reason they are not his. Honourable Members may remember that most of the clauses in the Draft Constitution were discussed, debated and decided upon in this House. Only a very few matters were left over for incorporation by the Drafting Committee. The House, however, would tender its thanks for his labours in putting them in order.....

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Shri Vishwambhar Dayal Tripathi (United Provinces : General) :
 Sir,..... To come directly to the subject matter, it has been a formality with almost all the speakers to congratulate the Members of the Drafting Committee and its Chairman on the labour they have put in and also on the merits of the Constitution. I would not undergo that formality. There is no doubt, of course, that they have put in a good deal of labour and have placed before us a complete picture of a Constitution on the principles that we laid down in this Constituent Assembly. I am also aware that there is a good deal of merit in the draft Constitution. They have no doubt thoroughly studied the constitutions of different countries and have tried to make a choice out of them and to adapt those constitutions to the needs of this country. This is the chief merit of this Draft Constitution. In one word, it is an 'orthodox' Constitution.....

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Shri S. V. Krishnamurthy Rao (Mysore) : Mr. Vice-President, I thank you for giving me an opportunity to speak on the Draft Constitution. I join the various speakers who have paid a chorus of tribute to the Drafting Committee and its Chairman, Dr. Ambedkar.

An attempt has been made in this Draft Constitution to put in the best experience of the various democratic constitutions in the world, both unitary and federal. Of course no Constitution can be perfect and even our Constitution will have to undergo some modifications before it finally emerges from this House.....

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

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

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

Would our friends with Gandhi an ideas tell us whether they are prepared to follow those ideas to their logical conclusions by dispensing, for instance, with armed forces; by doing away with legislative bodies, whose work, we have been told on good authority, Gandhiji considered a waste of time; by scrapping our judicial system and substituting for it some simple and informal methods of administering justice; by insisting that no Government servant or public worker should receive a salary exceeding Rs. 500 per month or whatever was the limit finally fixed? I know some of the Congress leaders who sincerely believe that all this should and could be done. But we are speaking now of the Constitution as it was settled by the Constituent Assembly on the last occasion.....

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Syed Muhammad Saadulla (Assam : Muslim) : Mr. Vice-President Sir, The Drafting Committee is not self-existent. It was created by a Resolution of this House in August 1947, if I remember aright. I personally was lying seriously ill at the time and I could not attend that session. But, Sir, I find from the proceedings that as the Drafting Committee has been asked to frame the Constitution within the four corners of the Objective Resolution, we will be met with the criticisms which we have heard now. Wise men even in those days had anticipated this and to the official Resolution an amendment was moved by the learned Premier of Bombay, Mr. Kher, wherein we are given this direction. I will read from his speech. He moved an amendment to the original Resolution for Constituting this Drafting Committee and there he said - "That the Drafting Committee should be charged with the duties of scrutinising the draft of the text of the Constitution of India prepared by the Constitutional

Adviser giving effect to the decisions taken already in the Assembly and including all matters which are ancillary thereto or which have to be provided in such a Constitution, and to submit to the Assembly for consideration the text of the draft Constitution as revised by the Committee”.....

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

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Mr. Vice-President : Let us proceed with the subject.

Syed Muhammad Saadulla : How can I tell Honourable Members that we toiled and moiled that we did our best, that we ransacked all the known Constitutions, ancient and recent from three different continents, to produce a Draft which has been termed to be nothing but patch-work? But those who are men of art, those who love crafts, know perfectly well that even by patch-work, beautiful patterns, very lovable designs can be created. I may claim that in spite of the deficiencies in our Draft we have tried to bring a complete picture, to give this Honourable House a document as full as possible which may form the basis of discussion in this House. The Drafting Committee never claimed this to be the last word on the Constitution, that its provisions are infallible or that these Articles cannot be changed. The very fact that this Draft has been placed before this august House for final acceptance shows that we are

not committed to one policy or the other. Where we had differed from the recommendations of Committees, or where we had the temerity to change a word here or a word there from the accepted principles of this august House, we have given sufficient indication in foot-notes, so that nothing can be put in surreptitiously there. The attention of the House has been drawn so that their ideas may be focussed on those items in which the Drafting Committee thought that they should deviate from the principles already accepted or from the recommendations of the Committees.

[After Mr.Saadulla's speech, the motion was put to vote as under – Ed.]

Mr. Vice-President : The question is:

“ That the Constituent Assembly do proceed to take into consideration the Draft Constitution of India settled by the Drafting Committee appointed in pursuance of the resolution of the Assembly dated the 29th day of August, 1947.”

The motion was adopted.

The Assembly then adjourned till Ten of the Clock on Monday, the 15th November 1948.

LAST SPEECH

**Delivered by Dr. Babasaheb Ambedkar
in the Constituent Assembly
On adoption of the Constitution
Friday, the 25th November, 1949**

The Honourable Dr. B. R. Ambedkar : Sir, looking back on the work of the Constituent Assembly it will now be two years, eleven months and seventeen days since it first met on the 9th of December 1946. During this period the Constituent Assembly has altogether held eleven sessions. Out of these eleven sessions the first six were spent in passing the ejectives Resolution and the consideration of the Reports of Committees on Fundamental Rights, on Union Constitution, on Union Powers, on Provincial Constitution, on Minorities and on the Scheduled Areas and Scheduled Tribes. The seventh, eighth, ninth, tenth and the eleventh sessions were devoted to the consideration of the Draft Constitution. These eleven sessions of the Constituent Assembly have consumed 165 days. Out of these, the Assembly spent 114 days for the consideration of the Draft Constitution.

Coming to the Drafting Committee, it was elected by the Constituent Assembly on 29th August 1947. It held its first meeting on 30th August. Since August 30th it sat for 141 days during which it was engaged in the preparation of the Draft Constitution. The Draft Constitution as prepared by the Constitutional Adviser as a text for the Draft Committee to work upon consisted of 243 articles and 13 Schedules. The first Draft Constitution as presented by the Drafting Committee to the Constituent

Assembly contained 315 articles and 8 Schedules. At the end of the consideration stage, the number of articles in the Draft Constitution increased to 386. In its final form, the Draft Constitution contains 395 articles and 8 Schedules. The total number of amendments to the Draft Constitution tabled was approximately 7,635. Of them, the total number of amendments actually moved in the House was 2,473.

I mention these facts because at one stage it was being said that the Assembly had taken too long a time to finish its work, that it was going on leisurely and wasting public money. It was said to be a case of Nero fiddling while Rome was burning. Is there any justification for this complaint? Let us note the time consumed by Constituent Assemblies in other countries appointed for framing their Constitutions. To take a few illustrations, the American Convention met on May 25th, 1787 and completed its work on September 17, 1787 *i.e.*, within four months. The Constitutional Convention of Canada met on the 10th October 1864 and the Constitution was passed into law in March 1867 involving a period of two years and five months. The Australian Constitutional Convention assembled in March 1891 and the Constitution became law on the 9th July 1900, consuming a period of nine years. The South African Convention met in October, 1908 and the Constitution became law on the 20th September 1909 involving one year's labour. It is true that we have taken more time than what the American or South African Conventions did. But we have not taken more time than the Canadian Convention and much less than the Australian Convention. In making comparisons on the basis of time consumed, two things must be remembered. One is that the Constitutions of America, Canada, South

Africa and Australia are much smaller than ours. Our Constitution as I said contains 395 articles while the American has just seven articles, the first four of which are divided into sections which total up to 21, the Canadian has 147, Australian 128 and South African 153 sections. The second thing to be remembered is that the makers of the Constitutions of America, Canada, Australia and South Africa did not have to face the problem of amendments. They were passed as moved. On the other hand, this Constituent Assembly had to deal with as many as 2,473 amendments. Having regard to these facts the charge of dilatoriness seems to me quite unfounded and this Assembly may well congratulate itself for having accomplished so formidable a task in so short a time.

Turning to the quality of the work done by the Drafting Committee, Mr. Naziruddin Ahmed felt it his duty to condemn it outright. In his opinion, the work done by the Drafting Committee is not only not worthy of commendation, but is positively below par. Everybody has a right to have his opinion about the work done by the Drafting Committee and Mr. Naziruddin is welcome to have his own. Mr. Naziruddin Ahmed thinks he is a man of greater talents than any member of the Drafting Committee. The Drafting Committee would have welcomed him in their midst if the Assembly had thought him worthy of being appointed to it. If he had no place in the making of the Constitution it is certainly not the fault of the Drafting Committee.

Mr. Naziruddin Ahmed has coined a new name for the Drafting Committee evidently to show his contempt for it. He calls it a Drafting committee. Mr. Naziruddin must no doubt be pleased with his hit. But he evidently does not know that there is a difference between drift without

mastery and drift with mastery. If the Drafting Committee was drifting, it was never without mastery over the situation. It was not merely angling with the off chance of catching a fish. It was searching in known waters to find the fish it was after. To be in search of something better is not the same as drifting. Although Mr. Naziruddin Ahmed did not mean it as a compliment to the Drafting committee. I take it as a compliment to the Drafting Committee. The Drafting Committee would have been guilty of gross dereliction of duty and of a false sense of dignity if it had not shown the honesty and the courage to withdraw the amendments which it thought faulty and substitute what it thought was better. If it is a mistake, I am glad the Drafting Committee did not fight shy of admitting such mistakes and coming forward to correct them.

I am glad to find that with the exception of a solitary member, there is a general consensus of appreciation from the members of the Constituent Assembly of the work done by the Drafting Committee. I am sure the Drafting Committee feels happy to find this spontaneous recognition of its labours expressed in such generous terms. As to the compliments that have been showered upon me both by the members of the Assembly as well as by my colleagues of the Drafting Committee I feel so overwhelmed that I cannot find adequate words to express fully my gratitude to them. I came into the Constituent Assembly with no greater aspiration than to safeguard the interests of the Scheduled Castes. I had not the remotest idea that I would be called upon to undertake more responsible functions. I was therefore greatly surprised when the Assembly elected me to the Drafting Committee. I was more than surprised when the Drafting Committee elected me to be its Chairman. There were in the Drafting

Committee men bigger, better and more competent than myself such as my friend Sir Alladi Krishnaswami Ayyar. I am grateful to the Constituent Assembly and the Drafting Committee for reposing in me so much trust and confidence and to have chosen me as their instrument and given me this opportunity of serving the country. (*Cheers*)

The credit that is given to me does not really belong to me. It belongs partly to Sir B.N. Rau, the Constitutional Adviser to the Constituent Assembly who prepared a rough draft of the Constitution for the consideration of the Drafting Committee. A part of the credit must go to the members of the Drafting Committee who, as I have said, have sat for 141 days and without whose ingenuity of devise new formulae and capacity to tolerate and to accommodate different points of view, the task of framing the Constitution could not have come to so successful a conclusion. Much greater share of the credit must go to Mr. S.N. Mukherjee, the Chief Draftsman of the Constitution. His ability to put the most intricate proposals in the simplest and clearest legal form can rarely be equalled, nor his capacity for hard work. He has been an acquisition to the Assembly. Without his help, this Assembly would have taken many more years to finalise the Constitution. I must not omit to mention the members of the staff working under Mr. Mukherjee. For, I know how hard they have worked and how long they have toiled sometimes even beyond midnight. I want to thank them all for their effort and their co-operation. (*Cheers*)

The task of the Drafting Committee would have been a very difficult one if this Constituent Assembly has been merely a motley crowd, a tasseleted pavement without cement, a black stone here and a white stone there is which each member or each group was a law unto itself. There

would have been nothing but chaos. This possibility of chaos was reduced to nil by the existence of the Congress Party inside the Assembly which brought into its proceedings a sense of order and discipline. It is because of the discipline of the Congress Party that the Drafting Committee was able to pilot the Constitution in the Assembly with the sure knowledge as to the fate of each article and each amendment. The Congress Party is, therefore, entitled to all the credit for the smooth sailing of the Draft Constitution in the Assembly.

The proceedings of this Constituent Assembly would have been very dull if all members had yielded to the rule of party discipline. Party discipline, in all its rigidity, would have converted this Assembly into a gathering of yes' men. Fortunately, there were rebels. They were Mr. Kamath, Dr. P.S. Deshmukh, Mr. Sidhva, Prof. K.T. Shah and Pandit Hirday Nath Kunzru. The points they raised were mostly ideological. That I was not prepared to accept their suggestions, does not diminish the value of their suggestions nor lessen the service they have rendered to the Assembly in enlivening its proceedings. I am grateful to them. But for them, I would not have had the opportunity which I got for expounding the principles underlying the Constitution which was more important than the mere mechanical work of passing the Constitution.

Finally, I must thank you Mr. President for the way in which you have conducted the proceedings of this Assembly. The courtesy and the consideration which you have shown to the Members of the Assembly can never be forgotten by those who have taken part in the proceedings of this Assembly. There were occasions when the amendments of the Drafting Committee were sought to be barred on grounds purely technical in their

nature. Those were very anxious moments for me. I am, therefore, specially grateful to you for not permitting legalism to defeat the work of Constitution-making.

As much defence as could be offered to the constitution has been offered by my friends Sir Alladi Krishnaswami Ayyar and Mr. T.T. Krishnamachari. I shall not therefore enter into the merits of the Constitution. Because I feel, however good a Constitution may be, it is sure to turn out bad because those who are called to work it, happen to be a bad lot. However had a Constitution may be, it may turn out to be good if those who are called to work it, happen to be a good lot. The working of a Constitution does not depend wholly upon the nature of the Constitution. The Constitution can provide only the organs of State such as the Legislature, the Executive and the Judiciary. The factors on which the working of those organs of the State depend are the people and the political parties they will set up as their instruments to carry out their wishes and their politics. Who can say how the people of India and their purposes or will they prefer revolutionary methods of achieving them? If they adopt the revolutionary methods, however good the Constitution may be, it requires no prophet to say that it will fail. It is, therefore, futile to pass any judgement upon the Constitution without reference to the part which the people and their parties are likely to play.

The condemnation of the Constitution largely comes from two quarters, the Communist Party and the Socialist Party. Why do they condemn the Constitution? Is it because it is really a bad Constitution? I venture to say no'. The Communist Party want a Constitution based upon the principle of the Dictatorship of the Proletariat. They condemn the

Constitution because it is based upon parliamentary democracy. The Socialists want two things. The first thing they want is that if they come in power, the Constitution must give them the freedom to nationalize or socialize all private property without payment of compensation. The second thing that the Socialists want is that the Fundamental Rights mentioned in the Constitution must be absolute and without any limitations so that if their Party fails to come into power, they would have the unfettered freedom not merely to criticize, but also to overthrow the State.

These are the main grounds on which the Constitution is being condemned. I do not say that the principle of parliamentary democracy is the only ideal form of political democracy. I do not say that the principle of no acquisition of private property without compensation is so sacrosanct that there can be no departure from it. I do not say that Fundamental Rights can never be absolute and the limitations set upon them can never be lifted. What I do say is that the principles embodied in the Constitution are the views of the present generation or if you think this to be an over-statement, I say they are the views of the members of the Constituent Assembly. Why blame the Drafting Committee for embodying them in the Constitution? I say why blame even the Members of the Constituent Assembly? Jefferson, the great American statesman who played so great a part in the making of the American constitution, has expressed some very weighty views which makers of Constitution, can never afford to ignore. In one place he has said :- **“We may consider each generation as a distinctnation, with a right, by the will of the majority, to bind themselves, but none to bind the succeeding generation, more than the inhabitants of another country.”**

In another place, he has said :

“ The idea that institutions established for the use of the national cannot be touched or modified, even to make them answer their end, because of rights gratuitously supposed in those employed to manage them in the trust for the public, may perhaps be a salutary provision against the abuses of a monarch, but is most absurd against the nation itself. Yet our lawyers and priests generally inculcate this doctrine, and suppose that preceding generations held the earth more freely than we do; had a right to impose laws on us, unalterable by ourselves, and that we, in the like manner, can make laws and impose burdens on future generations, which they will have no right to alter; in fine, that the earth belongs to the dead and not the living; ”

I admit that what Jefferson has said is not merely true, but is absolutely true. There can be no question about it. Had the Constituent Assembly departed from this principle laid down by Jefferson it would certainly be liable to blame, even to condemnation. But I ask, has it? Quite the contrary. One has only to examine the provision relating to the amendment of the Constitution. The Assembly has not only refrained from putting a seal of finality and infallibility upon this Constitution as in Canada or by making the amendment of the Constitution subject to the fulfilment of extraordinary terms and conditions as in America or Australia, but has provided a most facile procedure for amending the Constitution. I challenge any of the critics of the Constitution to prove that any Constituent Assembly anywhere in the world has, in the circumstances in which this country finds itself, provided such a facile procedure for the amendment of the Constitution. If those who are dissatisfied with the

Constitution have only to obtain a 2/3 majority and if they cannot obtain even a two-thirds majority in the parliament elected on adult franchise in their favour, their dissatisfaction with the Constitution cannot be deemed to be shared by the general public.

There is only one point of constitutional import to which I propose to make a reference. A serious complaint is made on the ground that there is too much of centralization and that the States have been reduced to Municipalities. It is clear that this view is not only an exaggeration, but is also founded on a misunderstanding of what exactly the Constitution contrives to do. As to the relation between the Centre and the States, it is necessary to bear in mind the fundamental principle on which it rests. The basic principle of Federalism is that the Legislative and Executive authority is partitioned between the Centre and the States not by any law to be made by the Centre but by the Constitution itself. This is what Constitution does. The States under our Constitution are in no way dependent upon the Centre for their legislative or executive authority. The Centre and the States are co-equal in this matter. It is difficult to see how such a Constitution can be called centralism. It may be that the Constitution assigns to the Centre too large a field for the operation of its legislative and executive authority than is to be found in any other federal Constitution. It may be that the residuary powers are given to the Centre and not to the States. But these features do not form the essence of federalism. The chief mark of federalism as I said lies in the partition of the legislative and executive authority between the Centre and the Units by the Constitution. This is the principle embodied in our constitution. There can be no mistake about it. It is, therefore, wrong to say that the States have been placed under the Centre. Centre cannot by its own will alter the boundary of that partition.

Nor can the Judiciary. For as has been well said :

Courts may modify, they cannot replace. They can revise earlier interpretations as new arguments, new points of view are presented, they can shift the dividing line in marginal cases, but there are barriers they cannot pass, definite assignments of power they cannot reallocate. They can give a broadening construction of existing powers, but they cannot assign to one authority powers explicitly granted to another. ”

The first charge of centralization defeating federalism must therefore fall.

The second charge is that the Centre has been given the power to override the States. This charge must be admitted. But before condemning the Constitution for containing such overriding powers, certain considerations must be borne in mind. The first is that these overriding powers do not form the normal feature of the constitution. Their use and operation are expressly confined to emergencies only. The second consideration is : Could we avoid giving overriding powers to the Centre when an emergency has arisen? Those who do not admit the justification for such overriding powers to the Centre even in an emergency, do not seem to have a clear idea of the problem which lies at the root of the matter. The problem is so clearly set out by a writer in that well-known magazine “ The Round Table” in its issue of December 1935 that I offer no apology for quoting the following extract from it. Says the writer :

“ Political systems are a complex of rights and duties resting ultimately on the question, to whom, or to what authority, does the citizen owe allegiance. In normal affairs the question is not present, for the law works smoothly, and a man, goes about his business obeying one

authority in this set of matters and another authority in that. But in a moment of crisis, a conflict of claims may arise, and it is then apparent that ultimate allegiance cannot be divided. The issue of allegiance cannot be determined in the last resort by a juristic interpretation of statutes. The law must conform to the facts or so much the worse for the law. When all formalism is stripped away, the bare question is, what authority commands the residual loyalty of the citizen. Is it the Centre or the Constituent State ? ”

The solution of this problem depends upon one's answer to this question which is the crux of the problem. There can be no doubt that in the opinion of the vast majority of the people, the residual loyalty of the citizen in an emergency must be to the Centre and not to the Constituent States. For it is only the Centre which can work for a common end and for the general interests of the country as a whole. Herein lies the justification for giving to all Centre certain overriding powers to be used in an emergency. And after all what is the obligation imposed upon the Constituent States by these emergency powers? No more than this – that in an emergency, they should take into consideration alongside their own local interests, the opinions and interests of the nation as a whole. Only those who have not understood the problem, can complain against it.

Here I could have ended. But my mind is so full of the future of our country that I feel I ought to take this occasion to give expression to some of my reflections thereon. On 26th January 1950, India will be an independent country (*Cheers*). What would happen to her independence? Will she maintain her independence or will she lose it again? This is the first thought that comes to my mind. It is not that India was never an independent country. The point is that she once lost the independence she

had. Will she lost it a second time? It is this thought which makes me most anxious for the future. What perturbs me greatly is the fact that not only India has once before lost her independence, but she lost it by the infidelity and treachery of some of her own people. In the invasion of Sind by Mahommed-Bin-Kasim, the military commanders of King Dahar accepted bribes from the agents of Mahommed-Bin-Kasim and refused to fight on the side of their King. It was Jaichand who invited Mahommed Gohri to invade India and fight against Prithvi Raj and promised him the help of himself and the Solanki Kings. When Shivaji was fighting for the liberation of Hindus, the other Maratha noblemen and the Rajput Kings were fighting the battle on the side of Moghul Emperors. When the British were trying to destroy the Sikh Rulers, Gulab Singh, their principal commander sat silent and did not help to save the Sikh Kingdom. In 1857, when a large part of India had declared a war of independence against the British, the Sikhs stood and watched the event as silent spectators.

Will history repeat itself? It is this thought which fills me with anxiety. This anxiety is deepened by the realization of the fact that in addition to our old enemies in the form of castes and creeds we are going to have many political parties with diverse and opposing political creeds. Will Indian place the country above their creed or will they place creed above country? I do not know. But this much is certain that if the parties place creed above country, our independence will be put in jeopardy a second time and probably be lost for ever. This eventuality we must all resolutely guard against. We must be determined to defend our independence with the last drop of our blood. (*Cheers*)

On the 26th of January 1950, India would be a democratic country in the sense that India from that day would have a government of the people, by the people and for the people. The same thought comes to my mind. What would happen to her democratic Constitution? Will she be able to maintain it or will she lost it again. This is the second thought that comes to my mind and makes me as anxious as the first.

It is not that India did not know what is Democracy. There was a time when India was studded with republics, and even where there were monarchies, they were either elected or limited. They were never absolute. It is not that India did not know Parliaments or Parliamentary Procedure. A study of the Buddhist Bhikshu Sanghas discloses that not only there were Parliaments-for the Sanghas were nothing but Parliaments – but the Sanghas knew and observed all the rules of Parliamentary Procedure known to modern times. They had rules regarding seating arrangements, rules regarding Motions, Resolutions, Quorum, Whip, Counting of Votes, Voting by Ballot, Censure Motion, Regularization, *Res Judicata*, etc. Although these rules of Parliamentary Procedure were applied by the Buddha to the meetings of the Sanghas, he must have borrowed them from the rules of the Political Assemblies functioning in the country in his time.

This democratic system India lost. Will she lost it a second time? I do not know. But it is quite possible in a country like India – where democracy from its long disuse must be regarded as something quite new – there is danger of democracy giving place to dictatorship. It is quite possible for this new born democracy to retain its form but give place to dictatorship in fact. If there is a landslide, the danger of the second possibility becoming actuality is much greater.

If we wish to maintain democracy not merely in form, but also in fact, what must we do ? The first thing in my judgement we must do is to hold fast to constitutional methods of achieving our social and economic objectives. It means we must abandon the bloody methods of revolution. It means that we must abandon the method of civil disobedience, non-cooperation and satyagraha. When there was no way left for constitutional methods for achieving economic and social objectives, there was a great deal of justification for unconstitutional methods. But where constitutional methods are open, there can be no justification for these unconstitutional methods. These methods are nothing but the Grammar of Anarchy and the sooner they are abandoned, the better for us.

The second thing we must do is to observe the caution which John Stuart Mill has given to all who are interested in the maintenance of democracy, namely, not “to lay their liberties at the feet of even a great man, or to trust him with power which enable him to subvert their institutions”. There is nothing wrong in being grateful to great men who have rendered life-long services to the country. But there are limits to gratefulness. As has been well said by the Irish Patriot Daniel O’Connell, no man can be grateful at the cost of his honour, no woman can be grateful at the cost of her chastity and no nation can be grateful at the cost of its liberty. This caution is far more necessary in the case of India than in the case of any other country. For in India, Bhakti or what may be called the path of devotion or hero-worship, plays a part in its politics unequalled in magnitude by the part it plays in the politics of any other country in the world. Bhakti in religion may be a road to the salvation of the soul. But in politics, Bhakti or hero-worship is a sure road to degradation and to eventual dictatorship.

The third thing we must do is not to be content with mere political democracy. We must make our political democracy a social democracy as well. Political democracy cannot last unless there lies at the base of it social democracy. What does social democracy mean? It means a way of life which recognizes liberty, equality and fraternity as the principles of life. These principles of liberty, equality and fraternity as the principles of life. These principles of liberty, equality and fraternity are not to be treated as separate items in a trinity. They form a union of trinity in the sense that to divorce one from the other is to defeat the very purpose of democracy. Liberty cannot be divorced from equality, equality cannot be divorced from liberty. Nor can liberty and equality be divorced from fraternity. Without equality, liberty would produce the supremacy of the few over the many. **[Equality without liberty would kill individual initiative]**. Without fraternity, liberty would produce the supremacy of the few over the many. **[Equality without liberty would kill individual initiative]**. Without fraternity, liberty and equality could not become a natural course of things. It would require a constable to enforce them. We must begin by acknowledging the fact that there is complete absence of two things in Indian Society. One of these is equality. On the social plane, we have in India a society based on the principle of graded inequality which we have a society in which there are some who have immense wealth as against many who live in abject poverty. On the 26th of January 1950, we are going to enter into a life of contradictions. In politics we will have equality and in social and economic life we will have inequality. In politics we will be recognizing the principle of one man one vote and one vote one value. In our social and economic life, we shall, by reason of our social

and economic structure, continue to deny the principle of one man one value. How long shall we continue to live this life of contradictions? How long shall we continue to deny equality in our social and economic life? If we continue to deny it for long, we will do so only by putting our political democracy in peril. We must remove this contradiction at the earliest possible moment or else those who suffer from inequality will blow up the structure of political democracy which is Assembly has to laboriously built up.

The second thing we are wanting in is recognition of the principle of fraternity. what does fraternity mean? Fraternity means a sense of common brotherhood of all Indians-if Indians being one people. It is the principle which gives unity and solidarity to social life. It is a difficult thing to achieve. How difficult it is, can be realized from the story related by James Bryce in his volume on American Commonwealth about the United States of America.

The story is- I propose to recount it in the words of Bryce himself-that-

“Some years ago the American Protestant Episcopal Church was occupied at its triennial Convention in revising its liturgy. It was thought desirable to introduce among the short sentence prayers a prayer for the whole people, and an eminent New England divine proposed the words ‘O Lord, bless our nation’. Accepted one afternoon, on the spur of the moment, the sentence was brought up next day for reconsideration, when so many objections were raised by the laity to the word nation’ as importing too definite a recognition of national unity, that it was dropped, and instead there were adopted the words ‘O Lord, bless these United States.’”

There was so little solidarity in the U.S.A. at the time when this incident occurred that the people of America did not think that they were a nation. If the people of the United States could not feel that they were a nation, how difficult it is for Indians to think that they are a nation. I remember the days when politically-minded Indians, resented the expression “the people of India”. They preferred the expression “the Indian nation.” I am of opinion that in believing that we are a nation, we are cherishing a great delusion. How can people divided into several thousands of castes be a nation? The sooner we realize that we are not as yet a nation in the social and psychological sense of the world, the better for us. For then only we shall realize the necessity of becoming a nation and seriously think of ways and means of realizing the goal. The realization of this goal is going to be very difficult – far more difficult than it has been in the United States. The United States has no caste problem. In India there are castes. The castes are anti-national. In the first place because they bring about separation in social life. They are anti-national also because they generate jealousy and antipathy between caste and caste. But we must overcome all these difficulties if we wish to become a nation in reality. For fraternity can be a fact only when there is a nation. Without fraternity equality and liberty will be no deeper than coats of paint.

These are my reflections about the tasks that lie ahead of us. They may not be very pleasant to some. But there can be no gainsaying that political power in this country has too long been the monopoly of a few and the many are only beasts of burden, but also beasts of prey. This monopoly has not merely deprived them of their chance of betterment, it has sapped them of what may be called the significance of life. These

down-trodden classes are tired of being governed. They are impatient to govern themselves. This urge for self-realization in the down-trodden classes must no be allowed to devolve into a class struggle or class war. It would lead to a division of the House. That would indeed be a day of disaster. For, as has been well said by Abraham Lincoln, a House divided against itself cannot stand very long. Therefore the sooner room is made for the realization of their aspiration, the better for the few, the better for the country, the better for the maintenance for its independence and the better for the continuance of its democratic structure. This can only be done by the establishment of equality and fraternity in all spheres of life. That is why I have laid so much stresses on them.

I do not wish to weary the House any further. Independence is no doubt a matter of joy. But let us not forget that this independence has thrown on us great responsibilities. By independence, we have lost the excuse of blaming the British for anything going wrong. If hereafter things go wrong, we will have nobody to blame except ourselves. There is great danger of things going wrong. Times are fast changing. People including our own are being moved by new ideologies. They are getting tired of Government by the people. They are prepared to have Governments for the people and are indifferent whether it is Government of the people and by the people. If we wish to preserve the Constitution in which we have sought to enshrine the principle of Government of the people, for the people and by the people, let us resolve not to be tardy in the recognition of the evils that lie across our path and which induce people to prefer Government for the people to Government by the people, nor to be weak in our initiative to remove them. That is the only way to serve the country. I know of no better.