CONSTITUENT ASSEMBLY OF INDIA DEBATES (PROCEEDINGS) - VOLUME XI

Friday, the 18th November, 1949

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.

DRAFT CONSTITUTION- *(Contd.)*

Shri Ramnarayan Singh (Bihar: General): * [Mr. President, Sir, I have got today the first opportunity of speaking on the Constitution. I thank you and consider myself fortunate for getting this opportunity.

Sir, in ancient times there was a king in our country named Bharthari. He has given the description of the work in a shloka of which the last line I remember, He says:

'Na jane samsarah kimmrithamayah kim bishamayah'

No one can say whether the world is full of nectar or full of poison. That is what I want to say. We spent a lot of time, money and energy in framing this constitution and it is nearing completion now. It will now be adopted in full. Some people say that it is very good and have gone to the length of giving Dr. Ambedkar the title of Manu of Kaliyug. A section of the people has this opinion and other says that it is very bad and worthless. When I begin to think on the lines of Bharthari the idea occurs to me that some time back the British were the masters of this country but now they have departed and the Indians are framing a Constitution for the future administration of their country. The idea is very pleasing but when I go deeper into the Constitution I am pained to see all that has been accepted for shaping the future administration of the country I know it is a fact that we were slaves for a long time but there was a time when we too ruled the country and had an empire also. At some places the democratic system of government was also followed. But if you look into this Constitution it would be difficult for you to find anything Indian. I would go so far as to say that those of our future generations who might be unfamiliar with the History of this constitution, would say that it was framed not at Delhi but at London. At least the people will have this suspicion. Some of them would have the suspicion also whether the representatives of the people of India framed this Constitution or whether the British of the While House in London were pleased to frame it. Such a suspicion can arise in regard to this Constitution. Every one can see that it has been framed in English. As I have asked what is Indian in it ? It is a fact Sir, that the British have departed but I regret to say that our countrymen have not forsaken the ways of their former masters and that they are ingrained in their minds. I am of the opinion, and this is shared by other people also, that we would experience much more difficulty in bidding good-bye to the ways

of the British than we experienced in bidding good-bye to the British themselves.

Sir, on a perusal of the Constitution it appears that some portions of the British Constitution and some of the American Constitution have been included in it. It is a curious admixture and to use an English expression it appears to be a "fantastic mixture of the various Constitutions obtaining in the world ". It is my humble submission Sir, that we have first to realise that the British have now departed and that we are framing a Constitution for ourselves and we have to decide as to which type of Government we shall include in the Constitution and whether that Government will serve the country or govern it. If it is to govern the country, I would like to say that the time has now come when the world does not want to be governed and needs no government. There is no need of a Government, Mahatma Gandhi, our leader, characterised the previous government, the British Government as a Satanic Government. Sir, I think that there is no government in the world at present which cannot be characterised as Satanic. It appears that at present government means Satan. Therefore our country and our society does not need a government. I move some amendments in this connection in the beginning but they were not accepted. We need in our country Sevak Mandals, Societies of Servants and not a government. They will defend our country in the true sense. The member of the present government also claim that they are public servants but their work, that comes to our notice, has nothing to do with service. It is the work of the masters. I want to say it in plain words that the country does not now need rulers but servants. It does not need government. It needs service. I want to add that this principle has been accepted all the world over that no man has the right to govern another man. Hitler said that no person other than him could rule the world. But he went down with the whole of his society. In the past too there were Rajas and Maharajas who said that they had the divine right of kings. All these ideologies have now met their doom. Even now there are people who say that they are public servants but act as 'public masters'.

I take up one matter more. We have accepted that some of the public servants of this country will be granted salaries of five thousand rupees, six thousand rupees and ten thousand rupees. Sir, you were present in the Karachi Congress as also many of my friends. I was also present there. We accepted there that the highest salary in our country should be five hundred rupees and no more. The British had fixed the salaries here. But they were here not for service but for loot. The people whom they took with them were made co-sharers in the loot. It is a matter of regret that we, the representatives of the people of India, assembled here, violating our principles and decisions and that of the Congress, pass the resolution that one person may be given five thousand rupees another six thousand rupees and yet another ten thousand rupees. It should be remembered that this is no service. This is government. I want to enquire of you Sir, and of all the honourable Members of the House whether they are aware of the conditions obtaining in the country. Has the situation changed since we passed the resolution that no salary should be higher than five hundred rupees ? Has the income of the people increased considerably? It is an accepted law in the world that the salary of a public servant should be in tune with the average standard of living of the people. Ninety per cent. of the people of our country know not what two meals a day are! They somehow manage to pass their lives. Excepting a few people no one gets sufficient food to pull him through. If you provide for salaries of four to five thousand rupees while the people are starving they will ask whether this is the salary of a public servant or of a dacoit of the British brand. I hope I shall be excused for these remarks but I can not help making them as I am deeply pained at what I see all around me. Even after giving full thought I fail to understand, and the people also tell me, how it can be justified that these people are public servants. Does a servant want

that he should have more income than his master, that he should have better food and better residence than his master? The people of India, who are the masters of the country, live in huts but their servants will get salaries of four to five thousand rupees and live in palaces. Is this not a fraud? It should be said in plain words that when the administration of the British ended, we took over the reins and that we now govern the people. The people stand where they were. We are not servants but rulers. We may frame the Constitution as we like and fix whatever salaries we like but it should not be said that we are public servants. It should rather be said that we are 'public masters'. I would like to tell my friends here that such a proposal regarding salaries and so many of our actions mean that we are paving the way for the Communists. It will be no use taking recourse to repression. By putting the members of the Communist party behind the bars we would not uplift our country. We can not stave off a revolution by such means. If you want that there should be peace in the country you should remove these disparities. The first thing that I would like to point out to you is that it is not yet too late to fix the highest salary at five hundred rupees. Otherwise you will have to declare in plain words to the world that a few Indians, who were in the front ranks, got an opportunity and began to rule the country like the British . All this does not mean self-government to India. I appeal to you to consider this matter.

I have heard the bell Sir, but I have to say a few things more. Therefore, I may be given half a minute more.

The parliamentary system of government or the party-system of government has been provided for in this Constitution. I would like to say that it does not suit India. Unfortunately there are already too many parties in our country. There have been parties on the basis of the caste-system for a long time. Now if you introduce a new party-system what will be the outcome? If under the party-system you grant franchise to everyone, the result will be that some scoundrels and capitalists will combine and manage to monopolise all the votes. I know that they would not lack associates. Democracy can not function in such a way. The way affairs are managed in western countries has something of democracy in it but there too there is no real democracy. I hold that the government based on party-system strikes at the very roots of democracy. Under that system only a few persons rule. A few scoundrels and a few capitalists will combine and rule. It is right that in democracy everyone should have a vote and it is also right that an issue should be decided by the vote of the majority. But it should not be necessary that every person should belong to some party or other for arriving at decisions. The party decisions or the directions of a leader should not influence voting. Everyone should be free to vote and should do so honestly. The decision arrived at in this way will be a democratic decision and the country will benefit by it. Otherwise a party leader will give directions and others will vote accordingly. The decision arrived at in this way will not be a democratic decision. It will not be the decision of Panchayat. It is a common saying in our country that Panch is God. He is not a God who has a number of smaller goods under him. It is understood in regard to God that those who sit in His presence are free and dependent to none and that they do not decided any issue and vote on it by looking up to anyone.

Sir, my time is over and therefore I would not say anything more except one thing. As other honourable Members have already said, cow slaughter should be altogether banned by the Constitution of our country. You have only to look at the plight of the

cultivators who have to leave cultivation because of lack of oxen.

Regarding Hindi language I want to say that although our South Indian friends have accepted the resolution in connection with Hindi but they entertain the feeling that we want to impose our language on them. I think that this country is my country and all of its languages are my own languages. If I do not know Tamil and Telugu it means that I lack something. In learning these languages I would not be putting anyone under any obligation to me. I shall only be increasing my knowledge. Therefore we should accept that all the languages of the country are our own languages. We had to select one language as the national language. Since Hindi has been selected as the national language it should be accepted as our own language and introduced in that spirit. Some of us think that they became learned by learning English. As often as they speak in English, we are reminded of our slavery to the British. We learnt English only for the sake of British. Therefore we should give it up as soon as possible and should replace it by our national language. To introduce the national language after fifteen years means evasion of the issue. We should do our best to develop the national language as early as possible so that we may not need the English language at all.

Sir, I want to say only one thing more. In all the Constitutions of the world the right of keeping arms is included among the Fundamental rights. I would like to say that the Constitution which does not provide for this natural right, the divine right of a man to keep as many arms as he likes, is not worth anything. You know that the government has taken upon itself the burden of defence but it cannot defend every person and every home. It can at least allow every person and every family to keep as many arms as may be necessary for its defence. Therefore, I submit that a provision to this effect may be included in the Constitution so as to grant the right of keeping arms to every citizen of India. I am pained at the conditions obtaining in the country at present and I hope the Government will take early steps to improve them.

I have taken a little more time and I beg to be excused for the same. I have already said and I repeat it again that these three or four matters should soon be decided. All the sin and evil that is being committed should end. With these words I conclude.

Shri Kuladhar Chaliha (Assam: General): Mr. President, Sir, at the outset it is necessary to appreciate the work of the Drafting Committee and more so of Dr. Ambedkar in producing a wonderful Constitution in spite of the difficulties with which they were faced. We must also appreciate the members of the Drafting Committee and especially Mr. Munshi who, though he was busy in many matters, always tried to bring about compromise formulae and we appreciate his work greatly and all those silent workers and staff who contributed greatly to the success of this Constitution. Sir, it is necessary to say that, though we may not have produced the best Constitution, at the same time we must say that it is one of the best that we can produce under the conditions prevail. They faced facts and produced one that was necessary. It is said that members of the Drafting Committee were not in the forefront of the battle for liberty but I think that is an advantage because they could look into it dispassionately and produce the one that was necessary. At the beginning of the discussion of the Third Reading we heard from Mr. Muniswamy Pillay that 60 million people of Untouchables were satisfied with this Constitution. That is a great contribution really and if we have satisfied those untouchables whom we have neglected I think we have done a wonderful work. Therefore, my appreciation is due entirely to the Drafting

Committee and to those members of the staff who worked hard without having any voice in it and produced the book that is before us.

Sir, I submit, therefore that we have produced a Constitution which, in spite of the fact that it does not come up to those standard which some of us wanted, yet, I think under the Directive Principles we have enough of those conditions that should satisfy every one of us. If he is a socialist, there is the Right to Equality to give effect to his ideas. If he is an untouchable, we have the protections to guard his interests. If he is a "Backward" we have also the provisions in respect of his interests. So in whatever way we may look upon it, we find that we could not have produced a better Constitution than the one that we have produced.

Sir, in the definition of citizen, of course it has been conceived in the, best of spirits, but there is a subtle loop-hole where we may run around ourselves. If a man comes six months before the 19th July and is registered by the officers appointed by the Government of India, he can be a citizen. But when you apply this to a province like Assam, you will find great difficulty. You would be heading towards disintegration. Therefore, when this is applied, we have to be very careful and we should see that we are not led away by the high principles which have been laid down in this Constitution. Therefore, in spite of the fact that the definition of citizenship has been very well framed, yet, there is a little danger in its application, if you want to apply it in the way we would have it here. We have been receiving telegrams from Assam that we are heading towards ruin. Probably every member here has received them from Assam, saying that we should apply this principle with a little reservation, that this definition of citizenship should be applied with a little reservation in Assam, and that this Constitution should take note of this.

As regards the Directive Principles, we find that there is a Directive that prevents the concentration of wealth to the detriment of the common man. There is no bar to changing the distribution of wealth, the only bar being that we should, do to it constitutionally. So we have as much as possible in the Constitution and we know that if utilised properly, we can evolve a really democratic government.

Sir, our Constitution is really an amalgam of the American and English Constitutions, with Canada in between. From the American Constitution we have the authority in the President, that he can have the executive to himself, and can appoint his own men to administer the Government. But there is a defect in it as well. And we have the English Constitution in which the leader of the majority party only will be called upon. In the American Constitution the Ministers have nothing to do with the congress. The Ministers are responsible to the President only, and not to the House. But we have it in our Constitution that our Prime Minister must be responsible to the House. There is also a little defect in that. He can nominate about twelve members. He can also choose his cabinet from among them, there is nothing to prevent him from doing that, from choosing the members from nominated members having special knowledge in science, art and literature and social service. The premier can do that. But in these days we need not have such an anachronism as "nominated members". We could have had the different societies representing the arts, literature etc. to elect members from among them. But if you allow the President to thus select his Prime Minister and the Cabinet, then we can have an almost entirely nominated set of Ministers. Of course, with the present leaders, there is no such danger. But we have to make a Constitution which is not only fool-proof, but also knave-proof. Some time latter, there may be some people who may be knaves, and we should see that our

Constitution is knave-proof also. We may have to change this within the next ten years. At present there is no such danger and the President, so far as we can see for the next twenty years, will be such that he will not misuse his powers. Therefore we should keep guard and see that the Constitution is not worked in such a way that the Cabinet contains only nominated members.

Sir, there is another defect in the Constitution and it is this. It has been said that a Minister is to be a member of the House. He can be a nominated member also. It is not necessary that he should be an elected member. That word "elected'' has been, omitted, and if it is intentional, then it is a dangerous thing and a flagrant outrage on democracy. I think we should change it to "elected member" and not "Member of the House" as it is worded now. That Member may be nominated by the President and he may be a Minister of the Cabinet too. So I submit that this lacuna has also in future, to be remedied and we should not allow this to go on for a long time.

Then we find that we have been very excessively anxious about the pay and salary of the judiciary. I do not know why we have been so very anxious, as if we were afraid that their Lordships would be annoyed if we gave them less salary or did not provide them houses and so on. I feel Babu Ramnarayan Singh has spoken properly about this anxiety for higher salaries of officers. Of course, we started with the ideal of Rs. 500, but we have seen that changes have come about now and in the present set- up, probably it is not possible to come down to the level which we had put up before our eyes in the beginning. But still, we find that the salaries fixed are so high that sooner or later we shall have, I think, to revise those scales.

There is also another thing. We have provided for the removal of the judiciary by impeachment. But it, is not a very safe proposition. I think the best course would be to select, say, three Judges of the Supreme Court to decide whether a Judge has been guilty of misbehaviour or misconduct or bribery. Otherwise, if we allow this impeachment of a Judge, the whole country would be rather in a ferment, and people will take sides, and in the long run, the guilty man may escape and the honest man be convicted, because of the prevailing passions and prejudices. So I think we should have a tribunal for judging the guilt or otherwise of a Judge, a tribunal formed by the Chief Justice of the Supreme Court. That would have been a better provision.

Then I find that in the State Legislatures Upper House are provided for in many of the Provinces. This is rather an anachronism, in these days when everyone is trying to abolish such Upper Houses. We need not have been enamoured with such Upper Houses. These superannuated bodies will not be contributing anything to the discussions. And we also find that in the House of Lords there are very few people who are really bringing in any new thing. As such, my submission is that we should, sooner or later, abolish all these Upper Houses. Even the House of Lords, we know, is almost powerless, and I do not know why at this late hour we should be so anxious to establish these Upper Houses. So my submission is that in the next revision of the Constitution, we should take note of this and try to revise this provision.

There is another little relic of the royalty here, in that when a Bill has been passed by both Houses, the President can send it back with his message for reconsideration. This is really a relic of royalty, and I fail to see why the President should be given so much power or that we should presume him to be so wise as to send back Bills even after they have passed both Houses. This power is excessive, and I think it ought to

be taken away from the Constitution, sooner or later.

As I have said long before, I have a great grievance about the Sixth Schedule which has been enacted in this Constitution. This has been framed from a wrong background, that the Tribes think that we are their enemies. The British gave them this idea. They kept the Tribes away and did not let them be assimilated. The British when they left, told them, "The Indians - the Hindus- are your enemies. We are your friends".

They are their friends, because both of them eat beef. They conquered the country from the hill Tribes and as they leave, the sovereignty lapsed back into the hands of the Tribes. The Regional Councils and District Councils have become super-parliaments. That has been a little remedied by Mr. Munshi. But as such I think we are heading to a difficult situation, and if the Tribes cause disturbance to us we have to thank ourselves. But there is one redeeming feature and that is paragraph 21 of the Sixth Schedule which reads :

"(1) Parliament may from time to time by law amend by way of addition, 'variation or repeal any of the provisions of this Schedule and when the Schedule is so amended, any reference to this Schedule this Constitution shall be construed as a reference to such Schedule as so amended.

(2) No such law is mentioned in sub-paragraph (1) of this paragraph shall be deemed to be an amendment of this constitution for the purpose of article 368."

Therefore we should be very careful and it should be amended at the first sitting of the Parliament; otherwise we will be heading towards ruin and there will be so many pockets, so many Ulsters where there will be trouble.

Then, Sir, as regards the name of Assam, I understand from the Honourable the Prime Minister of Assam, Shri Gopinath Bardoloi, that they have agreed to the change of the name and that it was agreed to in the Cabinet. He sent a telegram to the Drafting committee, I think, on the 12th . But it was not received by them. I trust under section 391 the President, after the inauguration of the Constitution, will amend the First Schedule, changing the name of 'Assam'. There is another point which I want to mention and that is about the language. The word used at present is 'Assamese'. Mr. Sahu had given notice of an amendment to the effect that it should be called 'Assamia'. I hope these slight defects will be remedied in due course.

I must again thank the Members who have contributed to the discussion on the framing of the Constitution which is so well conceived. I should however point out that Members who are finding fault now agreed to the provisions at the Party meeting as well as here and to find fault now agreed to the provisos of the Party meeting as well as here and to find fault now does not come in as good grace.

Shrimati Annie Mascarene (Tranvancore State): Mr. President, Sir, I deem it a privilege to speak on this occasion when the House is sitting to pass its final judgment over the Constitution. We are, Sir, on the eve of an historic occasion, when this ancient sub-continent of ours, which had been a laboratory of political experiments of nations in the world, which had been a caravanserai, where nation after nation and sultan after sultan came and went their way, is going to solemnly declare by the sovereign will of its people, a Sovereign Democratic Republic, to secure justice, liberty, equality and fraternity for all its citizens. Never in the history of the world, Sir, has a

nation of such magnitude and population, with a history and tradition of non-violence, culture and sacrifice, fought and defeated the mightiest Empire in the world, with a galaxy of distinguished leadership that stands before time like beacon lights, has declared its sovereign will to Jay down a democratic constitution. When passion is high after the end of two world wars in history when reason and common sense are at a discount and principles of liberty, equality and fraternity are resounding such intoxicating music in our ears, it is at this time. Sir, that we, the greatest nation in the world, have decided to frame our Constitution.

Revolutions have come into this world and constitutions have been swept away by the tide of emotions generated by the times, like that in Germany, like that in France, like that in Russia, and like that in China. But we are a singular race that has stood foreign domination and struggled for centuries and survived by dint of soul-stirring sacrifice without subverting the substructure of national solidarity, we have built a beautiful edifice of democratic structure that will stand before the world colossal.

With experience and wisdom of ages behind us, we have consummated a political experiment which can be traced back to ancient Greece and Rome. It is not for me, Sir, to stand before this House and sing the glory of our achievements. Let us leave it to the judgment of posterity and to the verdict of historians. This is the first instance when heterogeneous interests in a continent State like India have united themselves to form a homogeneous unit in order to lay down rules and regulations that should lead us or guide us in future to live a national life. Like other nations of the world we have peculiar characteristics. We have differences of caste, community and creed, there is the question of untouchability, the emancipation of the Depressed Classes, provisions for the Tribes, for religious and linguistic minorities like Muslims, Sikhs and Christians, their safeguards and protection; then there is the existence of princes and zamindars and the question of their safeguards and protection; then the rights of women-these had to be considered and reconciled and incorporated into the Constitution. It must be said to the credit of the Drafting Committee, with its leadership of erudite scholarship in political science and constitutional law, and thanks to the amendment moved by the Honourable Members that an honest attempt has been made successfully to incorporate these rights into the Constitution. Our Constitution is today ushered into the world with a declaration of Fundamental Rights, which can be traced back to the Magna Carta, the Petition of Rights, and the Bill of Rights - rights which have been secured for humanity by the political philosophers of the 18th century and incorporated into constitutions that have come into existence since then. These rights are also incorporated in our Constitution for all the world to see. Thus freedom of the individual, freedom of opinion, freedom of religion and expression, security of life, liberty and property and pursuit of happiness, have been ensured and secured to every individual in the framework of our Constitution. It is a constitution based on democracy with all the experience and wisdom of ages gone by; only I have to pass a few remarks with regard to the peculiarities of our Constitution.

The framework of our Constitution is modelled after the American Constitution, that is a federal constitution in which power is distributed between the Centre and the local governments. It is not new to us. It is based on the Swiss constitution which had been adopted by America, followed by Australia and Canada and today tried and adopted by the greatest democratic nation in the world. But the similarity ends there. Our Constitution that has got the shape of the American constitution differs from it in regard to the executive powers of the President. Unlike the American President we have our own President advised by a Council of Minister with cabinet rank,

parliamentary responsibility and ministerial obligations; so much so our Constitution is a composite constitution with the rigidity of a written constitution but with the conventional adjustments of the British Constitution. Side by side with rigidity we have also incorporated the separation of powers which is as rigid as it is in any other constitution based on democratic principles. Our judiciary with its original and appellate jurisdiction and with the right of interpretation of the constitution differs from that of America, where the judiciary has the right of judicial review of executive and legislative activities.

Many an imperfection has been ascribed to our Constitution by some of my learned friends. They say that it falls short of our ideals and principles. May I invite their attention to the constitutions that had been framed hitherto by democratic countries in the world? Look at the American constitution. Look at the time it took to frame it in its final shape. Had it not to undergo a series of changes and then take its final shape after the Declaration of Independence, eleven years after the Declaration of Independence at the Convention of Philadelphia? Had not the constitution of Canada to go through so many changes, before it was finally settled at the Quebec Convention ? And since then has it not been undergoing changes till today? Look at the Constitution of Australia. Had it not to go through many changes and wait till the Convention at Sydney? It had to be shaped and reshaped, modelled and remodelled in the cauldron of public opinion at Sydney. There was the Constitution of South Africa, a constitution meant only for the White race discriminating against the natives. Even that constitution had to wait till 1943 to take its final shape. If you have a cursory glance at the constitutions of other democratic countries before us, you will find that France started its constitution with the storming of the Bastille and it had to wait for 100 years before it could frame its constitution; meanwhile it swung between dictatorship and republicanism. Is there any other nation in the world today which deliberately elected a Constituent Assembly which sat for three years continuously and framed its constitution? May I invite the attention of my honourable friends to the fact that we have evolved a model constitution based on democracy and that constitution will stand the stress and strain of times like the American constitution till it proves to the world that a continental country like India can have a democratic constitution and work it too to the glory of all the world.

I come now to the next point, that we have too much of centralisation which ignores the powers of the States. We are at the advent of democracy. Democracy has got a tendency to let loose fickle emotions and disruptive forces. In the circumstances without a strong Centre I do not think we can have a successful democracy. We are at the beginning of nation-building. We have to survive as a nation. The question is the survival of a nation in a world of international conflicts. If that is so, we have to decided in favour of a strong Centre. If a party is to have a leader, should not the nation have a strong central government ? America decided to have a strong central government. Canada decided to have a strong central government. Mr. Macdonald, the leader of the constitution, said that all the centrifugal forces should be controlled and therefore a strong centre was necessary. If at the beginning of a state a nation is faced with so many political, economic and social problems there should be a strong Centre, so that power could radiate through all the parts. The Centre should not be so strong as to kill the autonomy of the local governments. But we have not got any such power concentrated in the Centre to kill the autonomy in the States. Therefore, this allegation that the Constitution is more centralised has no foundation. Of course , articles like 365, 371, and 324 look dictatorial, but when you look at the gust of emotions and the centrifugal forces set adrift by the advent of democracy, you will find that for the sake of political welfare and security of law and order, there must be a

strong Centre, so that the nation can survive. There are provisions in the Constitution to amend it and if the Centre is too strong we need not fear because when the nation has attained full stature and we can stand on our own legs, we can amend the Constitution and distribute powers equally.

With these words, I thank my friends for giving me a patient hearing. Let us all wish success to this Constitution and let us go home with a feeling that we have done our duty to our country and to the people.

Shri Gokulbhai Daulatram Bhatt (Bombay State): *[Mr. President, if we say, something about the Constitution which has been prepared by us and which is going to be accepted by us, it would mean two things. One is that we are praising our own work. And if we start pointing out the defects in this Constitution we might produce an impression that the Constitution must be worth nothing since even we who had made it were discovering defects in it. We have devoted a very considerable time and spent quite an appreciable amount of our energy and money for the perfection of this Constitution. The learned members of the Drafting Committee laboured hard -and they are men of learning as is clear from the manner my learned Friend Shri Kamath applies to them the epithet 'learned' every time he makes a reference to them, and I may add that I must rely on his judgment since he cannot but be very learned indeed when he starts calling others as his learned friends - and so as I was saying the learned members of the Drafting Committee have laboured hard in the preparation and for the passage of this Constitution. I must also thank you Sir, for the patience and the skill with which you have presided over the deliberations of this House and particularly the patience shown by you in the face of the lack of Quorum in the House. I also congratulate our Constitutional Adviser Shri B. N. Rao for his valuable advice given by him. The members of our Secretariat had also to work under difficulties and strain that were not in significant and they also deserve our thanks. It is as a result of collective labours of all that this Constitution has come before us in the form that it possesses today. It would be unbecoming for us if we now start criticising or condemning it. In a way those who drafted it had no other way but to follow the models that existed elsewhere. They have tried to prepare for us a very attractive cake which has been properly and thoroughly baked. There is in it an admixture of a number of elements -of wheat, of gram, of barley and of other cereals. The cake we have now got we are out to praise and we are engaged in that task at the present time.

Shri S. Nagappa (Madras General) *[We will now begin to eat the cake.]*

Shri Gokulbhai Daulatram Bhatt: I am not going to institute any comparison between the cake that we have prepared and the biscuit and the cakes of the other countries that is to say I am not prepared to examine as to how far our Constitution stands a favourable comparison to the Constitutions of other countries. The fact is that no judgment can be passed on this question unless we have begun to eat the cake and digest it. Until that is done we can not definitely say as to what substance this Constitution contains. I therefore submit that it would be much better if we abstain from passing any final opinion about the Constitution until that time and it is precisely for this reason that I would not indulge either in a praise or a criticism of this Constitution in the House today.

When the Draft Constitution was brought before the House for the first time I observed that it was like a bunch of flowers that had been put together after having

been brought from different places. I had proceeded to observe that it contained paper flowers and in some parts roses and also a rare jasmine flower. Thus it contained flowers of different kinds and characters. The bunch that is now before us is one which we had put together ourselves, and I can dare say that some of the flowers that we have put into it have fine and pleasing smell. But we all know that in this world we need all types of things because if it was full of all roses alone and no thorns man would lose his mind because he cannot bear so much good in his life at one time. I therefore believe that to reduce the excess of the smell of the flowers in this bunch other articles have been put into it.

If any friend, however, feels that the Constitution has become too bulky as it contains 395 articles and that it should have been much smaller and should not have contained more than 100 articles, I would say that that may well have been but for the fact that our friends here are scholars and men of learning. On the one side scholars like Pandit Naziruddin as also my friend Pandit Kamath who have been puzzling their heads to improve this Constitution.

Shri H. V. Kamath (C. P. & Berar: General):*[I am not a pandit]*

Shri Gokulbhai Daulatram Bhatt: That may be. But I as you are very fond of Geeta and worship God, therefore, I am referring you as a Pandit. So, these pandits were seeking to tell us always that the Constitution is full of lacunae. But for their criticism we could have made this Constitution quite flexible so that we could have adapted it to the changed conditions. But no one here was willing to permit us to frame a flexible Constitution because none had a confidence in the framers and everybody was trying to point out that a particular word could also be construed to have some different meanings than what was thought to be its meaning by the Drafting Committee. It was urged that this was a matter for the interpretation by the courts and by the lawyers and the Constitution will be interpreted by those authorities. Therefore we were compelled to frame this Constitution in such details and at such length in order that our people may not have to suffer from lacunae in it.

As I was observing we have framed this Constitution after unrevealing very difficult and intricate problems. There were occasions when all of us were afraid that violent differences may not develop among the members in regard to certain matters that had to be provided for. Thus there was the question of the name of the country, the official language of the Union and the conditions under which the Union or the States can acquire immovable property. These questions as also similar other questions had to be tackled by us and I believe had been wisely tackled problems under the leadership of our leaders. We disposed of all the points of difference by means of following rule of the golden mean and the path of compromise. I precisely use the word disposed of because I know that many of those who had any interest in the language question and who were insistent that a particular policy should be adopted could not have felt fully satisfied by what we decided. I mean such of my friends as Honourable Tandon Ji must have been feeling that all that was desired had not been done. But I would humbly submit that nothing in this world is perfect though all of us are trying to reach perfection. But once we have reached the goal we would ourselves have become so perfect that we would require nothing more for ourselves. Such is the view that Upanishads have advanced. But I do not want to press this point any further. I would however like to repeat and reiterate that it was quite in the fitness of things that we sat together and solved all our questions by means of compromise. If we had failed to solve these questions even after having devoted so much time I am sure the world

would have laughed, mocked and jeered at us. If I could I would have certainly liked that the name of Mahatma Gandhi and of the martyrs under whose grace we have been able to achieve what we have actually done should have been included in the Preamble. But our leader Pt. Jawaharlal Nehru and our elder statesman Sardar Patel advised us not to insist upon this and we quite acted on their advice. But even though the name of Mahatma Gandhi and of the martyrs whose sacrifices have enabled us to see this day and secure our independence does not occur in this Constitution yet I pay my homage to them and praise their services as a result of which we are enjoying the life in this atmosphere of independence and freedom.

When I examine this constitution from the point of view as to how far the ideology of Mahatma Gandhi finds place in it, I begin to feel that it would have been much better if we had provided for our work being done mostly by Panchayats. I give very great importance to this aspect of the problem, and whenever I have in occasion to speak here or elsewhere I have urged the acceptance of the institution of Panchayats. I know that we had tried to secure the right of adult franchise and had struggled to secure it and had demanded that all the elections should be held on this basis. At one time however we had said that our President would be elected on the basis of adult franchise and we had as a matter of fact accepted in principle that proposal. But later on we began to feel that this is not possible because on the one side Prime Minister would be elected by means of adult franchise while on the other the President would also be so elected and if any difference of opinion occurred in these two officials who had been elected by the same body of people it would be difficult to overcome those differences. Therefore, we felt that reality and practical considerations demanded that we should give up our insistence on the direct election of the President and agreed for his being elected in some other way. We agree to this because we felt that our representatives at the Centre and in the Provinces would be elected on the basis of adult franchise. But I have my difference even in regard to this matter for I am not sure as to how far we will be able to put this in practice. Even then I do not mind this being put to experiment once at least, so that we may learn its lessons. We can if we so feel make change after we have once had an experience of adult franchise. But it is my belief that we would have to reach the conclusion after experience that our electorate should consist of the village panchayats and that persons elected by them should be considered to be populate representatives. I do not want however to go into more details with regard to this question because I have to say that I have to in a few minutes that are now at my disposal.

The question of language had been raised here. Seth Govind Das Ji observed that no harm would have been done if this House had passed the Constitution in Hindi even if that meant that this House would have had to sit for a year more. I am just giving the substance of what he had said. It is possible that that may be his belief, and I do not also question that it would have been in the fitness of things if our Constitution had been drafted in Hindi. But I am not prepared to accept that it would have been wise for us to wait for a year more before our Constitution came into operation. It is my belief that the conditions under which we are living today are reflected in this Constitution, and also think that it could not have been better than what it is under these conditions. If we had taken more time we might have given our critics the opportunity to assert that we were simply wasting time and money and delaying the matter in order to pocket as much money of the public as we could. They might have urged that we were simply reducing this Body into a mockery while sitting here in the name of democracy. I believe that we were not ready to invite this criticism and I think it is quite in the fitness of things that we are now passing this Constitution in this

quick manner.

I have an observation to make in regard to the language question, in so far as it involves the question of regional languages. I was not present on the day when the language question had come for consideration before the House. But my elders and my other friends advised me not to raise this question later on in this House. But I cannot refrain from observing that if Gujerati, Marathi and such other languages can all be considered regional languages there is no reason why Rajasthani which is similar to them and is spoken by one and a half crore of people could not be considered as a regional language. I know that it has several dialects. But all the same no one can say that its history begins in recent times. As a matter of fact Rajasthani had been in use of several centuries. I am also aware that the Rulers have been using this language and that when they correspond with their fief holders, they use it as a medium of correspondence. All these reasons favour its being accepted as a language by itself. It is therefore my humble submission that a place also should be provided to Rajasthani as a regional language and I am sure my friends here would consider this question whenever it that this language deserves to be recognized as a language by itself. I do not want to create ascertain because that would mean giving long citations but I do insist that this language should be given a place along with other regional languages.

Several friends have stated here that practically all powers have been surrendered to the Centre. I however, believe that the conditions prevailing today are such that unless we vest almost all the powers in the Centre for at least ten or fifteen years it would not be possible for us to undertake any constructive activities. The reconstruction that we want to put in can be carried on only if we remain under the control and direction of a common Centre. This I submit is a historic necessity and any other course would be to walk in the clouds that would carry us nowhere. We must keep our eyes fixed to the solid earth. We must also examine the nature of the ground and give due consideration whether it has rocks or land in which trees can be planted. We must plan all our activities according to the kind of resources that we have today. That is to say the type of land that we have, the seeds we have to sow and the water that is available to us for irrigation. My submission is that in view of the totality of the conditions that exist today it appears to me very necessary that we must remain under a common Centre. My Friend Mr. Hanumanthaiya had asserted yesterday that it was only during the discussions that the proposal was introduced that the States Union must be under the control of the Centre for a period of at least 10 years. I do not want to go into the history of this proposal. I can say that when the Rajasthan Union had been formed my friends including myself had agreed, during the negotiations that were being conducted between the States Ministry and ourselves, that we shall be remaining under the control of the Centre. The circumstances prevailing in Rajasthan are rather peculiar and in view of these peculiar circumstances we felt it right that the Centre should continue to control us. I believe that the same reasons apply to the other states also and it is on account of that that a provision has been made with regard to the States in the Constitution. It is laid down in that provision that the State and the State Union shall be subject to the control and the supervision of the Centre. The President however has been authorised to abolish this control if he considers that the same is not necessary in the case of any particular State. I therefore submit that there is nothing in this provision to which we can take objection or as a result of which we should lose our nerves. I on the contrary welcome it and I can say that I had been responsible for its formulation and acceptance. Shri K. T. Shah had observed yesterday that there are too many restrictions in regard to the citizen's rights. I would have asked if he had been present today - but there he is - so may I ask him as to the country in which no restrictions have been imposed on

popular rights in public interest and for maintaining morality. I would like to know whether there is any country in this world in which there is no restriction whatever on popular rights. So far as I know in every country restrictions of one type or the other have been considered to be necessary. For Example it is everywhere necessary that one should exercise considerable restraint in the exercise of his freedom of speech in order that public order may not be disturbed. If we examine in this light the provisions in our Constitution relating to popular rights we find that the rights which the people would be interested in using and enjoying can be secured through law courts. So far as I am concerned I believe that the rights granted are quite extensive and general and that every one of us should feel contented with what has been provided. But if we go a little further than this - I would have now to hurry up as I have very little time at my disposal, we would find that a peculiar gift that we have secured is that the rulers of Indian States who had acceded to the Union in regard to three subjects alone have now gradually completely joined us. Credit for all this goes to our elder statesman Sardar Saheb who with his skill succeeded in persuading these rulers to join us and now they are with us. Notwithstanding that we have our is brought again before this House. I submit with all the force at my command own constituent assemblies and our separate States Unions, we have now decided that the Constitution of all the different State unions would be of the same pattern, and it is with this view that we have introduced a number of provisions in part seven which would be applicable to all the Indian States Unions. I would like to say that this is no mean achievement. But I do not think that it is necessary for me to say anything further in regard to this question. I however, know that the whole world will have to accept one day that what could not be brought above within 100 or 200 years that was achieved by our leaders within a very short space of time. The 600 and odd states which had their own separate existence have all become one. I do not know in what words I should express my feeling with regard to Sardar Saheb who has been responsible for all this. All of us of course praise him. He has acted with great foresight and skill in the matter of solving the problem of the States. I may add that he had solved the problem of Rajasthan also with great tact. The problem of Sarohi had been brought before us the day before yesterday and I had placed before the House what the people of Rajasthan and Sarohi demanded. I have constantly reiterated at places that Sarohi should be included in Rajasthan. But I also believe in another course of action and it was that the whole matter should be left to Sardar Patel to be decided by him in his discretion after we have acquainted him with all the circumstances. I think that would be a wiser and a more practicable course as the statesman of ours, our Sardar has solved many a problem which nobody else could have solved. It appears to me to be proper that the problem of Sarohi should also be solved by him, and I believe that all our friends from Rajasthan would put the entire case before Sardar Patel. There had been a time when Sarohi had been merged in Bombay. We felt at the time that we should see Sardar Patel in connection with the portion that was being merged in Bombay and should acquaint him with our feelings, with the feelings of Rajasthan and with the feelings of Sarohi with regard to this matter, and that we should entreat him, to favourably solve this matter. I am confident that his solution would give satisfaction to every person for he had always been able to give complete satisfaction to all concerned and I hope he will be able to do so in regard to this question as well.

I would not like to say anything further in regard to the other aspects of the Constitution because I have no time to do so. This Constitution as I have already stated has been framed in such a way as will permit the President to make adaptations and modifications in it. And we also would be in a position to bring forward its amendments for registering any particular change. Our Constitution thus contains the type of provision I have suggested. It is my fervent hope that our people should very

quickly move forward for the reconstruction of the country and for the use of the new Constitution. It is only then that our country would be following the proper course in the matter of reconstruction. Before I conclude I would like to reiterate my thanks to the Members of the Drafting Committee and to the other Members who have put in such labour.

Pandit Lakshmi Kanta Maitra (West Bengal: General): Mr. President, Sir, I must frankly admit that, if I speak today, it is not because I have any contribution to make; for one thing this is not the stage to make any contribution to the debate or to any of the articles; for another, I am not in a mood to do so. But, Sir, I could not but fall an easy victim to the human weakness viz., to join my voice today, one of the most memorable days in the history of modern India. As an humble servant of this country, who has devoted a goodly portion of his life to activities in the parliamentary or legislative sphere, I consider it one of the proudest days of my life to be standing here today and to be able to associate myself with the motion for passing this Constitution of free India. Mr. President, it seldom falls to the lot of any man in any country to have this opportunity in his lifetime. In India at any rate I cannot visualize a thousand years back from now when such an occasion every arose. It is a memorable occasion, a momentous occasion, a solemn occasion. Sir, as I rise to speak today, memories, bitter and poignant, come crowding to my mind. Two generations of men before us fought and bled for the freedom of this country. Many of our illustrious sons in the parliamentary sphere ploughed the barren sands fondly hoping, by tinkering with this measure or that to bring about some from of amelioration from the hands of those who controlled the destinies of this country. They are dead and gone. They could not see the full fruition of the work they began. Their mantle fell on us. Not only in the legislative or the parliamentary sphere but in every other important sphere our men carried on relentless activities for the freedom of the country. Some of us have survived to see the materialisation of our dreams. Others have passed. I believe, not into oblivion, and a grateful nation should always remember on an occasion like this that but for them it would not have been possible for us to have anything to do like the framing of a constitution today *(Hear, hear)* Mr. President, I consider it my first duty today to pay my humble tribute to the memories of the great and patriotic sons.....

An Honourable Member : Daughters also.

Pandit Lakshmi Kanta Maitra: Sons include daughters - sons, daughters, mothers, fathers, brothers and sisters, all who have contributed their mite to the building up of this independent nation. Today I gladly join the chorus of approbation of the services rendered by the Drafting Committee in which we have some of our most intimate and tried friends. I congratulate them on their achievement. I also want to record my appreciation of the work done by the Joint Secretary, Mr. Mukerji and the other members of the staff who have collaborated with us and made it possible for us to have this Constitution. Let us not in our admiration for the people in the limelight forget them. "They also serve who stand and wait." Above all, Mr. President may I strike a personal note and I believe that the statement that I will make will find a responsive echo in the heart of every honourable Member here, that the whole House if not the whole nation, is beholden to you, Mr. President, for the very admirable way in which you have regulated and guided the proceedings of this August Assembly. Many of us felt, not I, many of us had the feeling that with very little experience in the field in which you were suddenly called upon to serve you were an uncertain entity. I wonder, Mr. President,- it is no flattery to you when I say I wonder- how you could so

admirably, with so much tact control the deliberations of this August Assembly. You have given no cause to anybody to grouse; you have never stifled discussion, you have allowed everybody full latitude, free scope to those who had an exuberance of steam about themselves, to let the steam off; to those who have particular delight in chattering, You gave them chances to their hearts' content. I know and many a Member knows that sitting silently on the seat you have been witness to many things in this House which you perhaps did not like, but yet you held your hand back. We appreciate that and what I as an humble Parliamentarian can appreciate most is that though sitting in the Chair, there have been occasions when you felt yourself called upon to intervene; when you found that the House was taking a wrong an erratic step, you stayed its hands, you asked it not to rush on but to go slow and ponder and I know that on every such occasion real benefit has come out of your advice. This is an aspect which the House will not do to forget. It is perhaps worth mentioning that the Members of the Constituent Assembly also have their share of credit; they also deserve recognition in the country. Members have been called out to Delhi, where they have had to stay for months on and into difficult circumstances in total disregard of their private business. Sir, this is not in deference to an empty convention that I say all this; I sincerely believe that but for this joint enterprise, this collective enterprise of all concerned with you, Sir, at the top, it would not have been possible for us to achieve success in this stupendous undertaking.

I will now refer to one or two points regarding the Constitution. There has been a constant criticism here and elsewhere that this Constitution has been a hotch-potch of all manner of institutions prevailing in other countries. Yes. Speaking theoretically it is correct. There has been an amount of eclecticism there is no doubt about that; we could not help that. Who could have helped that in this country? Who in this country had had the experience, the traditions of a free country or the taste of freedom? We had not breathed, we could not breathe, the free air of freedom. We could not develop our own national and political traditions and for our ancient traditions we had to fall back on our ancient *shastras* and ancient lore. Therefore, we acted properly in my opinion in not rejecting the lessons of history recorded in the Constitutions of other countries. We had to pursue the policy of 'pick and choose' to see which would suit us best, which would suit the genius of the nation best and I am sure we will not have to regret this choice.

Another criticism about this Constitution is that it is a huge document. Enormous amount of extraneous matter, unnecessary matter has been pressed into it. Perhaps there is some truth in it also; but is it realized that you have drawn up a Constitution for 340 millions of people? Look at the magnitude or the size of your State and its people. Has it any parallel in the world? Has any other country, and other State in the world got such a municipality of problems, of such complexity and diversity as we have got. Therefore in the nature of things, this was inevitable and I make no apology for it. I do not say that this Constitution embodies the height of wisdom, political wisdom; I do not say that, I do not claim, you do not claim, nobody claims, neither the Drafting Committee nor any Member of this House, that this Constitution is perfect for the simple reason that it is not for human beings to be perfect and that a human Institution must of necessity be imperfect; but the society is not a static one. We are passing through a dynamic age, dynamics forces are at work. What we have provided today may have to be scrapped a couple of years hence, nobody can say. Hence, let us subject it to the test of time. let us see how this Constitution works. It will be perfectly open to the future legislators, to the future generation, to those who come

after us to make any changes that would be justified by the needs of their time.

It has been said that this Constitution has been cumbered with restrictive provisions, that the Fundamental Rights that have been conceded with one hand have been taken away by the other. In our zeal for criticism of the Constitution, which is our own handiwork is it realized how much we have achieved? Let us ponder over what we have provided in the Constitution as Fundamental rights. Many of them are justiciable. Let us not forget that. We have provided, among others, for liberty of speech, thought, action, association and all that is necessary for intelligent and civilized intercourse in this world. No doubt these have to be hedged round by certain restrictions, otherwise the very liberty would degenerate into licence; it will not be liberty at all. Remember the famous line of the great poet: "To me (the unfettered) the unchartered liberty tires". To some others chartered liberty tires. But in the interests of the very security of the State, as also for the greater and fuller enjoyment of liberty, civil liberty, these restrictions are necessary; however paradoxical it might seem, it is true.

Sir, we have completely banished from this land the curse of untouchability. We have by Statutory provisions broken as under the barriers that divided man and man, let me hope for all time. Is it a mean achievement? We have completely destroyed separatism from this country. Separate electorates we have removed. Reservations except for the genuinely backward classes, which is essential at the present stage, we have removed. We have tried to place equal opportunities for development and expansion, for the flowering of man into manhood. We have done all that. Is it a mean achievement? We have secured for the country the right of protection of the language, the script, the culture and everything which a particular part of the community wants to preserve for itself. These are some of our solid achievements. On top of all, the hitherto neglected underdog has been given a dominant voice in the governance of this country by the grant of adult suffrage. I find my honourable Friend Mr. Kamath smiling: I do not know if he is smiling assent or dissent to my observation.

Shri H. V. Kamath: I was not smiling at your remark: I agree with you.

Pandit Lakshmi Kanta Maitra: I thank you; at least on one occasion, my honourable friend has agreed with me. Mr. President, I was asking the House and through it the whole country to consider what a revolutionary change we have introduced in this country. I ask them to understand the implications of full adult suffrage in this land. These are our solid achievements.

But, our detractors would say, you have destroyed civil liberties. Yes, we have destroyed all chances as far as is humanly speaking possible, for degrading liberty into licence. that is true. These restrictions, at any rate for the period of transition, are necessary in my humble opinion. After the sudden withdrawal of the British power, in this country, his vision should be purblind who does not see the things that are shaping, the mounting violence and lawlessness everywhere. Who is going to use these powers? Not an alien force; but your own chosen representatives, representatives of the people, who would be chosen by the common man. That is a fact well worth considering. Let me fervently hope,- not only hope, it is my firm conviction - that these exceptional reserve powers will not have to be used too often. They will perhaps remain in cold storage. I earnestly hope that the weapons that we have forged for the protection of our hard-won freedom will go rusty and dusty in our armoury and will fall into desuetude, if only we realise our responsibility. I do not

understand a democracy which simply means all rights and privileges for the people and no corresponding obligations to the State. I find it commonly believed that for the common man in the street it is only to receive and not to give. This misconception of democracy or, should I say, this prostitution of the sacred phrase, should be guarded against and unless that is done, unless those who are in charge of putting this democracy in action, could fully make the people understand it and act up to it, this Constitution will be little worse than useless. For, after all, I do not believe that the virtue or merit of a Constitution lies merely in its wonderful draftsmanship or in the provisions that you embody in it. No doubt, they are important in their own way. But the success of democracy in a country depends upon the joint, collective endeavour of all concerned. In the first place, the provisions that you have embodied in the Constitution must be implemented in letter and in spirit, more in spirit than in the letter. No draftsmen in the world can draft a Constitution in so perfect a way that all the social and political ills to which a man is subject, would be abolished in a day. No cobbler in the world can make a pair of shoes which would enable a lame man to walk well and fast. No optician in the world can prepare an eye glass which can make the blind or the purblind see clearly. No tailor can make an ugly person look handsome and beautiful. So, I say the success or failure of this Constitution would lie in the hands of the people who work it, and it is on them that its success or failure in the ultimate analysis depends. Therefore, it is that this is an occasion, which I said was a memorable occasion, an occasion for exultation, perhaps of exaltation but certainly of exhortation This is an occasion for self analysis, for self examination. We have to see that if we want to implement whatever we have provided in this Constitution, if all that we want to achieve is to be achieved, then we must start here and from now to create an atmosphere for it; we must without delay bring about the conditions necessary for the proper evolution of a secular democracy in this country. You have given adult suffrage to your people. If you do not set about with all earnestness to completely remove illiteracy from the people, then, this grant of adult suffrage instead of being a boon would be a boomerang.

All the nation building departments should be attended to immediately and no excuse of shortage of funds or any other cause should be allowed to stand in their way, if the democracy as envisaged in the Constitution is to succeed. If this gigantic experiment is to succeed, I would appeal in particular to the servicemen to take note of the times. In this House when the constitutional guarantees were embodied for a class of the servicemen, there was a considerable section inside the House and outside who grumbled and groused. This has created considerable heart burning among those sections of the services for which no guarantee was provided. I do not object to guarantees being given; I do not regret that the fate of these servicemen has been given some security in the Constitution. The services constitute the back-bone of every Government but we in return must expect that all the servicemen who have been guaranteed a secure tenure should at least give us a moral guarantee that they would rise equal to the occasion, and that they on their part would act in a spirit of service, service to their country, service to their fellow human beings who are their own kith and kin and who are their ultimate masters; and not merely service to self. There should be no jockeying for positions inside the Secretariat or in other spheres. Let us be assured that all services will co-operate in the fulfilment of the great undertaking we are about to enter upon and in this, may I say, Sir, that everyone of us has a responsibility to discharge . The future legislators, the future Parliamentarians, the future Ministers, the people who would be called upon to operate this Constitution, to administer the Government of this land,- they should be the first to set an example to the rest of the country by their selfless devotion, by their hard and earnest endeavour to implement the spirit of the provisions of this Constitution. If

that is done, I have every reason to hope that we shall be able to make this country worthy of its great past. We who have been inheritors of ancient renown, could then stand up before the country, before the bar of history and say, we have done our part in our humble way,- with all our faults and failings; the future belongs to those who come after us.

Mr. President, before I conclude I would like to impress on the House the spirit of the Preamble with which we being our Constitution. I think it is the most solemn and the most magnificent piece of declaration that can be found in any Constitution. Let me draw the attention of the House to it before I close. I will not read the whole of it but I was listening to the critical speeches of my honourable friends, I was reminded of its noble message:-

"We, the people of India, having solemnly resolved to constitute India into a sovereign 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 of the Nation".

Great words these, solemn words these -let us take it as our Manthram and with these two Manthrams , this Preamble and Vande Mataram - go ahead.

The Honourable Shri N. V. Gadgil (Bombay: General): Mr. President, I remember that nearly three years ago we started the deliberations of this Constituent Assembly. In the course of these three years many things have happened and one great thing that may be noted about the Constitution that is now about to be passed is that the experience gained in the course of these three years has been written in the clauses of this Constitution. That will only show that those who were responsible for drafting of the same have not been mere academicians or mere lawyers working in an atmosphere of the cloister. As has been well said that so much has been accomplished and so well in such a short time that compared with the attainments of other nations in Constitution drafting, there is nothing in this of which one can be sorry but there are many things about which we can be reasonably proud. The Third Reading is hardly an occasion to subject the provisions of the Constitution to a critical or constructive analysis. But in as much as the Constitution has been criticised here as well as outside this House by a number of persons and parties, I am rather inclined to review the main provisions which are incorporated in this Constitution.

For this purpose I have singled out two parties in the country-the Socialists and the Hindu Mahasabha. Both the parties have put down in writing their ideas about the Constitution for this great country. One is published under the title- 'Drafting Constitution of Indian Republic' and it is red in colour which is rather the monopoly of the communists with something different by way of an emblem. The other party - the Hindu Mahasabha - has also published a book called the "Constitution of the Hindustan Free State". I went carefully through both these documents and I find that there is agreement on the main features of the Constitution that ought to prevail in this country. Lord Bryce has defined "Constitution as the form of political society organized through and by law, that is to say, one in which law has established permanent

institutions with recognized functions and defined rights. It may be mere collection of general principles according to which the powers of the Constitution, the rights of the governed and the relations between the two are adjusted ". It is therefore to be seen what permanent institutions in the sense in which any political institution can be permanent, are embodied in this Constitution. A modern constitution can be tested from five points of view :

1. The nature of the State for which the Constitution is provided

2. The nature of the Constitution itself;

3. The nature of the Legislature,

4. The nature of the Executive;

5. The nature of the Judiciary.

Now in this Constitution the nature of the State is Federal. I doubt whether there is a single individual either here or outside or a party here or outside which has stood or even stands for a completely Unitary State.

It is impossible to govern a country so big, with so many traditions and with such a variety of cultures with about two hundred and twenty different languages and to bring them in one administrative unit in the sense that there would be one unitary State, one legislature and one executive. After all, Sir, every Constitution represents the accumulated wisdom of the past and also embodies some elements of experiment in the constitutional sphere. It was not possible, as well said by my predecessor just now, to write on a clean slate. In the course of the last hundred and fifty years, and more particularly in the course of the last forty years, this country has been accustomed to certain political institutions, and it was not possible to depart violently or substantially from the political trends and tendencies already prevalent in this country. It was, therefore, clear that the nature of the State would be federal--a point on which there is perfect agreement between all the parties in this country. The difference, only comes here, whether in this Federal State the Centre should be strong or should it be weak. Now, even in this, both the parties, the Socialists as well as the Hindu Mahasabha, are agreed that the Federal State, or the Centre must be strong. I think, therefore, that there is nothing to be ashamed of the provisions- even taking into consideration the latest addition- are such that in the light of experience gained during these three years, it could not be said that the Centre has been made unnecessarily strong. It has been the experience of history that when the unifying influence of nationalism is felt, the emphasis is in the first instance on independence, and secondly on democracy. As I have already stated, in view of the difference in outlook, in culture, in language, and in history, we have yet to go a long way before we can say that the Indian State is a perfect unit in the sense that it is one solid and well integrated State. There are still fissiparous tendencies, there are still tendencies , both individual and provincial, to get out when something unpleasant is done, and the necessary loyalty still lacks that measure of intensity which we find in other Federal States. In fact, when we started three years ago, our greatest problem was how to bring in the several states which suddenly became free and sovereign also. But gradually the unity of this country has been built up and in order to see that it is perfectly consolidated, that it is placed beyond the danger of any fissiparous tendencies or disintegration, I still think the necessity for a strong Centre is there, for

at least ten years to come. From that point of view, some provisions which enable the Central Government to supervise or control or direct certain affairs or certain spheres of administration in the provinces are all to the good.

Now, Sir, the second test, as I have said, is the nature of the Constitution itself. Here again, we can not leave much to convention, and hence the approach has all along been to embody, not mereby general principles- a step which has been taken in many other countries- but to incorporate many things and not to leave at the initial stage of our journey towards freedom, important matters to convention. The accusation has been levelled against this Constitution to the effect that it embodies too many details, that much of this could have been avoided. This is a point on which many will agree. But at the same time, the experience gained in the course of the last few years dictated that this was rather a dangerous affair, to leave many things to mere convention, and hence the necessity of the new provisions that have been embodied in the Constitution.

The great objection against written constitutions is that it is very difficult to change them. In this respect I think the provisions that have been finally adopted are neither so elaborate as are in the Australian constitution or the Constitution of the United States of America, nor as easy as those in the English Constitution. There must be some distinction in amending an ordinary law and an organic law. Undoubtedly this law of Constitution as the very name suggests, is an organic law and any change in it must not be done with the same facility or shall I say, the same light heartedness as any change in the ordinary law. Even a prudent owner of a house would think ten times before effecting what the engineer calls structural repairs, but would not mind having current repairs frequently. Similarly, there are certain fundamental of this Constitution which cannot be changed light-heartedly, or as simply as we may effect a change in any ordinary law. Suppose we want to abolish the post of the President, or to make it hereditary. Can we do it by the simple process of moving a Bill and getting it passed by a simple majority? That would be dangerous. Similarly, those provisions or those institutions which constitute the foundations of this Constitution, can not be light-heartedly dealt with. Therefore, the provisions that have been made , as I said, are not too complicated on the one hand and not too easy on the other.

Those who have been criticising the Constitution on the score that it has been framed by one party, and is exactly the instrument fashioned for the purpose of inaugurating Fascism, I would ask them to study those provisions, particularly those relating to the amendability of the Constitution, and they will find that if they want to change it, and if they can carry the public with them, through the representatives of the public to the extent of two- thirds, then they can unmake the whole Constitution, it they so desire. My Friend Prof. K. T. Shah can see that in this Constitution there is sufficient power for him to tax out of existence his old friends and new enemies, namely the industrialists. There is nothing in this Constitution which cannot be equated with a full measure of sovereignty. The nature of the legislature is such that there are restrictions only so far as the procedure is concerned. But in substance there is no restriction, no limitation on the sovereignty of the legislature or Parliament. As was said by the French writer about the English Constitution, "Parliament can do everything except turn a man to a woman". I think the same can be said of this Constitution and I feel that all that the future legislature can not do is to turn an idiot into a genius.

Now, as regards the nature of the Executive, all the parties are agreed that it must

be Parliamentary as opposed to presidential. It must be responsible to Parliament. To what extent that experiment will be successful, depends upon certain conditions under which it will normally work. If there are two parties and two parties only, I have not the slightest doubt that this experiment will succeed to a substantial extent. But if there are more than two parties the life of the Cabinet will become very precarious. As one of my friends said the other day about the Ministry of a certain province, the Minister would not pay the *lorry-wala* because he thought he might require it the next day to take back his luggage from the ministerial bungalow. It may be, as is the experience of the French Cabinets, that the average life of a Cabinet may be even less than six months.

In that case what is required, what is very essential is, as has been referred to by my honourable friend Pandit Lakshmi Kanta Maitra, a strong efficient honest and industrious Civil Service. The Ministers may come and go; the Cabinets may come and go; but the actual Government, the administration will be run by the civil servants. From that point of view it is my personal opinion that although the provisions made in this Constitution are good, yet they are not sufficient. For on the Civil services will depend the good government of this country: on the Cabinet and on the parliamentary leaders will depend whether the Government is popular or otherwise. What the common man in a free country desires and is anxious about is good government, because having secured self government the emphasis has naturally shifted from self-government to good government. The Parliamentary Executive which has been envisaged in this Constitution requires, I shall say men of a very high caliber and under this Constitution the whole burden, the whole responsibility, is virtually thrown not on the President, as has been suggested by some honourable Members, but will devolve on the Prime Minster - on his personality, on his initiative, on his capacity to make statements, on his capacity to respond to public opinion and above all, his capacity to do the right thing against the popular thing- on that quality or moral courage will depend the success or otherwise of this experiment.

As regards the legislature, we have adopted bicameralism and I have no objection to it, and in as much as the electorate is to be based on adult franchise, I think the amount of prestige that each legislature will carry will be considerably greater than what it is today. But with that comes the great responsibility of educating our masters. Unless the electorate is sufficiently educated in a general way, capable of weighing not the details of a big problem, but its broad outlines, unless they have some capacity to distinguish between men and men- the democracy that we are contemplating will not be successful. It has been said by Professor Laski, that in the ultimate analysis, it is not the programme *versus* programme that is put before the electorate, although it is done objectively, but the individual equation of leadership. Who leads that party? Who leads that party? That is what weighs with the common man. Personalities do count--more so in the case of this country where hero worship is normal and where devotion is, so to say, the creed of one's life. The necessity of educating the electorate is therefore the greatest. I should, therefore, like to lay emphasis on this aspect that those who have taken part in framing this constitution should spend the rest of the time from, now till the election in explaining the provisions of this Constitution to their respective electorates.

As regards the Judiciary, Sir, we have secured their independence and I do not think that there is anything in which we have departed from the normal provisions that one finds in the Constitution of other countries. After all the Constitution is merely an instrument, and the main test is whether it is good enough to secure those

economic and social ends which we have in view. If it is not then it must be rejected, whether it is drafted by the greatest constitutionalists or greatest lawyers or jurists in this country, whether they have taken part in the struggle or not makes no difference. The main point is whether this is an instrument which is of such a nature as to secure those social and economic ends which have been very beautifully worded and embodied in the Preamble of this Constitution. In fact, I compare the Preamble of this Constitution with the *nandi* of our ancient drama. It is stated in the ancient book in drama that *nandi* must be such that it must contain some suggestions which will show what the plot is going to be . That is exactly what is done in this Constitution. I remember a certain line of criticism to the effect that no economic equality is guaranteed in this Constitution. I would ask them simply to read the words " justice, social economic and political". I can not contemplate in the context of modern circumstances that social justice is possible with private enterprise left free and unchecked. But things are bound to move if those who are in charge of the Government are anxious to secure social justice and when with that end they will act they will have to socialise means of production. Only social ownership will bring in social justice. There is no escape from it. It may come gradually with certain persons in power; it may come quickly if other persons are in power. But the point that I want to make out is that this Constitution does contemplate that social justice will be secured by organising the community with the ownership, control and regulation of means of production, resting in the hands of the leaders of the society; in other words in the hands of the State.

Sir, the Constitution is an instrument and not an end in itself. In the hands of a good workman, it is a good tool to work with. In the hands of a determined workman it will enable him to get what he wants. In the hands of a reluctant workman there is enough for him to complain. This Constitution is in my humble opinion, in spite of its defects (defects there are and I am not indiscriminate in my admiration although I do not unlike others, want to repudiate like Vishvamitra), calculated to secure those social and economic aims for which the Preamble stands. With a far-sighted President, with a Prime Minister full of vigour and vision, with genial legislators and a responsible opposition, I think there is nothing to prevent us, under this Constitution, to achieve those aims for which every one of us stands.

Shri M. Ananthasayanam Ayyangar (Madras: General): Sir, the Constitution has had its final touches and this is the occasion for a review of our labours. No doubt we started making this Constitution three years ago. The time that has been spent is not a long one and it is time well spent. When we started under the Cabinet Mission Scheme the Centre was expected to embrace and have a Constitution for the whole of the Indian Union including Pakistan. It was envisaged then that the Centre should be weak with powers only over defence, communications and external affairs. If we had accepted the scheme the 565 States in the country would not have come easily into the picture. For no fault of ours the Muslim League did not come in and for one full year we had to wait expecting them to come in from- November or December 1946 to the 15th of August 1947, when the country was partitioned. After 15th August 1947 for a long period we were faced with difficulties like those created by the Partition, the refugees, the murder of Mahatma Gandhi, the Hyderabad tangle, the Kashmir war which all took a lot of our time. We settled down later and calculating the number of days on which we sat we have not spent more than five months during this long period. On account of causes beyond our control we were not able to push these matters through. Considering the various problems and their magnitude and the various interests that have to be reconciled, any other country with a vast population like ours, I am sure, would have taken not three but many more years to frame its

constitution. Therefore it is a matter for pride to us that we have ended our labours at last at the end of three years.

Let us see what we did during this period, which is apparently long but is really short in time. We have achieved many wonderful things. We have brought about the unification of India and it is not a mere paper achievement. As we went on during this period framing the various articles of the Constitution, we went on implementing them at the same time. In fact we settled many problems and then embodied them in the Constitution. The integration of the 565 and odd States in the Indian Union could not have been achieved in any other country without a bloody revolution. A bloodless revolution has brought about this achievement and it must be a wonder to our erstwhile British masters that we have brought about this event without shedding a single drop of blood and so easily that people have reconciled themselves to it. The Maharajas and Princes have gladly come into the Union and are prepared to work it.

The next achievements is with regard to the Constitution of the States. First, the States were unwilling to come into line, and when they were also called along with the Provinces they have adopted the model constitution framed for the States. That also has been achieved without much trouble or protest. The persons in charge have managed it successfully and almost every State has come into the Union.

The Minority problem could not have been solved easily but thanks to the integrity of the various religious and other minorities, the separate electorates through which the British Government divided one community from another in this country and ruled it, were given up. They gave up at the outset separate electorates for joint electorates with reservation of seats but laterly they have given up even the reservation. Thanks to their farsightedness it marks one more step in the unification of this country and I am sure this will be worked in the spirit in which the minorities have acceded to it. It is now left to the majority community to show that whatever religion an individual may belong to, it is only his talents and spirit of service that will country and not his community and persons belonging to the minority communities will not be discriminated against merely because they belong to particular minority communities. I am sure the majority community will accept the hand that has been stretched out by the minorities, who have gladly given up their reservations.

Another vexed question was the division of powers between the units and the Centre. A committee was appointed and the premiers of provinces who came before it gladly yielded wherever it was found necessary and thus strengthened the Centre. Even in the field of industry and commerce wherever Parliament found it necessary that in the public interests of India as a whole a particular industry should be regulated by the central legislature it was granted as a concession in the interests of the county as a whole.

The allocation of financial powers as between the Centre and the States and Provinces loomed very large and at one stage it appeared almost insoluble. The sales tax over which a battle royal was fought was ultimately solved harmoniously. Acquisition of property also was no easy matter. Take for instance compensation for the taking over of zamindaris. In other countries the liquidation of feudal tenures would have taken a long time and wars would have been fought on that question. In various provinces zamindari legislation has been set on foot. Regarding compensation though it appeared at one time that this issue would even break up the whole

constitution, ultimately the Nation found a solution in this sphere also.

Then there is the question of language, over which we though there will be much controversy at one stage. Three or four times we met outside this House and also inside and ultimately we have resolved the question harmoniously. Hindi has been accepted as the *lingua franca* or the official language of India. These are all matters each one of which for its solution would have taken many months, if not years. We have resolved them all in the short period of time at our disposal.

I shall try to answer some of the critics who say that we have spent nearly a lakh of rupees every day or something of that kind. It is all wrong. People from the outside who do not assess things in the proper perspective are carried away by the number of days. The fact is we have not spent much. On the other hand, we have been carrying on in spite of hurdles and have now brought the Constitution successfully to its conclusion.

Let us find out exactly what is the kind of Constitution that we have given to ourselves. I claim that this Constitution is an absolutely democratic constitution. It vests the sovereignty in the people and enables them to continue to exercise that sovereignty in full. Besides political sovereignty, there is social justice also given in this Constitution. There is no discrimination between one individual and another. All can exercise equal rights without discrimination, so long as a person is not opposed to morality or public conscience. Untouchability has been removed once and for all. In the economic field also, although we have not said so in so many words, we have ushered in a socialistic democracy, which I would have very much liked to have been stated specifically. Equal opportunities have been given to all persons to acquire property.

One criticism levelled against this Constitution is that this is a mere copy of the 1935 Government of India Act and that it does not reflect the genius of our nation. There is some truth in that remark, but it is not wholly true. There are two ideologies today in the political field, which are working in conflict with one another. One is the capitalistic democracy and the other is the socialist dictatorship. Socialist dictatorship prevails in Russia and Capitalistic democracy in USA and UK. The world is today in need of democracy both in the political and the economic fields. It is no use telling a man that he must satisfy himself with political democracy without equal opportunities for property, the means of production being cornered by a few individuals. In a capitalistic democracy, there is political freedom but there is economic dictatorship. In a socialist dictatorship, there is no political freedom, but there is economic democracy. These two forces are fighting and ere long a war may come about. I thought that we must follow the golden mean and frame a Constitution which will usher in socialistic democracy, both the economic and the political fields being democratic and there being no cornering of power or wealth by a few individuals. One, namely, political democracy has been ushered in. Every man, woman without discrimination of race, colour or creed is entitled to hold the sovereignty of this country and bring into existence the form of government which he or she wants and change it from time to time. Normally speaking, literacy or some kind of education is insisted upon as a qualification, but here we have provided that any human being above the age of 21 years is entitled to take part in the formation of the particular kind of government he likes. But in regard to the economic field, I would have very much liked that we should have started with an enunciation of the principle that we are trying to usher in a Democratic Socialistic Republic. But unfortunately we have not been able to carry the

rest of the people with us. Even the word "socialism'' was reprehensible. But later on, by various clauses in the Directive Principles we have remedied the rigours of capitalism. In Parliament in the enunciation of the industrial policy it was said that we shall follow a mixed economy, that is to say, the State will run the enterprises in certain fields and the others will be left to private enterprise. Though we have not said so in words, there is ample provision in this Constitution which if worked well will ere long usher in a Socialist Democratic Republic in this country.

Then, Sir, it is said that by articles 93 and 371 too much power has been vested in the Centre and that is likely to lead to Fascist tendencies in this country. I say that it might not lead to any such dictatorship at all. More than 14 per cent are not literate in our country and it will take long to make them literate. I have therefore my own doubts as to whether adult suffrage will work in this country. Left to myself, I would have preferred that the village ought to have been made the unit, and panchayats must have been formed on adult suffrage with local councils etc., and elections must have been indirect. But we have chosen, in keeping with the times, adult suffrage for this country. I am sure that with the growth of adult education for which we have provided in the Directive Principles, namely, that education must be free and compulsory upto the 14th year for every boy and girl, the unique experiment that we are making in adult suffrage in this country will succeed ere long. Even on the score, we need not have any apprehensions. Until the time everybody becomes literate, a provision like the one made in article 93 and 371 will be necessary. It is a safeguard which all lovers of freedom in this country must welcome.

Thus, I consider that if these various provisions are worked in the spirit in which they have been framed, peace and harmony will prevail in this country. Members of this House and everyone outside, men and women, should feel that this Constitution is their own. There is no difference made. There is no doubt about it that this is a representative assembly. All communities have taken part in the framing of this Constitution-Hindus, Muslims, Sikhs, Parsis, Scheduled Castes and representatives from the Scheduled Tribes. All political interests have been represented here. Leaders of all schools of thought are here. Even Dr. Ambedkar, who merely came to watch has taken a leading part in the framing of this Constitution and he is one of the architects of the Constitution we are now passing. The very person who came to doubt and to criticise has ultimately taken charge of this Constitution and framed it. I congratulate him and I congratulate ourselves for the goodwill shown to him and the manner in which he has reciprocated it. After all, by closer contact we can easily understand one another's viewpoint. So long as we are at a great distance, we make much of the small angularities we have. If this Constitution is worked in the spirit in which it has been framed, I am sure we will be one of the foremost nations of the world.

There are also amongst us a number of eminent jurists like Mr. Alladi Krishnaswami Ayyar, whom we cannot easily forget. In spite of his weak and poor health both inside the Assembly and outside in the Communities, has been rendering yeoman service. We have amongst us also administrators like our Friend Mr. Gopalaswami Ayyangar. He has had great experience as a civil servant, and then as Dewan in the States and later in the Council of State. Though latterly he has gone out of the picture and has not been much in evidence in the Assembly here in the matter of the Constitution after, Dr. Ambedkar has taken it over, I am sure we will not forget the enormous services that he has rendered. Every section of the Assembly has done its best. Some of our friends who have been very energetic in tabling amendments-Mr. Kamath, Mr. Shibban Lal Saksena, Mr. Sidhva and latterly Dr. Punjabrao Deshmukh

who has added himself to this list-have all contributed their mite. Though we have not been able to accept many of the amendments tabled by our Friend, Prof. K. T. Shah, for whose learning, intelligence and capacity I have a good deal of admiration, he has confessed to me outside the House when I talked to him that though we were not going to accept his amendments, he tabled them because he wanted to lay his point of view before us. He has accepted the defeats in a spirit of good sportsmanship. Therefore I feel that this Constitution has been framed by every one of us doing his bit gladly. If there has been defeats to some, those defeats have been accepted in the spirit of a minority having to submit to the majority view in the hope of converting the majority view in their favour at some future date.

Lately, Sir, we have not tried to make this country greater in extent. We have no territorial ambitions. We do not want the territory of others. In the international as well as in the domestic field we want peace and harmony. With respect to that we have added a clause in the Constitution stating that in setting disputes between nations, arbitration ought to be the rule and not war. I am sure that, to the best of our ability, we will try to avoid war between nations and act as mediators for the settlement of international disputes by peaceful methods.

Sir, I will be doing an injustice to myself if on this occasion I do not pay my humble tribute to the Father of the Nation-Mahatma Gandhi, the embodiment of love and peace in the world. *(Cheers)*. I had tabled an amendment to the Preamble to the effect that we must start with an invocation for his long and continued blessing to our country and our Constitution. I find that there is a similar provision in the Constitution of Eire beginning with the words 'With the grace of the Almighty.....'I thought we should similarly start with the words 'With the grace and benediction of Mahatma Gandhi the Father of the Nation'. But my amendment was not allowed. Now, Sir, whether his name appears in the Preamble in writing or not, nobody can erase the peaceful and solemn voice of Mahatma Gandhi from our hearts. With him as our model, let us march on, work from peace to peace until peace and prosperity reign supreme in the world. May God bless us.

The Honourable Shri B. G. Kher (Bombay: General): Mr. President, Sir, I cannot let this occasion pass without expressing my gratification at the completion of a task which, it is very difficult to realise, we began quite three years ago. I remember our first meeting was held on 9th December 1946 and, in these three years were crowded events which would normally have taken possibly three decades for us to accomplish. Our Constitution also has undergone modifications as events outside took place. My first impulse therefore is to congratulate this House on having completed a very difficult, gigantic and monumental task and given a Constitution to free India. Every one will agree that it was a difficult task. Even as the manner in which India attained her independence was unique, so was the Constitution of this very Constituent Assembly. I do not think anywhere else a Constituent Assembly has gone on working as the Constitution making body and as the Parliament of the country for such a long period as nearly three years. After three years labour we have built up a Constitution of which we have every reason to be proud.

As I said, our draft Constitution has undergone many changes on account of events which took place after we first met. Remember, Sir, that it was only in May 1946 that the Cabinet Mission offered to us a very weak Centre-a federation no doubt but with a very weak Centre. With nearly 556 States and fifteen provinces we were to have formed a Union with only Defence, Foreign Relations and Communications as the

uniting factor for all the federating Units. Now look at the Federation that we have given our country! The Federation is formed with a view to have powerful uniting factors for a strong Centre.

We have solved a number of problems which, at the start, seemed insoluble. There was the question of the separate electorates, the franchise problem and the question of the minorities. These, by a spirit of goodwill and accommodation, we have now solved in satisfactory way. We have solved all these knotty problems including the very troublesome question of our language and the script. It is not necessary for me to go over the whole ground which has been covered by the 395 odd articles of our Constitution. A number of friends have already referred to many of the points to which I would have liked to refer.

Sir, one feature that distinguishes our Federation is that, unlike the other countries which have a federation, it is not the fear of any aggression or any outside agency that has inspired us to federate. It is not fear that has inspired our federation. Out federation is the natural outcome of our unique struggle for freedom for years and years. In the Indian National Congress we used to pass a resolution that we must have a Constituent Assembly which should frame our Constitution of free India, instead of being dictated to by any outside agency or by any sentiment of fear. Our Constitution has been evolved as the natural outcome of a process unique in its nature, even as our attainment of freedom has been unique. We are now a sovereign, democratic republic completely free to determine our foreign relations as also to mould our destiny in any way we like.

Turning now to the provisions in the Constitution, I do not agree with Professor Shah that we have hemmed in our Fundamental Rights with a number of restrictions which have rendered those rights almost nugatory. A number of speakers have referred to this matter. I believe, Sir, that these are very valuable rights which we have assured to our citizens. We have made them justifiable. They can be made the basis of judicial scrutiny. Article 13 provides that the laws in force in India, in so far as they are inconsistent with the Chapter on Fundamental Rights, will straightaway be void. In future also, any of the laws that offend against those Rights will be considered void. Therefore I believe that this Chapter provides very valuable rights to our citizens. For the first time in history, as a friend observed just now, they have been assured to all our citizens.

We have abolished untouchability, the curse of our public life. We have attempted to ameliorate the condition of the very large number of neglected people-the tribals. We must congratulate ourselves that we have provided Fundamental Rights as also the means of enforcing or attaining perfect equality, social, economic and political both to the untouchables as also to the tribals and the other down-trodden people-equality with the other sections of the public. In part III which deals with these rights, we have an article which deals with the compulsory acquisition of property. I remember very well that it was an article which caused the gravest concern to property holders. It gave rise to a bitter controversy-and at one time if looked as if our disputes were going to cause our ship to founder on the rocks, but ultimately good sense prevailed and negotiations and discussions have given us this article, and I believe, Sir, we have arrived at a solution which need not cause any unnecessary apprehensions but on the contrary should inspire confidence in the minds of property holders. I believe I am not entitled to speak on their behalf-owning no property myself-but it is obvious that State like ours must, professing the principles that it does of attaining equality and social

justice, have certain rights, to acquire property in the public interest and so long as we do not expropriate property owners, so long as we give them a remedy for determining whether the compensation that the state gives is fair or not, I do not think they have any reason to be apprehensive.

Then, Sir, we have the Directive Principles, and I am very glad that one of the Directive Principles is that it is the duty of the State to raise the level of nutrition and endeavour to bring about the prohibition of the consumption, except for medicinal purpose, of intoxicating drinks and drugs which are injurious to health. We all know how it was an article of great concern with Mahatma Gandhi. In my own province I am aware that we are being criticised for being too hasty and for having undertaken reforms which other countries have not been able to succeed in introducing; but, Sir, I am very happy to see that the Directive Principles embody this very important, necessary Directive that in order that the health and happiness of the vast numbers of people in this country may be looked after by the State, it will be their duty to prohibit the consumption of this poison. It is futile to say that we are too hasty and I submit that the pace must be determined by circumstances. Speaking of my own province, we first introduced prohibition in 1938. A part of our province was under prohibition. This time again we have given four years so that the unnecessary criticism which people with vested interests or with bad habits which they are unable to give up, level against us and against this part of the Constitution has really no justification.

Then, Sir, it has been said that we have only adopted the Act of 1935 as our model, for framing this Constitution. While I do not see why it should not have been adopted as a model, I want to point out that it was not a model designated for an independent, sovereign State. That model provided for an association of heterogeneous elements which lacked equality in political, economic, social and cultural status. And instead of 556 States, with a population ranging from one hundred to several crores, thanks to the way in which we have handled the States problem the number of what may be called the vestiges of Indian States is now reduced to nine, and all this has been done within this short period of eighteen months. This First Schedule of our Draft Constitution which is divided into four parts and which is called the States and the Territories of India contains only thirty units as against fifteen provinces and five hundred and fifty six Indian States set out in the Schedule to the Government of India Act of 1935 so that, while it is true that we have adopted it as a guide to see that no important questions, no important problems, no important items are lost sight of in framing such an important document, surely there is no similarity between the 1935 Act and this Constitution of a sovereign Republic that we have been able to build up in the four hundred odd articles that we have framed after such careful scrutiny, deliberation and forethought. We have adopted no doubt three lists as the 1935 Act has got, but we have taken into account the practical needs of the present times. I am aware that there is a good deal of dissatisfaction as to the relative position of the items put in the Lists, but it is a matter for the Union and the Provinces to evolve a way of smooth working whereby the strength of the Centre is not imparted, while the progress of the province is also maintained.

The financial relations between the Centre and the States, Sir, are naturally a matter of great anxiety but I am very glad that good sense has prevailed and we have now evolved formulae which has met with a very generous measure of approval both in the provinces and at the Centre. Let us hope for the best.

Another matter on which we pride ourselves is the way in which we have handled

the problem of the minorities. That was a great stumbling block in our way. Part XVI of our Constitution is witness to our constructive genius. We are very thankful to the minorities also for the way in which they have responded to the attempts that we made to abolish separate electorates and at the same time to inspire them with confidence that their legitimate interests will not be neglected.

The question of a national language which has been referred to here and discussed at great length gave rise to very bitter controversies. I hope, Sir, attempts will be made to evolve a really national language. We need not quarrel about names. We have a script which I believe, is very rich and very scientific and although those who do not know it may find a little difficulty in learning it, once they do learn it. I think they will be able to realise that our decision for adopting that script for the national language is a very wise one.

Then, Sir, I do not propose to say much about the question of the judiciary excepting that we need not be led away by mere slogans. The thought seems to be entertained by a large number of people that the executive is always made up of people who want to crush people's liberties and that the judiciary is there like the knight-errant to rescue the liberties of the public from the clutches of the executive. I think, Sir, that this is a very wrong notion and I am very glad that our Constitution has taken a common-sense view of the affair. We have assured the rights of the judiciary and also provided for powers of the executive. How can you accept this principle that, while the executive is composed of people who are wicked and who are anxious only to crush the liberties of the people, the judiciary consists only of saints who are above all ideas- I will not say-of power but who will not be led away by the same sentiments as those by which the other people are bound to be led away? I know that we have a very difficult task in composing the judiciary. If the members of the bar, when invited to become a Judge, do not consider it as a call to duty which ought not to be disregarded, because a Judge cannot earn on the Bench as much as a practitioner can at the bar, I am afraid we are not likely to secure good judges from the Bar, and the higher posts may have to be filled by promotion from the ranks of the lower judiciary. I am really afraid of the prospect. In my opinion the bench and the bar-I am not speaking in ignorance of the situation, because I have been connected with the legal profession very nearly for 40 years, from 1909-and in my opinion the bench and the bar both are in need of being reminded that they do not cease to be citizens and must be prepared to share the sufferings of the other sections of the people. I agree that it is necessary to have safeguards that the executive does not override the rights of the people. We have agreed to the separation of the executive and the judiciary, but after all the great concern of a young democracy is the security of the State. I am afraid Security is of the very highest value, particularly in a nascent democracy like ours, where new ideas, new principles, notions of new rights and of equality of status are being imbibed by the people none too slowly. So that those people who only raise slogans of civil liberties in danger and the oppression of the executive will do well to remember that they can raise these slogans and they can protect their civil liberties only so long as anarchy is prevented and the executive functions efficiently, justly and properly *(Hear, hear).*

Sir, I must before I conclude congratulate the House-and I have been here through, well, quite a good portion of these three years-on the monumental work which we have been able to achieve. Some of us are nervous as to the effects of introducing Adult Franchise in our elections. We have taken a very bold step. The only safeguard I can think of is accelerating the pace of social education. The other

safeguard is the Upper House. A friend said that the Upper House ought to be abolished. I am afraid I do not share his view. The upper House is quite absolutely necessary at least for the first ten years and I am very glad we have taken decisions which do not make the existence of the Upper House impossible. In our anxiety to achieve our dreams of equality, of liberty and fraternity and social justice it us not lose sight of the fact that even the attainment of these great things is possible if we do not collapse in the beginning of our new life and the whole machine is not wrecked either through ignorance or through wickedness. There are political parties who are anxious to create a chaos in the country because they believe that in that way alone and through violence alone they can achieve the fulfilment of their dreams. The Father of our nation thought otherwise and taught otherwise and we walked in his foot-step and we have achieved very happy results and the very fact that we were able to frame this Constitution so early-I call it "early"-and in this peaceful manner, is due to the fact that we accepted him as our guide and leader. Anyway, Sir, it is a glorious risk that we have taken, trusting our fate to the common man for whose happiness and advancement this Constitution is intended and framed.

I once again congratulate the House and I have no doubt that we have done a piece of work which will ensure for India that social justice, peace, progress and prosperity which it has been our aim to achieve *(Loud cheers).*

Mr. President : Before I adjourn the House, I desire to inform Members that the calculation on which I proceeded yesterday has turned out to be wrong. I proceeded on the basis that there will be 72 speakers whose names I had received till yesterday morning. Since then the list has swollen to 125 and probably by Friday week when we propose to close, it may come up to the total number of Members of this House. In that view, it is not possible to sit only three hours a day nor is it possible to give 20 minutes to each Speaker. I, therefore, propose to sit both morning and afternoon, ten to one and three to five, from today onwards and I would expect Speakers to come down to 15 minutes, at any rate, during this week and it may come down to 10 minutes the next week. From today afternoon the time will be 15 minutes for each Speaker and we shall sit from ten to one and three to five every day.

The House stands adjourned till three o'clock.

The Assembly then adjourned for Lunch till 3 P.M.

The Assembly reassembled after Lunch at Three 3 P.M. Mr. President (The Honourable Dr. Rajendra Prasad) in the Chair.

Mr. President: We shall take up the discussion now.

Shri Prabhu Dayal Himatsingka (West Bengal: General): Mr. President, Sir, various honourable Members have spoken and pointed out the good points and the bad points according to their view in the Draft Constitution. The Honourable Mr. Ananthasayanam Ayyangar and the Honourable Mr. Gadgil have analysed the provisions very thoroughly and shown to the House what have been our achievements in this Constitution during the period that this Constituent Assembly had been working on this Constitution. There may be difference of opinion as to certain provisions. Some may regard certain provisions as salutary while others may regard the same provisions as objectionable. But, Sir, much will depend on how the provisions are worked and also on the vigilance of the people. If we all alert, whatever may be in the

provision of the Constitution, things will move all right. There are persons who object to the powers that have been provided for the Centre in provisions like Article 257, 358, 365 and so on. People object to article 371 which gives power to Centre of supervision and giving directions over States. But those who know the conditions of States will certainly welcome much wider powers to be given to the Centre. What is happening in Rajasthan? People are being kidnapped from their houses and ransom is being realized. Unless the authorities of Rajasthan are able to pull up or take steps, it will certainly be in their own interest that the Centre gives directions and those directions are carried out and if not carried out, the Centre takes over and makes arrangements. In some places it has become impossible for people to move about after 6 P.M. and they prefer to live indoors. If such things happen you cannot imagine what assistance or intervention may be necessary. All the powers, after all, will be exercised only in case of emergency and it will be wrong on our part to assume that the Centre will exercise these powers unless it be absolutely necessary to do so. It is not an irresponsible executive or irremovable executive that will be exercising the powers. If they exercise wrongly, the members of the Assembly will be in a position to remove them and I do not think we can compare things now with what the things were before India became free when the Executive was irremovable and the Assembly had no power to remove them. There are certain provisions about which there are misgivings. Some sections of the people say that this adult suffrage is a welcome thing-it gives 16 annas democracy to everyone and everyone will be able to exercise his or her influence on Government. Others feel that this 100 per cent. democracy with 90 per cent. illiteracy will be dangerous experiment and that we should have proceeded with caution. One shudders to think what might happen if the persons who are illiterate and who do not understand yet the value of votes, if they vote wrongly. But there it is, having advocated adult suffrage, it has become impossible for the leaders to say that they do not like it. I know many do not relish the provisions of adult suffrage but they dare not say so.

The powers of the Centre became necessary also on account of the present position of things in many provinces. Those who are to defend the actions of Provincial Governments and the Centre are the persons who are the greatest calumniators of the Governments. One group of Congressmen is fighting with another group of Congressmen-those who are out of Government trying to detract the Government in power simply because they belong to another group. This is happening in almost all the provinces and if you open the newspapers any day you find this. It is a question of personal jealousy and quarrel. Even when there is nothing to oppose, because we are not in power and because others are in power, we complain and try to find fault where there is none. That is how the Congress Governments are being brought into contempt in the eyes of the general public and that is why the rot must stop if we really want to improve the position of Congress and Congressmen; but I do not see any signs yet and in most of the provinces this sorry tale is being made and witnessed. It is necessary therefore that there should be some sort of provisions which may be utilized when there is a tendency to break off. Even now you find that when Ministers in the Centre say something, some of the provincial Ministers make statements which go just absolutely contrary to the policy of the Centre. The Government at the Centre say "we want cotton to be grown"- a Minister in Bombay says "we will not do that until the Central Government comes forward to assure us of food supplies" as if food is not being supplied by the Centre and without that assurance being given, food will not be supplied. There must be co-operation between the Central Government and the Provincial Governments. Otherwise it will be almost impossible to carry on the administration and the task will become very difficult.

Sir, a lot will depend on how the Constitution is worked and the person who works it. If you put X in charge of a thing he may do it very successfully but if you place another person, in spite of the fact that he has the same resources available to him, he may make a muddle of the whole thing. A lot will depend on how it works, who works it and the manner in which it is worked. People will always be able to find fault but on the whole it has been a very satisfactory Constitution and if properly worked and supported properly by those who can do it, I think the whole thing should proceed in a satisfactory manner. Some say that some of the Fundamental rights ought to have been wider. I wish along with fundamental rights there were certain fundamental duties also. If we think more of our duties than of our rights, a lot of our difficulties will be over and the rights will take care of themselves and there will be no occasion to feel any difficulty for want of those rights.

Shri H. V. Pataskar (Bombay: General): Mr. President, it is at the end of nearly three years that we are coming to the end of our deliberations. Before I go on to discuss some of the aspects of the present Constitution, I would like to survey very briefly in the process through which we have already gone. When we first commenced our task, we were only a Constitution-making body and India has then undivided and was a whole. When we first met here, there was a section of the Members elected to this House who were not co-operating with us. At that time, just on the fifth day of our meeting for the first time, the Objectives Resolution which has been rightly described as India's Charter of Freedom was moved. That Resolution was moved on the 13th December, 1946 and was unanimously passed on the 22nd January, 1947. I would like to draw the attention of the House to three things that that Resolution contained. It first laid down that India shall be an Independent, Sovereign Republic. Secondly, that India was to be constituted into a Union or Federation and that the Federation was to consist of territories with their present boundaries or with such others as may be determined by the Constituent Assembly, and they were to be more or less autonomous units with residuary powers, and those units were to exercise all powers and functions of government and administration, save and except those that are assigned or going to be assigned to the Union. That Sir, clearly shows that what we then intended was clearly a sort of federation of so many territories or parts of territories of India which were going to be constituted into autonomous or semi-autonomous units. After the passing of the Resolution, several committees were formed and one of the most important committees was the Union Powers Committee which published its report on the 4th July 1947. That report was ready in May 1947. In that report, Sir, you will find that the very first clause of it says that the federation shall be one independent republic known as India. That means that the idea still was the same, that India shall be a federation of these units. As I have said already, at that time, the unanimous opinion was that what we wanted to frame was a complete unadulterated federation of several States. But several events happened in the meantime. Power came to be transferred to the people of India on the 15th August, 1947. And at the same time India also came to be divided. This was after we had started our work and passed that Resolution, called the Charter of Indian Freedom. Then, Sir, as we all know, partition was followed by many tragic events and a heavy responsibility was thrown, not only on our leaders, but also on the Constituent Assembly which began to function both as a constitution-making body and also as the Central Parliament under the Indian Independence Act. If these events had not happened probably we would have stuck to our original plan of having a scientific, systematic, complete federation of Units. But these events were combined with the task of framing the Constitution and this largely affected our outlook, which was till then consistent, and also affected many of the aspects of our task. The suddenness of the intervening events blurred, to some extent, our vision. A strong Central

Government suddenly became a matter of urgent necessity. I yield to none, including the last speaker in saying that a centrally strong Government certainly is a necessity. But what that means has to be seen. In view of the problem of the States which were left in an unnatural state by the departing British authorities, our task was still further complicated. And the creation of Pakistan itself created many difficulties. The Frankenstein of Pakistan which arose out of the very body of India, tore it into three pieces, and it was responsible for the pilling of innocent blood, unparalleled in human history and this made us shudder at the very thought that the rest of India should even consist of even any parts. That changed our outlook with respect to the problem with which we were faced. If we look at what we had been thinking all the time, we would see that we were first consistent in trying to frame a federal Constitution, in the true sense of the term. But these intervening events, the tragedy of partition and the events that followed, led us into altering our first Charter of Freedom and diverting ourselves from the goal which we had set before ourselves. And the whole things has been due to the fact that we became obsessed with the idea of having a Centre which was going to be strong. In that connection, I would like here to say that everybody wants that in the context of world events as they are now, we do want a strong government in this country. But what is the meaning of a government being "strong"? power was transferred on the 15th August 1947 to the people who differed among themselves in many respects. At least till the 15th August we thought that the suitable form of administration could only be a federal one, consisting of suitable units formed and caved out of these vast masses of people. But as I said, the events that had happened had brought about a change in our outlook. How are we to construct this new strong structure? We have to form the people into separate homogenous strong units. Or is it possible to suddenly change the central administration in the form in which such a central Government could be imposed by a foreign Government like the British Government? We have to build up these units, and in the building of a strong Centre we must so build the units so that they may themselves be strong. Unless the units are strong, the Federation can never be strong. But it appears that what happened as I said, rather affected the course of events. I find at the time of the first reading, or rather at the stage when the reports of the various committees were considered, the substance of federation was still there. But at the time of the second reading, we developed a fear complex, if I may say so, May be that it was justified by events that happened in our own country and also by events outside. But the fact has to be noted that it did affect the course of events. Adult franchise was differently looked upon, on account of the illiteracy of the people. But this illiteracy is already known to all. It is also known that this illiteracy can not be removed within a short time, though we may want to. Therefore adult franchise came to be looked upon not only with grave suspicion, but as a matter of grave danger. The result was that the autonomy of the States, or their semi-autonomy came to be looked upon as a matter of national danger. We kept the form of the federation, but changed the substance or contents of that federation. It was with the idea of having a federation that we began changing the names of the provinces into States. If the present idea had existed throughout we never would have made that change. But while the name of "State" is there, the power of the State is so curtailed that it is a misnomer to call it a "State" any longer. It would have been much better to have a unitary type of Government, if we so wanted. Then the whole structure would have been differently built.

As the result of a fear of these things, I notice that the following changes have taken place in the framing of the Constitution. The elected Governor came to be replaced by a Governor appointed by the President. Residuary powers which naturally remain with States, if the Constitution was to be really a federal one, have been transferred to the Union. This is wrong in its very conception. I can understand that in

a unitary type of Government naturally the residuary powers will be with the Union, because the powers emanate from the Union. But in a federal structure, the powers really emanate from the units and the residuary powers can only remain there. Then, Sir, a curious thing happened. In the First Reading stage we decided that a simple matter like elections in the States should be controlled by the States themselves. But we have now made a provision that they should be controlled also from the Centre (Article 324). Then power was given to the Centre even to legislate for subjects which were assigned to the States List. Financially also, the States will be more or less at the mercy of the Centre. They will derive most of their income from the Centre and they have been provided with very meagre resources of their own. The Governor is no longer merely a Constitutional Head, but has been given powers to interfere in the work of the Ministries. I would only mention in this connection article 167. With the idea of having a strong centre, as if we were continuing under the old Act, many of the problems that urgently needed to be resolved have been kept back.

I know that there are many difficulties. Ours is a land of regions in various stages of development; ours is a land of many languages. We have also many handicaps as a result of being dependency of the British Empire for over a century. The present conditions in the country are such as to cause grave anxiety and the conditions outside in the world are not less alarming. The East is rising from its slumber and state of suppression. But granting all this we cannot frame a proper democratic constitution which at least in some parts discloses a distrust of the people in general and the common man who alone can be the foundation of a democratic state. That Sir, is my objection to a strong Centre of this type. We can of course give all power to make the Centre strong. But this Centre is not like the centre of the old where the power flowed from outside, from the British. But the power of the Centre must flow from the States, which, in the first place, must be made strong and powerful. Unless the units are strong how can you have a Federation which is going to be strong.

Sir, many things have happened between the starting of our work of framing the Constitution and the completion thereof which has unnecessarily blurred our vision, with the result that we are running away with the idea of a strong centre and launching ourselves probably unconsciously, unknowingly and irresistibly on a line which may not be successful. If we have clearly grasped the implication of our line of thought and action it means that it is our opinion that the people as a whole, the common man, is not capable of exercising properly his rights as a citizen of a democratic federation. In that case, the best course would have been to give up entirely the idea of a Federation, and frame a unitary type of constitution. I could have understood that. We could then have said: "No, we are not in favour of a Federation; we want for this country a unitary type of Government." But that is not what we have done. Again, if we thought that for a few more years our people would be illiterate and that illiteracy which is a curse of democracy would disappear but that time then we could have said: "Well, our people will be ripe for a Federal type of Government after fifteen or twenty years." In that case we should have been content with framing an interim Constitution and left the task of framing the final constitution to those who may come after us. But the present Constitution though called a Union-the word Federation has disappeared, and "Union" has taken its place-is not federal in substance. It is not unitary, for it was never framed as a unitary constitution. The whole things, as a result of circumstances and events, some of which at any rate are beyond our control. I do not want to blame any party or group of persons-is a queer combination of disjointed parts of both Federal and unitary type of constitutions. I want to make it clear that in saying what I do, I do not want to throw any blame on the Drafting Committee. I am just trying to explain the reasons that have led to this

result.

Then, Sir, there is another aspect of the Constitution. I know that we were not writing on a clean slate, that there was our former association with the British Empire and that we were a dependency of that Empire for over a hundred years. We were ruled by them and there was the Government of India Act of 1935. Well, what was the Government of India Act! It was merely an adaptation of some of the principles of the unwritten constitution of Great Britain, adapted and made suitable for a dependency as India then was. Naturally that could not form a very proper basis for the Constitution of a free India. Naturally, everything in it was not bad. But what has happened is that our Constitution has become so voluminous because we more or less based our present Constitution on that Act. The Government of India Act contained 328 Sections and eight schedules; the present Constitution consists of 395 articles and eight schedules. We have closely followed the provisions made in the Act of 1935. It is no good trying to conceal the fact that we have based our Constitution on the unwritten constitution of Great Britain adapted to a dependency like India, as it was in 1935. It is not desirable that the constitution should have been so voluminous. We have tried to put into the Constitution what should have formed part of the legislation of the country, present or future. The whole chapter on elections is based on an Act of the Canadian Parliament which does not form part of their constitution. So this should have found its place in the present or future legislation of the country. Unfortunately all this has been tried to be put into the Constitution because we have not been able to keep clear in our mind the distinction between an act of the legislature and the provisions of a constitution.

Our Fundamental Rights are very good exclusive but I am not happy about one change which has been made with respect to personal liberty. So far as I am concerned I have not been able to understand why for one simple phraseology which we wanted to avoid we had to introduce articles 21 and 22. To avoid a well known expression "due process of law" we introduced in article 21 the phraseology "procedure established by law". To get out of that difficulty we introduced article 22. However it will not serve the purpose for which it has been introduced.

The other day Dr. Ambedkar told us that provision has been made in clause (4) by which advisory boards will be appointed before which these matters could be taken. The advisory boards will be more or less the creation of the executive, and taking a long range view, we may or may not be here and others may occupy our seats, the fact remains that the advisory boards will be the creation of the executive of the day and therefore they cannot be expected to be as independent as the judiciary. I learn that we are not probably satisfied with the present judiciary but we can change it but in a constitution which is to last for all time to take away such wide powers from the hands of the judiciary and leave them in the hands of an advisory body to be appointed by the executive is a thing which might recoil upon ourselves in future and I shall not be surprised if it happens.

In spite of the shortcomings we have made a very good provision in the 'Constitution, namely, the article by which it can be amended when occasion arises. A constitution is a living growth and I hope in course of time this provision will be made use of by those who come after us and according to changed circumstances change the constitution in any manner they like.

Shri B. A. Mandloi (C. P. & Berar: General): Mr. President, Sir, we are reaching

the end of our journey and within a few days this Assembly would be finishing its task and presenting to the Nation a Constitution for a free and independent India.

Last time the Constituent Assembly laid down certain principles and entrusted the task of framing a constitution to the Drafting Committee and the Drafting Committee presented a draft Constitution of India. We have to see whether we have effected in the Constitution any improvements and what modifications we have made in the Constitution and whether those modifications are really in the best interests of the country.

Most important of all is that the princely order in India has completely disappeared and the 560 and odd Indian States have either merged in the neighbouring provinces, or formed themselves into unions or are put under the administration of the Central Government. The people of princely India who had not even the elementary right of working municipalities and district boards are now free and would be as of right entitled to undertake the administration of their States and the States are put on a par with other provinces of the Indian Union.

According to the Cabinet Mission plan the States had to accede with the Centre only for limited subjects, namely with respect to Defence, Foreign Affairs and Communications. But we now find that the Constitution for these Indian States is going to be identical with that of the provinces. Only a period of five years has been provided to bring the States into line with the provinces.

After the Draft Constitution was presented to this Assembly the safeguards which this Constituent Assembly had provided for the so-called minorities have been voluntarily surrendered by them. These provisions, viz., joint elections and no reservation, could have been imposed on the minorities at the very beginning but we found that after the partition of India the minorities were satisfied that our government is going to be a secular one, that there would be no differential treatment on account of religion or other causes, the minorities being fully satisfied came forward and their leaders frankly and openly proclaimed that they did not want any safeguards. This change of heart is a great achievement and we are going to have joint electorates hereafter. Of course provision has been made with respect to the scheduled castes, that for a particular number of years they would enjoy reservation of seats but after that this safeguard also would disappear. This means that the minorities feel confident that in the Indian Union they will have equal rights, equal privileges and equal opportunities as provided in the Constitution. So it is not an imposition by the majority on the minorities but it is voluntary surrender on account ,of the confidence which the minorities feel.

The other important thing which the Constituent Assembly has achieved is the provision of one official language *viz*., Hindi in the Devanagri script for the whole of the Union. If we look to the past history of our country we find that at no time there was any common language in India spoken and written throughout the length and breadth of the country. The Constituent Assembly has laid the foundation of one common language and script for the entire country and it has been achieved with the unanimous consent of all the Members hailing from different provinces and speaking different languages. There was no heart burning over the selection of Hindi as the official language although there was some initial tussle over minor details but in the end we came to a happy decision that for a great country like India we should have one common language and that common language should be Hindi written in the

Devanagri Script.

While providing one common language for the whole country, we have been careful to see that the provincial languages are not harmed in any way. There is full scope for the development of provincial languages which possess their own rich literature.

Taking into account our ancient civilisation, culture and traditions, we have adopted a suitable name for our country, namely, Bharat. That has also been done with the common consent of all.

The other achievement is the provision of uniform system of administration of justice in the whole of the Union. We have provided for a Supreme Court in the Centre and High Courts in the different States. The High Courts would be under the control of the Centre. Thus, both in the advanced and in the backward States, there would be a uniform system of justice. We have also provided in the Directive Principles that within a few years we shall have separation of the judiciary from the executive.

Successful attempt has been made to make the Centre strong. Although it was urged by some advocates of provincial autonomy, that their should not be any encroachment on the autonomy of provinces, it was realised by us that we have to develop the backward areas and also make the Indian Union strong and powerful and therefore we conceded that the Centre should have adequate powers. At the same time, care has been taken not to weaken the provincial administrations. Sufficient scope has been given to the provinces for the development of provincial affairs and the administration of the subjects which have been entrusted to the provinces, so that the real work may be done in the provinces with the help of the Centre.

The last thing, which was also a thing of a very controversial nature, was the formula that we have adopted for acquisition of property for purposes of the State and the Union. A common formula was evolved, whether it be for abolition of zamindaris or for taking over industrial concerns or for nationalising industry. According to that formula, we find that the legislatures have been given plenary powers to make the laws for the acquisition of property for public purposes. This is a great achievement indeed.

These are some of the important things which have been incorporated in the present Draft which has been submitted to the House for its final acceptance.

We find two very important things in our Constitution. One of them is the Preamble which is an enunciation of Objectives of the Constitution. We have indicated in the Objective Principles; the nature and scope of our Constitution based on Justice, Liberty, Equality and Fraternity. Not only that, we have provided a chapter on Fundamental Rights. In the articles on Fundamental Rights we have provided the liberty of speech, of association, liberty to follow one's own religion etc. Then there is a chapter about the Directive Principles in which we have laid down the fundamental principles which should guide the States or the Units, what should the State do, to achieve the objects laid down in the Preamble. Thus, if the Objectives Resolution, the Fundamental Rights and the Directive Principles are kept in mind by the persons who are responsible for running the administration at the Centre and in the States, I have no doubt that our country will in course of time become happy, prosperous, strong and powerful.

Some criticisms were made about the Constitution, one of which was that the Administration is top-heavy. The Congress before achieving Swaraj has been telling people, proclaiming to the world that in a poverty-stricken country like ours where the majority of the people do not even have two square meals no person should receive pay running to four and five digits, still we have in our Constitution provided big salaries for some important offices. There is some truth in this criticism. The people expected and would have liked that the Constituent Assembly could have fulfilled those pledges given to the people by the Congress from time to time, and reduced the big salaries taking into consideration the tax-paying capacity of the people. Unfortunately, we have not done so. But there is still a ray of hope. Provision has been made that during the transitory period, and so long as Parliament does not take the matter in hand and by legislation fix salaries for the high offices, the salaries provided in the various schedules of the Constitution would be paid to the respective personages. I hope that our future Parliament which would be constituted on adult franchise would realise this responsibility and radically revise the scales of pay, so that the burden would be proportionate to the paying capacity of the poor people of this country.

The second criticism that has been made is that the Centre has been made too strong at the cost of units. My submission is that this criticism has no force. The strength of the Centre is the strength of the units and the strength of the units is the strength of the Centre. The units are part and parcel of the body corporated *viz*., the Centre. We have to take into consideration, the great responsibilities of the Centre, nature and composition of the various units. It is therefore necessary that the Centre should be made strong.

In conclusion, I would be failing in my duty, Sir, if I do not say a word about the Drafting Committee. It is well known that the Committee had an arduous and very important task. The Members of the Committee under the chairmanship of Dr. Ambedkar did their job willingly and splendidly and presented us with a draft Constitution. I know that during many controversial debates in this House the Chairman of the Drafting Committee put forward his point of view very ably and succeeded in bringing the controversy to a satisfactory conclusion. This House appreciates the services of the Drafting Committee and I congratulate Dr. Ambedkar, Chairman of the Committee for successfully piloting the Constitution of free and independent India. This Constitution has been prepared within a record period of three years -in fact we should eliminate from these three years the period during which we had troubles of unprevented matters and unsettled conditions. This is a great achievement. Sir, it is not enough to have a good Constitution on paper but it is the willingness of the people the sincerity of the people and the earnest desire of the people to work it that is important. If the Constitution is worked in that spirit I feel sure that our country will have a bright future. We visualise a bright future for our country and we wish her to be one of the foremost countries in the world. If we work the Constitution in the spirit in which we have made it, I feel sure there is a bright future for the country. With these words I support the motion.

Shri Krishna Chandra Sharma(United Provinces: General): Mr. President, Sir, it is a great day that we are passing the Constitution for a free country in a free atmosphere.

Thirty years ago, when I was just a young man, I was made to sing, 'Long Live the King.' Later on, an insignia of that King caused me many an uneasy night. I dreamt, I

cherished and I struggled and suffered for this day. I feel happy that this day has come. Centuries ago a man kin his enthusiasm in the United States of America, when they framed their free Constitution, cried 'Oh, God, by your grace, we are become a nation'..... So with God's grace, we are become a nation, a nation with the power to think good, a nation with the power to will, a nation with the power to execute; to make its dream a reality and realise the possibilities of her growth. It is up to you to fulfil the cherished desire of those who have gone away, the desire of those who are striving along with us and for the good of those who come after us.

Sir, a Constitution, like any other thing resulting from human striving, is a child of its age and so is this Constitution. It will be a good Constitution or a bad Constitution in relation to the circumstances that have brought it about. Years ago, in the Nehru Report of 1928, certain objectives were laid down and a certain structure was given to the Constitution. Though this Constitution does not reflect the Nehru Report in so many words and phrases, in so many clauses and articles, the spirit of that Report is introduced. Then we had the Sapru Report and the various resolutions on the objectives of the Congress and we had also the Government of India Act of 1935. For the ideas that you find embodied in this Constitution you have to go back to the various documents that were available such as the conclusions of the Round Table Conferences. Most important of all the factors we have the economic pressure, the social forces, the political developments and our relations and connections and associations with the world outside to give shape to our Constitution. No written Constitution in the world can have an isolated existence and can fail to be influenced by the economic pressure, by the connections with foreign powers or the foreign policy of the country. If you look at the American Constitution, you will find that it bears the imprint of the eighteenth Century working and development of British Constitution; and the French Constitution of the days of Bonaparte, has to a very large extent influenced the European Constitutions of nineteenth Century. No Constitution can have an isolated existence. It is but right that we should gain from the experience of others and from the British Constitution and the American Constitution. Those nations have long experience of working democratic and representative institutions. We have benefited by the experience of other parts of the world. Taking that view, we have to analyse a Constitution, as Marshal put it in 1816, and see if it provides for three great departments the executive, the legislature and the judiciary. The function of the legislature is to pass two laws subject to the maintenance of the sovereignty of the people. Our Constitution, like all democratic Constitutions, upholds the sovereignty of the people. Like the American Constitution, our Constitution in its Preamble begins with the expressive words : "We , the people of India, having ..... ". We have universal suffrage. We can be sure that every man who can think will have the right to vote and contribute his share in the building of this great country. A broad-based legislature elected on adult franchise can express the will of the people and carry it out. Such legislature would make law in the real sense of the term because through the long evolution of the judicial process, we have come to the conclusion that law means the will of the people. In the olden days law meant the will of one man, later it came to be meant the will of the few, but now law really means the will of the people. Because we have adult suffrage, our legislature will express the will of the nation as a whole.

Then comes the executive. The executive that we have got is a strong executive with the President and the Prime Minister to aid and advise the President. Now, if you look at the American picture, the judiciary there has supreme power, and so is the position of the legislature in the British Constitution. Now, what happens in the British Constitution is that the legislature may pass any law for socialising property, but the

services writ not carry it out. There is a split therefore between the legislature and the services. The legislature may pass any law, but it is open to the services to refuse to carry them out, and the legislature cannot dismiss the services. So the mere power to pass laws does not mean power to carry them out. In the American Constitution, the Congress may pass any law, but the Supreme Court will nullify it. There has been a rift there between the legislature and the judiciary and between the President and the Congress. The result was that from 1933 to 1936 there was a bitter struggle between the President and the Supreme Court, and between the President and the Congress and the President began appointing judges of his choice. There has been a conflict even over the removal of a Governor. There have been many cases for impeachment and removal of Supreme Court judges. Our Constitution has taken note of all these difficulties. We have got an executive with the President and the Prime Minister and that executive is responsible through the Prime Minister to the legislature. Then we have got a judiciary more efficient than the American Constitution provides for. In the American Constitution, what happens is that the President appoints judges and the complaint is that some of the judges are moral wrecks and absolutely worthless people have been appointed as District Judges. Some of the Supreme Court judges are not lawyer judges. They have not been appointed from the bar. They know not much of the law. Many of the appointments have been from the political viewpoint. As I said, inefficiency breeds arrogance and arrogance results in irresponsibility and irresponsibility gives rise to corruption and bribery. Our Constitution is really an improvement over the British and the American Constitutions because in all the three fundamental departments, *i.e.*, in the legislature which makes the law we have provided for the expression of the will of the people. We have provided for a strong executive with responsibility to the people. In the judiciary we have provided for independent, honest and efficient judges, and while the Supreme Court of America can nullify the will of the people, no such thing is possible in our Constitution. At the same time, no irresponsible action is possible by the executive or the legislature because in the Fundamental Rights, article 19, we have put in "Reasonable restrictions." If ever the executive or the legislature go beyond the reasonable sphere, then it is open to the Supreme Court to question the validity of the law. Much has been said that in the fundamental rights there have been too many restrictions put and that very little freedom left to the individual. I beg to submit, as I said in the beginning, that a Constitution is a child of the age. If you look to modern Constitutions, every modern Constitution has the impose of the economic and social conditions and the foreign policy of the land and of the thinkers and writers of modern age. The writers and thinkers that have moulded the modern age: The influence of Law and controversialists, of Rousseau and the idea of general will, of Bentham and the principle of utility, of Hegel, Owen and Marx. We have had for our guidance our own background, political, social and economic. Ours is not so much a case of freedom as a case of building up a State. The necessity of the present is to build a strong and united and prosperous nation. So taking that viewpoint, I find that there is only one thing lacking in our Constitution. We have got Fundamental Rights, a good number of them, but we have not got corresponding obligations of the citizens. Take the case of Norway, take the case of Russia, in all these Constitutions you find along with the Fundamental Rights, the fundamental obligations of the citizens. I wish very much that there had been a chapter in our Constitution on the fundamental obligations of the citizens. But all the same, I think that if we work and work hard, we can make our land strong and prosperous.

Shri Khandubhai K. Desai (Bombay: General): Sir, we are the Third Reading state of our Constitution and within the next few days we would have adopted this Constitution and presented it to ourselves and to the country. Naturally this is an

occasion for mutual thanks giving and mutual gratification at the picture that we have been able to evolve after three years.

I must very frankly state before this House that quite a large number of us who have been returned to this Constitution Assembly to frame the Constitution had only got a few hazy notions about constitutions and we have got certain slogans, certain ideas, certain theoretical conceptions of what a constitution should be for a free Republic and, therefore, as far as I am concerned- I cannot say for others-this House has been a sort of school for me. I have learnt how constitutions can be framed so as to take into consideration the realistic situation. I am no constitutional lawyer and neither am I a technical lawyer and so I do not know whether the Constitution that we are presenting to ourselves will carry out the intentions with which we begin framing the Constitution but, Sir, there is one hope and it is this-that we have nearly, taken three years and when we have taken three years they were not the years of a static society. The society, the Indian community had been dynamic; changes were taken place and we have to incorporate those changes also in our Constitution and we were advised at the top by two of our greatest leaders who were really gifts to us by Mahatma Gandhi. They have learnt their lessons of both practical working and idealism at the feet of their great master and so during the last three years we have always got their guidance, their advice and invariably I should say we accepted their advice, when we were in difficulties. It has been stated on the floor of this House during the last two days by some that this Constitution is unitary and some say federal. I think it is none of the kind; it is neither unitary nor federal. It is something which suits our requirements. Why should we go by theories? It is something that suits our requirements. What are our requirements? Our requirements are to have a political structure which while keeping sufficient powers for the Centre in order to see that there is on economic or political collapse, at the same time it leaves initiative to the units. As to whether that intention has been carried out, I Sir, humbly feel that that intention has really been carried out. Somebody would ask me: "Why do you assert that? To that I would say: I do not assert that, but we have got fortunately in the making of this Constitution the Prime Ministers from the different Provinces who have taken full share in forging this Constitution. They at times quarrel with the Centre and the Centre sometimes quarrels with them and ultimately those people who were for centralization and those people who were for de-centralization came to some happy conclusions and we, as I said in the beginning, most of us do not claim to be either administrative experts or constitutional experts, and therefore, when these people have come to the conclusion that what they have agreed upon do suit their needs, we must accept that it is quite true. Moreover we have also to consider that we have gathered together here to frame a Constitution for one of the biggest Republics in the world and that also after the achievement of Independence through a unique process of non-violent democratic revolution. It is really a matter of gratification that we have been enabled to frame this Constitution in a peaceful and democratic atmosphere.

I was saying that we have been called upon to frame this Constitution as a result of one of the most unique incidents in the history of the world, that is the result of a democratic non-violent revolution and, as I said, we are really grateful that we have been permitted to frame our Constitution in the last three years without any obstacles, without any difficulties which faced other countries when they framed their Constitutions. We are therefore proud, Sir, that we have been able to frame a Constitution in a democratic and peaceful way so as to give to this country a Constitution which will bring democracy and an evolution through democracy which will suit the requirements of our country. This Constitution has to be pledged whether it will achieve our purpose or it will not achieve our purpose from this point of view.

After all what is this Constitution? This Constitution is a mechanism suited to our needs which we created to suit us and to implement whatever we have said in the Preamble, the Fundamental Rights and the Directives given to the Legislature. It has been stated that those things would not be achieved because some among us unfortunately still feel that adult franchise is a very big experiment. I do not understand why it is an experiment. If you do not want to give adult franchise then you would have to bring in all sorts of representations, you would have to bring the representation of labour, you would have to bring the representation of commerce, you would have to bring the representation of women, the representation of industry and also the representation of land-holding classes and what not. You cannot go in the old way of having different compartments, an adult franchise which is not something which is a sort of an experiments and in my opinion it is an essential part of the Constitution. Take away the adult franchise and you will have a Constitution which will be something which you would not like to look at. It is generally stated that there should not be adult franchise because there is no literacy. May I say, as one who is associated with the so-called illiterate people for the last generation, that the so-called illiterates have got a far better common sense of judging things than the so-called literates. That has been my experience throughout. Let us forget for all time now that those of us who have been fortunate enough to get our University education or secondary education are any way better than those who have not been able to get any literary education.

Dr. P. S. Deshmukh (C. P. & Berar: Genral): If anything, it has spoiled us.

Shri Khandubhai K. Desai: Then, Sir, what is literacy after all? Literacy is nothing but a little mechanism; common sense is there; the development is there; the literature is there. The experiment that has been tried in the province of Bombay in the matter of adult education is really succeeding. If you want to give them literacy, you can do so within three or four months. You need not teach them history; you need not teach them geography; you need not teach them the so-called moral and spiritual codes, because they know these things much better than you and I. After all, for whom are we working this democracy? Are we working this democracy for the two or three per cent. of the people who have been fortunate to get English education? We are really working this democracy for the remaining 97 per cent. and we must work this democracy according to their needs and requirements and not according to what you and I may have studied in the books. As I said when I came to this Constituent Assembly, I had very hazy notions of constitution making; but then who has framed this Constitution, I think it is not the constitutional lawyers though I must say that they have given us some education as good professors and teachers. How can we forget the almost teacherly attitude which Shri Alladi Krishnaswami Ayyar took while teaching us what is good and what is bad? How can we forget the most learned speeches which Dr. Ambedkar made before us? However, ultimately what has happened? After they have placed before us their brilliant exposition of their knowledge, it is the realists who came in the field, the administrators in the provinces, the administrators in the Centre, and forged our Constitution. The realists ultimately framed our articles. Therefore, what I say is that the Constitution which we have been able to frame today is really a good and workable constitution. There is nothing eternal. You have in the Constitution a clause making provision for amending the Constitution. If the future generations feel that there is some flaw, some shortcoming in the Constitution, there is a need felt for a change, they can surely change it. What is wrong there?

Sir, after I have said all these things about the good side of the Constitution, there is one thing about which I must say a word. Though according to my humble view this Constitution has more or less been framed on a realistic approach of the problems in our country, there is one matter in which all of us have failed to discharge our duty to the country. We have taken every realistic aspect of the country into consideration; but we have forgotten one realistic aspect, and that is the national wealth of our country. We have provided in the Constitution certain salaries and they have been guaranteed by the Constitution. I think the high salaries which have been guaranteed under the Constitution are unrealistic as compared to the national wealth of our country. The salaries and emoluments of the Government servants and the high national dignitaries should have some bearing to the national wealth of the country, because it is these salaries and emoluments which are going to set the standards for us, during the transition period, for the earnings and salaries or private persons and industry. I think we have lost this opportunity of setting down a proper standard. There is, as you know, nothing sacrosanct about the Rs. 4,000 or Rs.5,000 or 10,000 or 15,000. If a standard is laid down by the Constitution, and if we as the sovereign Body give a Constitution to the country laying down a standard, that in this country nobody shall get more than Rs.1,500 or Rs.1,000 then, everybody will be satisfied. The industrial magnates have to bring down their earnings; the commercial people would have to bring down their earnings and there will be no bickerings, no jealousy and no envy. If my Friend Shri Kanhyalal Munshi earns Rs. 40,000 or 50,000 or even a lakh of Rupees, he does not consume the whole of it. He wants a lakh of Rupees because there are some merchants who earn two or three lakhs. If once for all it is said that nobody would get more than Rs. 1,200 or 1,500, then these personal envy and jealously will go. Because, after all, you must understand that if you give Rs. 10,000 to your President, or Rs. 5,500 to your Governor or Rs. 5,000 to your Chief Justice of the Supreme Court, where is that money to come from? It is a sort of a cheque drawn on the national wealth and to that extent if it is not available from the national funds, somebody is to be deprived of that portion. Therefore, as I said, so far as this schedule of salaries in our Constitution is concerned, I think we have failed in our duty, But, the question may be asked, it could be changed by the future generations, it could be changed by the new legislature. Sir, it is very difficult particularly in the matter of these personal emoluments and other things which affect the high dignitaries who will be practically the fountain head of our State. Even the future generations, even the future legislature, if they want to change, they would have to think; not only would they have to think, but the President may feel awkward. Therefore, we have lost this opportunity. I want to express my resentment against this. The question was raised at another place; it was discussed, but we adhered to old set-up. This sort of mentality one cannot understand. We want to give away everything English; everything which we have inherited from the English was taboo; but one thing we must have; that is, the English standard of our salaries must be maintained. I think we would have done better to our constituents if we had left the things without deciding them. Future Parliament should have been left free to decide according to requirements.

Then, Sir, there is only one point and I would have done. Much has been said about civil liberty. Of course, our friend Professor Shah has his usual grouse against anything which theoretically does not suit this own mental makeup But when the question of civil liberty comes in, people talk of the individual civil liberty of those who want to take away the civil liberties of all men. Is it proper to allow somebody, as it is happening in Calcutta, or in some of the places in Andhra, in the sacred name of civil liberty, to exercise their individual civil liberty in order to take away the Civil liberties

of millions of people and create fear among them? I think that is not civil liberty.

An Honourable Member: Criminal liberty.

Shri Khandubhai K. Desai: Under these circumstances, I feel that the provision that has been made in this Constitution for safeguarding the civil liberties of a substantial number of the people in this country is the proper direction in which our State should function.

With these words, I support the Third Reading.

Pandit Thakur Das Bhargava : (East Punjab: General): *[Mr. President, my heart is still with surpassing joy today when we have after centuries of slavery, this opportunity of giving the Third Reading to our Draft Constitution. I render thanks, Sir, to the Almighty God on this day loaded with destiny for having granted to us in His infinite mercy this opportunity of completing our work of giving a Constitution to our people. Next to the Almighty I feel, Sir, I must render thanks unto you for the inimitable manner in which you have conducted the proceedings of this House with dignity, impartiality, gravity and firmness. I feel, Sir, that this could have been done only by you and you alone. I do not doubt, in any case it is my ardent desire-that the day would come when the prophecy of the Pandit who had been called by your parents for performing the sacred ceremony of giving a name to you would be completely fulfilled. It is my hope, Sir, that the time is soon to come when the position, that your name suggests you should have, would be occupied by you. You are Rajendra that is to say the Lord of the Rulers, and you shall be, I hope, the President of the Republic for that office alone would make you the Lord of the Rulers and the Governors. I have no doubt in mind that this desire of us all shall be fulfilled soon. You will be Sir, in future the President of our country just as you have been the President of this Assembly, charged with the duty of giving a Constitution to this country, and I hope that you will be presiding over the enforcement and implementation of this Constitution with the same grace with which you have presided over its passage in this Assembly.

I would like, Sir, on this occasion to thank the other friends also who have helped us in drafting this Constitution. I would like particularly to mention Dr. H. C. Mukerjee who had presided over the proceedings of this House with great ability and tact at the time when you were lying sick and I offer my thanks to him. I do not know, Sir, the terms in which I should thank the Drafting Committee, particularly words fail to convey the gratitude that all of us feel for the legal acumen, the untiring industry, the consummate skill and the firmness, tempered with moderation, with which the chairman of the Drafting Committee has piloted this Constitution through this House and has solved all the knotty questions arising in connection with it. In view of the great public spirit manifested by him, I would appeal to Dr. Ambedkar-I regret he is not in the House today-who has so far considered himself the leader of the Scheduled Castes alone to join the Congress. He has made for himself a high position in our hearts and I do hope that he shall thereby be able to enter the circle of Congress High Command-a position which is much more significant and important than the narrow one he is occupying today, I must also render thanks to Shri Gopalaswami Ayyangar who is his own silent way came to our rescue and solved the knottiest problems which we have had to face from time to time in this House. The fact is that there are no adequate words in which I can express the debt we owe to him for the great work he has done on the Drafting Committee. I offer my thanks to Shri Munshi whose unique

learning and comprehensive imagination has been our refuge on such knotty problems as the language question. Sri Alladi Krishnaswami Ayyar who is a distinguished jurist of our country has laid us under a debt beyond description by his learned contributions on points of law, and I can say that his complete mastery of constitutional law of all countries has proved a great asset to us all. I find no terms in which to praise the work done by our Constitutional Advisory Sir B. N. Rau, who is today in the U. N. O. but who even there is anxiously watching the progress of our work, in putting this Constitution into a proper shape. Again I do not know how I can fully thank our Friend Shri T. T. Krishnamachari, whose manners are so charming and who has, like Dr. Ambedkar laboured hard to give a proper shape to the Constitution, and who has exhibited a legal acumen which even lawyers which he himself is not, may envy. We have a feeling of deep gratitude for all the other members of the Drafting Committee who have made this Constitution whether small or great in the shaping of this Constitution.

I also express my thanks to the gentlemen who are occupying the chairs just below the dais, for the great pains that they have always taken in rendering every help to us. Mr. Mukherjee, who always came to us smiling, deserves our thanks for his sincerity, labour and learning with which he always helped us in framing the most complicated drafts that came before the Drafting Committee. Similarly we owe thanks to Mr. Jugal Kishore Khanna and others whom I do not know by name.

The Draft Constitution, for the Third Reading of which we have assembled here, is not, like other Bills, an ordinary document. It is a very important document. This document is not prepared by a country many a time and God forbid we may not have to draft it afresh in the near future. I would also like to extend my thanks, on behalf of the House, to the Press Reporters and the members of the staff who have in any way contributed in framing this Constitution. There are many honourable Members in the House whose untiring zeal and labour come to my mind on this occasion and I cannot pass on without expressing my thanks to them. In this connection, my friends Shri Kamath and Shri Shibban Lal Saksena deserve particular mention. The amendments that were so often moved by my Friend Shri Brajeshwar Prasad for unitary system, exhibited a perseverance and strength of conviction for which we shall ever remember him. We are grateful to our Socialist Philosopher Shri K. T. Shah who with his deep learning and with his exposition of a number of Philosophies has immensely enriched our knowledge. I must express my thanks also to Shri Sidhva, the famous advocate of the public causes, and the veteran grammarian Shri Naziruddin Ahmad, and Dr. Deshmukh who took great parts in the task of framing the Constitution.

It is quite possible the Exchequer had to incur a bigger expenditure on account of these Members. But, but for the labour they put in, our Constitution could not have been what it is today. One fails to understand why newspapers have adversely commented about them. But despite all they have said, it must be admitted that all these Members did their duties well so far as the work of Constitution making was concerned.

Now I would like, with your permission, Sir, to pay my homage to one of our senior-most statesmen, I have no words to express my devotion to him. From the speeches made by me in support of various amendments, the House as well you, Sir, must have become sure of the fact that I am not one who loves flattery. But what I am going to say is the truth and I express it because the feelings surging in my heart demand an outlet. It is impossible for me not to render my thanks publicly to Sardar

Vallabhbhai Patel. He has not sent in a single amendment but the fact remains that he has been the architect of our country all the same. He has solved all the problems so beautifully and skillfully that I think it will not be wrong to call him the architect of India. The House has, on occasions eulogised him for what he has done with regard to the problems of States. But I may be permitted to submit, Sir that there was another question equally important if not more, as the States questions, is with which the country was faced and Sardar Patel, the superb magician, solved with an ingenuity which would have appeared to us a fantasy but for it being a hard fact I am referring to the question of minorities. The British had left many cancers within our Polity. One of this was the cancer of minorities and separate electorates. It ultimately led to creation of Pakistan. The depressed classes complained that the Caste Hindus were depriving them of their right and demanded separate representation. All these problems relating to minorities have been solved by Sardar Patel with great skill, sagacity and ability. This is an achievement which, in my opinion, has no parallel in history. At the time when the Minorities Sub-Committee was formed, I could not even dimly see how we would be able to solve the numerous and complicated problems connected with minorities. But Sardar Patel filled the Minorities Committee with the persons belonging to minorities. You cannot but feel amazed as to how it was that the minorities Committee which was composed of a very large number of the representatives of the minorities and this would be evident even by a cursory glance at the long list of its members- could arrive at the unanimous decision that no separate electorate or reservation was needed by the minorities. There the Sikhs declared that they did not require separate electorates and reservations. The Members of the depressed classes also said that they wanted reservation only for ten years.

I may be permitted to submit, Sir, that it is only because of the work of Sardar Patel that we are able to hold our heads high and say that in our land of three hundred million people we will have adult franchise with one electorate. This is in itself a great achievement and great blessing for us. I must take the opportunity to offer congratulations not only personal but on behalf of the House to Sardar Patel who has achieved all this for us.

Sir, I am afraid, much of my time is over. I would now like to invite your attention to the most important matter that is to the Preamble of the Constitution. The Preamble is the most precious part of the Constitution. It is the soul of the Constitution. It is a key to the Constitution. It is a proper yardstick with which one can measure the worth of the Constitution. All the 395 articles of the Constitution have to be measured with the yardstick of the Preamble and such provisions as stand the test of the Preamble are good and others should be taken as worthless. The fact is, Sir, that our Jawaharlal is to us, what this name, suggests, a precious jewel. It is no surprise therefore that the Preamble which was drafted by him is also a jewel set in the Constitution. It is a superb prose poem, nay, it is perfection in itself. It is why my honourable Friend Kamath failed to introduce his God into it, for in a perfect thing there is no scope for addition or alteration.

Sir, I would like that we examine all the provisions of the Constitution by this touchstone of the Preamble and thus decide whether the Constitution is good or not. I submit, Sir, that the Constitution that we have been able to produce after the labours spread over three years, is certainly one of which we can well I be proud, which can claim to be quite a good one. I do not deny that the Constitution has certain lacuna to remove which we have all along been struggling, but I have no hesitation in saying that the Constitution as a whole is quite good and that it can be ranked among the

best Constitutions of the world. It is true, as has been observed by an Englishman, that a people get the type of government they deserve. This saying applies also to the Constitution we have given to ourselves. The Constitution provides us free scope for progress. This Constitution, however, cannot be taken as an ideal one and we would most certainly have occasions to improve it.

Now, Sir, before I bring to your notice the defects of the Constitution, I would like to draw your attention to one thing. The English people had put in our minds the idea that we should have purely a federal type of government for our country. At the time of the Round Table Conference the question arose as to the type of the government we should have for our country and the conference decided to have the federal system. I remember the day in 1927 when during the sitting of the All Parties Conference our respected old leader Shri Vijay Raghavacharya insisted that we should have a unitary system of government for India. He is no more with us but his vivid figure is still fresh in my memory and I am glad that this Constitution would have given him immense pleasure if he could have seen it. This unitary-cum-federal system of government provided in the Constitution, must have satisfied him. I admit it is not purely a unitary Constitution. We have, no doubt, taken in it many of the provisions of the Government of India Act. We did so far we have to work on the lines of various provisions of the Government of India Act. We did so far we have to work on the lines of various provisions of the Government of India Act in our present circumstances. But the Constitution that we have prepared as a solution to out problems cannot be said to be based on the Government of India Act. Our Constitution is unitary-cum-federal and the country needed this type of Constitution. I am really very glad that we have been able to prepare such a splendid Constitution with unanimity. It has given the Centre very wide powers- powers that were in fact needed by it. Though we have made the centre strong and overstrong but yet I may be permitted to submit Sir, that the logical conclusion of this course has not been given any application in other provisions of the Constitution. It is so, because we have had the experience of the conditions obtaining in the previous Government and their memory is still haunting our minds. No doubt there are provisions in the Constitution under which the Centre may, if it so likes, suppress the provinces in various ways. I consider that a merit of this Constitution. Some of my friends have said that fundamental rights imply corresponding duties. Applying the same reason if they argue the duties of the Centre would also be as numerous as its powers, I have no doubt that it would be the duty of the Centre under this Constitution to prevent external aggression and internal disturbances. But in exercising its powers under article 356 it would not by itself be sufficient for the Centre to issue directions to the Provinces. It would also have to see that the arrangement proposed in the directions is one which is to the liking of the government or the Legislature of the provinces concerned, In my opinion there should be a Minister in the Centre who is charged with the exclusive duty of watching over the government and the administration of the provinces. In my opinion this would may be assigned to the Prime Minister, but if it is not possible to do so a Ministery without Portfolio maybe appointed for that. And then we should have at Centre an exclusive Minister to look after the work of social reforms also. Many other similar arrangement have to be made to provide for all these requirements.

Now I would like to draw your attention, Sir, to a few minor things embodied in the Constitution. India has, no doubt, recovered herself; we have got our ancient India now. As regards the name of the country the term India that is Bharat" has been laid down in the Constitution and some of my friends objected to this term. As for me, I have no serious objection to it. It is a fact that we cannot live in isolation from the rest of the world; We have centuries old connections with England and the rest of the

world. The world will always know us by the name of India. But so far as we are concerned, in our hearts and souls our country shall always remain as Bharat. So the term India and Bharat have been bracketed in order to meet the need of our countrymen as well as of the outsiders. The world will call us as India and we ourselves will call us as Bharat. Thus there will be blending of the East and the West.

Our provisions relating to citizenship are very generous and they extend citizenship not only to persons having domicile in India but also to five or six millions of persons who having been uprooted from Pakistan have migrated to India. Even the persons who had migrated to Pakistan but have again returned back to India under a permit for resettlement, have been made citizens of India. No doubt in their case, legally we should have waited for five years but In think it matters little that they had left India, and if they want to resettle here we can given them the citizenship of our State, for originally they had their domicile in India. As far as the Fundamental Rights are concerned, the House knows it well that I have always been fighting for them. The House, by accepting my amendment regarding the addition of the word "reasonable" in article 19 has made it justifiable. The Fundamental Rights and the Directive Principles-both these are the soul of the Constitution. We can no doubt establish the Ramraj advocated by Mahatmaji unless we make the Fundamental Rights and Directive Principles our guiding State and work according to them. The decision, that the House has adopted them is certainly a milestone to our progress. We have achieved our ideals to an extent through Fundamental Rights and the rest is to be achieved through Directive Principles. We have not got the Fundamental Rights in full. Though the Constitution has accepted the right to equality and has also abolished untouchability but still it has not conferred on us the Fundamental Rights in full.

With reference to the Preamble again, I may submit, Sir, that the most important thing that it contains is the ideal of "the dignity of the Individual and Unity of the Nation." In this high ideal, Sir, there is no room for narrow provincialism and communalism. Right to equality before law , has been embodied in Fundamental Rights and our Preamble contains the lesson that the dignity of the individual and the unity of Nation must be held high. No difference, whatsoever, on grounds of religion, caste and region has been recognised in the Constitution. The Fundamental Rights are general rights and every citizen is equally entitled to them. No discrimination can be made in respect of these rights. We shall expand these rights further in due course. I fought had for it in the party. I know these are not as comprehensive as they ought to have been. However, I need not be sad on that account. The words "reasonable restrictions" are there in article 19 and they imply that these can only be curtailed by due process of law. Neither the Government nor the legislature can with hold the rights granted under article 19 and the rights of the people are safe under this article. I am really thankful to the Chairman of the Drafting Committee, Hon'ble Dr.Ambedkar, that he agreed to my amendment regarding the insertion of the word "reasonable" in article 19. So also we have gone a long way in regard to the rights granted under article 21 and 22. There is no doubt that sufficient rights have been given to the people under Fundamental Rights but at the same time this also cannot be denied that we could not have as many rights as we wanted to have. No such rights were given under the Government of India Act. In England Fundamental Rights have not been incorporated in the Constitution and this only can be possible here. only when the people develop the mentality that is found in other free countries. But with Fundamental rights we have certain duties also as citizens. I hope we know, our India and our culture and there is no doubt in my mind that we are going to make progress in future and nothing but progress; I hope, Sir, that our sacred country will never fall again. Our country is going to make rapid progress in future and every citizen is sure

to have his full rights.

I may now make a brief reference to the Directive Principles. I would like to submit, Sir, that they are a source of immense pleasure to me. My friend Hon'ble Shri Lakshminarayan while criticising the Directive Principles for their restricted sense, stated yesterday that there is no provision for charkha for cottage industry and for prohibition in them. May I suggest to my friend Mr. Sahu to read article 36 to 51 of the Directive Principles? He will find that provision for all that he wants is there. Provision for prohibition is there, provision of cottage industry is there. I may submit Sir, that the Directive Principles contain all that is needed to raise the dignity of the individual and bring about the unity of the Nation. The amendment relating to cow protection that came in the last session was an agreed amendment and the whole country was in favour of that and shall always stand for that. This is not the only question underlying that amendment that the Hindus and the Muslims both regard the cow to be very useful and that they have always been of that view it contains mainly the view-point of the Drafting Committee and I am glad that the House ultimately removed the lacuna that was in the original article.

Now I may be permitted, Sir, to come to the other salient feature of the Constitution. Our Constitution has given to the Supreme Court not only such rights as our former High Courts enjoyed but I claim that the Supreme Court has been given wider powers. The Supreme Court would have more unrestricted powers with regard to the safeguarding of the public rights than any former court had. I would submit that under the Constitution the Supreme Court has been given the same criminal jurisdiction that the Privy Council has at present. The Supreme Court has been granted full powers and it may widen them daily by case law. There is no doubt in my mind that the civil liberties that have been given under the Constitution are in no way less than what other countries have. Sir Alladi Krishnaswamy wanted that the principle of due process should not be applied in this sphere. But I am glad that more than 75 per cent. of the principles has already been accepted. Our Constitution provides for the institution of an independent Comptroller and Auditor General and therefore the accounts of the Union will be audited and examined in a more independent manner and no money will be allowed to be spent without due authority. Similarly provision has been made in the Constitution for the establishment of Public Service Commission and various States Commission, that will work under the supervision of the Public Service Commission. I am glad that all these institutions have been given more independence under the Constitution than what they formerly enjoyed. In respect of every matter we have provided for a Central body and have also provided for a corresponding body in provinces. The Constitution has provided for Legislatures and a responsible government in States. So far as the Governors are concerned they will be nominated once, for in unitary system elected Governors do do not fit in. So we find that the mistakes we had made in providing for elected Governors in the original Draft has been rectified in the Constitution as it stands today.

No doubt the time of three years taken by Assembly in preparing the Constitution is a long one but we have made great achievements during this period which I am afraid are not properly assessed by many people. If we had passed the Constitution soon after the Assembly sat in 1946, most of the ills that we had inherited from the British Government as legacy-for example, separate electorate, the existence of 562 independent States-would have remained embodied in the Constitution.

I do not agree with those who subscribe to the view that our standard has fallen

down. Rather I feel that our standard of living is much more higher than what it was formerly. Today we are able to witness this glorious occasion. What I mean to convey is this that our Constitution embodies every such provision as it needed by us. While we have embodied in the Constitution provisions for taxation, we have also provided for the appointment of a Fiscal Commission in future to examine the finances of our Union and I hope the Fiscal Commission is going to be appointed shortly. In fact I do not find anything for which no proper provision has been made in the Constitution.

I do not want to take much time of the House, Sir, therefore I am now going to conclude my observations with the remark that Constitutions are only a piece of paper and they by themselves cannot enable us to achieve our ideals. It is the spirit with which the Constitutions are framed and with which they are worked that enables a nation to achieve the objective underlying its constitution. Therefore, on this occasion, Sir, when we are going to pass our Constitution, I would like to impress upon the minds the Members who will be appending their signatures to this document on the 26th of January, 1950, that their task is not over by simply preparing the constitution- but their real task is ahead. It is for them to work the Constitution in such a manner as may enable the people to have real freedom, happiness and prosperity.

Now, with your permission, Sir I would like to refer to only one more matter. It is very dear to me. We have given much to Scheduled Castes. We have provided reservation for them. We have embodied in the Constitution article 335 wherein assurance has been given to them in regard to services; we have provided facility for reservation for them in services under article 16. But I hope we will have not to see the day when the Government reserves posts for them. If we really want to establish here the classless society of Mahatma Gandhi, every one of us who signs the document of the Constitution must do so with the determination rather the pledge, that he must bring the depressed classes at par with him within ten years. He will be false to himself who signs the Constitution but does not work according to its principles.

I offer my thanks to you, Sir, and to the members of the staff of this Secretariat who have contributed in the preparation of this Constitution as also to the Members of the Assembly. May God grant us the sense and courage to serve our country on the lines the Father of the Nation and our other respected leaders have laid down.

Mr. President : Before we adjourn I want to draw the attention of honourable Members to something which happened a little while ago when an honourable Member wanted to draw my attention to a certain fact. I wish honourable Members will take note of that fact. I expect that Members are interested in the speeches of others more than in their own. They should at least sympathise with me who has to listen only to other speeches and never to his own and if for nothing else at least I hope they will be able to be here throughout the session, so that we may not have any such complaint again.

The Assembly then adjourned till Ten of the Clock on Saturday, the 19th November, 1949.

[Translation of Hindustani speech.]