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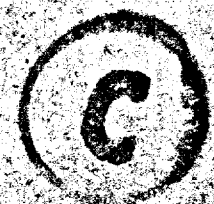
Volume I



9.12.1946
to
23.12.1946

CONSTITUENT ASSEMBLY DEBATES

OFFICIAL REPORT



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R.R. No 135/68

CONSTITUENT ASSEMBLY OF INDIA

President :

THE HON'BLE DR. RAJENDRA PRASAD.

Temporary Chairman :

DR. SACHCHIDANAND SINHA.

Constitutional Adviser :

SIR B. N. RAU, C.I.E.

Secretary :

MR. H. V. R. IENGAR, C.I.E., I.C.S.

Deputy Secretary :

MR. B. F. H. B. TYABJI, I.C.S.

Under Secretary :

KHAN BAHADUR S. G. HASNAIN.

Assistant Secretary :

MR. K. V. PADMANABHAN.

Marshal :

SUBEDAR MAJOR HARBANS LAL JAITKA.

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CONSTITUENT ASSEMBLY OF INDIA

Monday, the 9th December 1946.

The first meeting of the Constituent Assembly of India took place in Constitution Hall, New Delhi, on Monday, the 9th December 1946, at Eleven of the Clock.

ELECTION OF TEMPORARY CHAIRMAN

Acharya J. B. Kripalani (United Provinces: General): (in requesting Dr. Sachchidananda Sinha to take the Chair as temporary Chairman, said)—

*[Friends, at this auspicious occasion of historical importance I invite, on your behalf, Dr. Sachchidananda Sinha to be the temporary Chairman of this Assembly. Dr. Sinha needs no introduction. You all know him. He is not only the oldest among us but also the oldest parliamentarian in India, having served, as you know, as a member of the Imperial Legislative Council from 1910 to 1920. He entered the Central Legislative Assembly in 1921 not only as one of its members, but its Deputy President also. He was then entrusted with the portfolio of an Executive Councillor and Finance Member of the Government of Bihar and Orissa. So far as I remember Dr. Sinha was the first Indian who was ever appointed as a Finance Member of a Province. He has a particular taste for education having been Vice-Chancellor of the Patna University for eight years. Over and above all this, Dr. Sinha is the oldest Congressman among us. Up till 1920 he was a member of the Congress, being at one time its Secretary.

After the year 1920 when we started on a new way to gain freedom he parted company with us. He, however, never wholly left us. He has always been helping us. He never joined any other organization and his sympathies were ever with us. Such a person is entitled to be the temporary Chairman of this Assembly. His work is brief but it is all the same most important. It is inaugurating the proceeding of this House. As we begin every work with Divine blessings we request Dr. Sinha to invoke these blessings so that our work may proceed smoothly. Now, I once more, on your behalf, call upon Dr. Sinha to take the Chair.]

(Acharya J. B. Kripalani then conducted Dr. Sachchidananda Sinha to the Chair, which he then occupied amidst acclamation.)

MESSAGES OF GOODWILL

The Chairman (Dr. Sachchidananda Sinha): Hon'ble Members, I shall read out to you this morning three messages which have been received by me from responsible State Officials of America, China and the Government of Australia. The American Charge d'Affaires writes:

"My dear Dr. Sinha,

It gives me great pleasure to transmit herewith a copy of a telegram I have just received from the Honourable Dean Acheson, the Acting Secretary of State of the United States.

The telegram received is as follows:

'From the Acting Secretary of State,

Washington, D. C.

Dr. Sachchidananda Sinha,

Provisional Chairman of the Constituent Assembly,
New Delhi.

With the approach of December 9, I extend to you as Provisional Chairman of the Constituent Assembly, and through you to the Indian people,

*[] English translation of Hindustani speech.

the sincere good wishes of the United States Government and of the people of the United States for a successful conclusion of the great task you are about to undertake. India has a great contribution to make to the peace, stability, and cultural advancement of mankind, and your deliberations will be watched with deep interest and hope by freedom-loving people throughout the entire world." (Cheers).

The next message is from the Embassy of the Republic of China—
"New Delhi.

Dr. Sachchidananda Sinha Provisional Chairman Constituent Assembly: "On the auspicious occasion of the opening of the Indian Constituent Assembly I have the honour to extend to Your Excellency in the name of the National Government of China my heartiest congratulations. I sincerely hope that your great Assembly will succeed in laying a solid foundation for a democratic and prosperous India.

WANG SHIH CHIEH,
Minister of Foreign Affairs of the Republic of China." (Cheers).

The third and last message I have to read out to this Assembly is one from the Australian Government to the Members of the Indian Constituent Assembly.

"Australia has watched with keen interest and sympathy the course of events which have given the people of India their rightful place in the community of nations. The Australian Government, therefore, greets the opening of the Constituent Assembly as an outward sign of a new era for India and offers the delegates of the Constituent Assembly their best wishes for success in their task." (Cheers).

I am sure the House will authorise me and permit me to convey its thanks to the representatives of these Governments who have sent us such cheering and inspiring messages. I may further add that this is a very auspicious sign for the success of your work. (Cheers).

ELECTION PETITION FROM KHAN ABDUS SAMAD KHAN OF BRITISH BALUCHISTAN

The Chairman: The next thing which I have to bring to the notice of the House is that I have received an election petition from Khan Abdus Samad Khan of British Baluchistan challenging the validity of the election of Nawab Mohammad Khan Jogazai as a member of the Constituent Assembly representing British Baluchistan. The House will doubtless look into this matter, in due course, after the election of the permanent Chairman. But my ruling at this stage is that the gentleman declared elected will continue to be regarded as a Member of this House until the matter is disposed of, at a later stage, by the House, after the election of the permanent Chairman.

The next item on the agenda is the provisional Chairman's inaugural address. I will do my best to read out the whole of the address, but if I feel the strain too much, you will kindly permit me to hand over the typescript to Sir B. N. Rau, who has very kindly undertaken to read it for me. But I hope there will be no occasion for it.

CHAIRMAN'S INAUGURAL ADDRESS

HON'BLE MEMBERS OF THE FIRST INDIAN CONSTITUENT ASSEMBLY:

I am deeply beholden to you for your having agreed to accept me as the first President of your Constituent Assembly, which will enable me to

assist you in transacting the preliminary business before the House—such as the election of a permanent President, the framing of the Rules of Business, the appointment of various Committees, and settling the question of giving publicity to, or keeping confidential, your proceedings—which will ultimately lead you to crown your labours by formulating a suitable and stable constitution for an Independent India. In expressing my sense of appreciation of your great kindness, I cannot conceal from myself that I feel—comparing small things with great—that I am, on the present occasion in the position in which Lord Palmerston found himself when Queen Victoria offered him the highest Order of Chivalry, namely, the Knighthood of the Garter. In accepting the Queen's offer, Lord Palmerston wrote to a friend as follows:—

"I have gratefully accepted Her Majesty's gracious offer as, thank God, there is no question of any damned merit about the honour conferred on me."

I say I find myself more or less in the same position, for you have agreed to accept me as your President on the sole ground that I am, in age, the senior-most member of this Assembly. Whatever the ground, however, on which you have chosen to have me as your first President, I am nonetheless profoundly grateful to you. I have had, in my fairly long life, several honours conferred on me in recognition of my services as a humble worker in public interest, but I assure you that I regard your mark of favour as a signal honour, which I shall cherish throughout the rest of my life.

On this historic and memorable occasion, you will not grudge, I am sure, if I venture to address to you some observations on certain aspects of what is called a Constituent Assembly. This political method of devising a constitution for a country has not been known to our fellow-subjects in Britain, for the simple reason, that under the British Constitution, there is no such thing as a constituent law, it being a cherished privilege of the British Parliament, as the sole sovereign authority, to make and unmake all laws, including the constitutional law of the country. As such, we have to look to countries other than Britain to be able to form a correct estimate of the position of a Constituent Assembly. In Europe, the oldest Republic, that of Switzerland, has not had a Constituent Law, in the ordinary sense of that term, for it came into existence, on a much smaller scale than it now exists, due to historic causes and accidents, several centuries back. Nevertheless, the present constitutional system of Switzerland has several notable and instructive features, which have strongly been recommended by qualified authorities to Indian constitution-makers, and I have no doubt that this great Assembly will study carefully the Swiss Constitution, and try to utilise it to the best advantage in the interest of preparing a suitable constitution for a free and independent India.

The only other State in Europe, to the constitution of which we could turn with some advantage, is that of France, the first Constituent Assembly of which (called "The French National Assembly") was convoked in 1789, after the French Revolution had succeeded in over-throwing the French monarchy. But the French Republican system of Government had been changed since then, from time to time, and is even now, more or less, in the melting pot. Though, therefore, you may not be able to derive as much advantage from a study of the French system of constituent law as that of the Swiss, that is no reason why you should not seek to derive what advantage you can in the preparation of the task before you, by a study of it.

As a matter of fact, the French constitution-makers, who met in 1789 at the first Constituent Assembly of their country, were themselves largely influenced by the work done but a couple of years earlier in 1787, by the

historic Constitutional Convention held at Philadelphia by the American constitution-makers, for their country. Having thrown off their allegiance to the British King in Parliament, they met and drew up what had been regarded, and justly so, as the soundest, and most practical and workable republican constitution in existence. It is this great constitution, which had been naturally taken as the model for all subsequent constitutions not only of France, but also of the self-governing Dominions of the British Commonwealth, like Canada, Australia, and South Africa; and I have no doubt that you will also, in the nature of things, pay in the course of your work, greater attention to the provisions of the American Constitution than to those of any other.

I have referred above to the self-governing constitutions of the great Dominions of the British Commonwealth being based on, to a large extent, if not actually derived from, the American constitutional system. The first to benefit by the American system was Canada, the historic Convention of which country, for drawing up a self-governing constitution, met in 1864, at Quebec. This Convention drew up the Canadian Constitution, which was subsequently embodied in what is still on the Statute Book as the British North American Act, passed by the British Parliament in 1867. You may be interested to hear that the Quebec Convention consisted of only 33 delegates from all the provinces of Canada, and that Convention of 33 representatives issued as many as 74 resolutions, which were afterwards duly incorporated *in toto* in the British North American Act, under the provisions of which the first self-governing Dominion of the British Commonwealth of Canada, came into existence, in 1867. The British Parliament accepted the Canadian Convention's scheme in its entirety, except for making only one drafting amendment. I hope and pray, Hon'ble Members, that your labours may be crowned with a similar success.

The American constitutional system was more or less adopted in the schemes prepared for framing the Constitutions of Australia and South Africa, which shows that the results achieved by the American Convention held at Philadelphia in 1787, had been accepted by the world as a model for framing independent federal constitutions for various countries. It is for these reasons that I have felt justified in inviting your attention to the American system of constituent and constitutional law as one which should be carefully studied by you—not necessarily for wholesale adoption, but for the judicious adaptation of its provisions to the necessities and requirements of your own country, with such modifications as may be necessary or essential owing to the peculiar conditions of our social, economic and political life. I have done so as according to Munro—a standard authority on the subject—the American Constitution is based on “a series of agreements as well as a series of compromises”. I may venture to add, as a result of my long experience of public life for now nearly half a century, that reasonable agreements and judicious compromises are nowhere more called for than in framing a constitution for a country like India.

In commending to you for your careful consideration and acceptance, with reasonable agreements and judicious compromises, the fundamental principles of the American system, I cannot do better than quote the striking observations on the subject of the greatest British authority namely Viscount Bryce, who in his monumental work, called “The American Commonwealth”, writes as follows, putting in a very few lines the substance of the fundamental principles of the American Constitution :—

“Its central or national is not a mere league, for it does not wholly depend on the component communities which we call the States. It is itself a Commonwealth, as well as a union of Commonwealths, because it claims directly the obedience of every citizen, and acts immediately upon him through its courts and executive

officers. Still less are the minor communities, the States, mere sub-divisions of the Union, mere creatures of the National Government, like the counties of England, or the Departments of France. They have over their citizens an authority which is their own, and not delegated by the Central Government.”

It may possibly be that in some such scheme, skilfully adapted to our own requirements, a satisfactory solution may be found for a constitution for an Independent India, which may satisfy the reasonable expectations and legitimate aspirations of almost all the leading political parties in the country. Having quoted the greatest British authority on the great, inherent, merits of the American Constitution, you will, I hope, bear with me a fairly long quotation from the greatest American Jurist, Joseph Story. In concluding his celebrated book, called “Commentaries on the Constitution of the United States”, he made certain striking and inspiring observations which I present to you as worthy of your attention. Said Story :—

“Let the American youth never forget, that they possess (in their Constitution) a noble inheritance, bought by the toils, and sufferings, and blood of their ancestors; and capable, if wisely improved, and faithfully guarded, of transmitting to their latest posterity all the substantial blessings of life, the peaceful enjoyment of liberty, property, religion, and independence. The structure has been erected by architects of consummate skill and fidelity; its foundations are solid; its compartments are beautiful, as well as useful; its arrangements are full of wisdom and order; and its defences are impregnable from without. It has been reared for immortality, if the work of man may justly aspire to such a title. It may, nevertheless, perish in an hour by the folly, or corruption, or negligence of its only keepers, THE PEOPLE. Republics are created—these are the words which I commend to you for your consideration—by the virtue, public spirit, and intelligence of the citizens. They fall, when the wise are banished from the public councils, because they dare to be honest, and the profligate are rewarded, because they flatter the people, in order to betray them.”

To quote yet one more leading authority on the almost ideal Constitution of America, James (at one time Solicitor-General of the United States) says in his highly instructive book, called, “The Constitution of the United States—Yesterday, Today, and Tomorrow”—

“Constitutions, as a governmental panacea, have come and gone; but it can be said of the American Constitution, paraphrasing the noble tribute of Dr. Johnson to the immortal fame of Shakespeare, that the stream of time which has washed away the dissoluble fabric of many other paper constitutions, has left almost untouched its adamant strength. Excepting the first ten amendments, which were virtually a part of the original charter, only nine others have been adopted in more than one hundred and thirty years. What other form of government has better stood the test of time?”

Hon'ble Members, my prayer is that the Constitution that you are going to plan may similarly be reared for ‘immortality’, if the work of man may justly aspire to such a title, and it may be a structure of ‘adamantine strength’, which will outlast and overcome all present and future destructive forces.

Having invited your attention to some aspects of the question of constitution-making in Europe and America, I may now profitably turn to some aspects of the question in our own country. The first definite reference to a Constituent Assembly (though not under those words or under that particular name) I have found in a statement of Mahatma Gandhi, made so far back as 1922. Mahatmaji wrote :—

“Swaraj will not be a free gift of the British Parliament. It will be a declaration of India's full self-expression, expressed through an Act of Parliament. But it will be merely a courteous ratification of the declared wish of the people of India. The ratification will be a treaty to which Britain will be a party. The British Parliament, when the settlement comes, will ratify the wishes of the people of India as expressed through the freely chosen representatives.”

The demand made by Mahatma Gandhi for a Constituent Assembly, composed of the "freely chosen representatives" of the people of India, was affirmed, from time to time, by various public bodies and political leaders, but it was not till May, 1934, that the Swaraj Party, which was then formed at Ranchi (in Bihar), formulated a scheme in which the following resolution was included :—

"This Conference claims for India the right of self-determination, and the only method of applying that principle is to convene a Constituent Assembly, representative of all sections of the Indian people, to frame an acceptable constitution."

The policy embodied in this resolution was approved by the All-India Congress Committee, which met at Patna—the capital of Bihar—a few days later, in May, 1934; and it was thus that the scheme of a Constituent Assembly for framing the Indian Constitution was officially adopted by the Indian National Congress.

The above resolution was confirmed at the session of the Congress held at Faizpur in December 1936. The confirming resolution declared that—

"The Congress stands for a genuine democratic State in India where political power has been transferred to the people, as a whole, and the Government is under their effective control. Such a State can only come into existence through a Constituent Assembly having the power to determine finally the constitution of the country."

In November, 1939, the Congress Working Committee adopted a resolution which declared that—

"Recognition of India's independence and the right of her people to frame their constitution through a Constituent Assembly is essential."

I may add that in the resolutions from which I have quoted above (those adopted at the Congress Working Committee of November 1939, and at the Faizpur session of the Congress of 1936) it was declared that the Constituent Assembly should be elected on the basis of adult suffrage. Since the Congress gave a lead on the subject in 1934, the idea of a Constituent Assembly had come to prevail largely as an article of faith in almost all the politically-minded classes in the country.

But until the adoption of the resolution on Pakistan, in March 1940, by the Muslim League, that political organization had not favoured the idea of a Constituent Assembly as a proper and suitable method for framing a constitution for this country. After the adoption of that resolution, however, the attitude of the Muslim League seems to have undergone a change in favour of the idea of a Constituent Assembly—one for the areas claimed by the League for a separate Muslim State, and the other for the rest of India. Thus it may be stated that the idea of a Constituent Assembly, as the only direct means for the framing of a constitution in this country, came to be entertained and accepted by the two major political parties in 1940, with this difference that while the Congress desired one Constituent Assembly for India, as a whole, the Muslim League wanted two Constituent Assemblies, in accordance with its demand for two separate States in the country. Any way, whether one or two, the idea of a Constituent Assembly being the proper method for the framing of a constitution had clearly dawned by that time on public consciousness in the country, and it was with reference to that great mental upheaval that Pandit Jawaharlal Nehru declared that "it means a nation on the move, fashioning for itself a new Government of its own making, through their elected representatives".

It remains to add that the conception of a Constituent Assembly as the most appropriate method for framing the constitution of India had also found favour with the members of the Sapru Committee in the report of

which, issued last year (1945), is formulated a definite scheme for the composition of a Constituent Assembly. We are meeting, however, in this Assembly today, under the scheme propounded by the British Cabinet Mission, which, though differing from the suggestions made on the subject by the Congress, the League, and other political organizations, had devised a scheme which, though not by all, had been accepted by many political parties, and also by large sections of the politically-minded classes in the country, but also by those not belonging to any political party, as one well worth giving a trial, with a view to end the political deadlock, which had obtained for now many years past, and frustrated our aims and aspirations. I have no desire to go further into the merits of the British Cabinet Mission's scheme as that might lead me to trespass on controversial ground, which I have no desire to traverse on the present occasion. I am aware that some parts of the scheme, propounded by the British Cabinet Mission, have been the subject of acute controversies between some of the political parties amongst us, and I do not want, therefore, to rush in where even political angles might well fear to tread.

Hon'ble Members, I fear I have trespassed long on your patience, and should now bring my remarks to a close. My only justification for having detained you so long is the uniqueness of this great and memorable occasion in the history of India, the enthusiasm with which this Constituent Assembly had been welcomed by large classes of people in this country, the keen interest which matters relating to it had evoked amongst various communities, and the prospect which it holds out for the final settlement of the problem of all problems, and the issue of all issues, namely, the political independence of India, and her economic freedom. I wish your labours success, and invoke Divine blessings that your proceedings may be marked not only by good sense, public spirit, and genuine patriotism, but also by wisdom, toleration, justice, and fairness to all; and above all with a vision which may restore India to her pristine glory, and give her a place of honour and equality amongst the great nations of the world. Let us not forget to justify the pride of the great Indian poet, Iqbal, and his faith in the immortality of the destiny of our great, historic, and ancient country, when he summed up in these beautiful lines:

*Yunan-o-Misr-o-Roma sab mit gaye jahan se,
Baqi abhi talak hai nam-o-nishan hamara.
Kuch bat hai ke hasti mit-ti nahin hamari,
Sadion raha hai dushman daur-e-zaman hamara.*

It means: "Greece, Egypt, and Rome, have all disappeared from the surface of the Earth; but the name and fame of India, our country, has survived the ravages of Time and the cataclysms of ages. Surely, surely, there is an eternal element in us which had frustrated all attempts at our obliteration, in spite of the fact that the heavens themselves had rolled and revolved for centuries, and centuries, in a spirit of hostility and enmity towards us." I particularly ask of you to bring to your task a broad and catholic vision, for as the Bible justly teaches us—

"Where there is no vision the people perish." (Applause).

NOMINATION OF DEPUTY CHAIRMAN.

The Chairman (Dr. Sachchidananda Sinha): I have a proposal to make to you on purely personal grounds, and I hope you will kindly approve of it. For many years past, under medical advice, I have not been able to do any work in the afternoons, and I do not propose to sit after the luncheon recess. So for the time I am temporary Chairman, while the House is going on with the presentation of credentials and the signing of the register in the afternoon, I propose to request the House to give me the

assistance of a Deputy Chairman, and I propose that Mr. Frank Anthony be nominated by you. (After a pause). I declare the motion carried.

DEATH OF MR. PRASANNA DEB RAIKUT

The Chairman (Dr. Sachchidananda Sinha): Next, I am informed that a member of our Constituent Assembly, who had been duly elected, had passed away, Mr. Prasanna Deb Raikut from Bengal, and I desire on behalf of the Constituent Assembly to convey our condolence to his relations. I think I may take it as carried.

PRESENTATION OF CREDENTIALS AND SIGNING OF THE REGISTER

The Chairman (Dr. Sachchidananda Sinha): Now I think we shall start the formal business which is the presentation of credentials and the signing of the Register. I will present my credentials to myself. Though Hon'ble Members must pass through certain formalities, I have cut out from the procedure the coming of members to the platform to shake hands with the Chairman after signing the Register. We tested this matter yesterday, and found that it would take about a minute and a half, if not two minutes, if after signing his name each member were to ascend this platform by the circuitous route, and shake hands with the Chairman, and then return to his seat. So, I have thought that that formality may be dispensed with. The Secretary will now call out the names of Hon'ble Members, who will come up, present to him their credentials, sign the Register, and go back to their seats.

The following Members then presented their credentials and signed their names in the Register :—

MADRAS

1. The Hon'ble Sri C. Rajagopalachariar.
2. Dr. B. Pattabhi Sitaramayya.
3. The Hon'ble Sri T. Prakasam.
4. The Hon'ble Dewan Bahadur Sir N. Gopalaswami Ayyangar.
5. Diwan Bahadur Sir Alladi Krishnaswami Ayyar.
6. Shrimati Ammu Swaminathan, M.L.A. (Central).
7. Mr. S. H. Prater, O.B.E., J.P., C.M.Z.S., M.L.A. (Bombay).
8. Dr. P. Subbarayan.
9. Raja of Bobbili.
10. Sri M. Ananthasayanam Ayyangar, M.L.A. (Central).
11. Professor N. G. Ranga, M.L.A. (Central).
12. Sri T. A. Ramalingam Chettiyar, M.L.A. (Central).
13. Sri K. Kamaraja Nadar, M.L.A.
14. Sri K. Madhava Menon, M.L.C.
15. Sri B. Shiva Rao.
16. Sri K. Santhanam.

PRESENTATION OF CREDENTIALS AND SIGNING OF THE REGISTER

17. Sri T. T. Krishnamachari.
18. Sri B. Gopala Reddi, M.L.A.
19. Shrimati Dakshayani Velayudan, M.L.C. (Cochin).
20. Sri V. I. Muniswami Pillai, M.L.A.
21. Sri K. Chandramouli, M.L.A.
22. Sri D. Govinda Doss, M.L.A.
23. Rev. Jerome D'Souza, S.J.
24. Sri Ramanath Goenka.
25. Sri H. Sitarama Reddi, M.L.A.
26. Sri U. Srinivasa Mallayya.
27. Sri Kala Venkata Rao, M.L.A.
28. Sri P. Kunhirauman.
29. Shrimati G. Durgabai.
30. Sri P. Kakkan, M.L.A.
31. Sri N. Sanjeeva Reddi, M.L.A.
32. Sri O. P. Ramaswami Reddiyar, M.L.C.
33. Sri C. Perumalswami Reddi, M.L.C.
34. Sri M. C. Veerabahu Pillai.
35. Mr. T. J. M. Wilson, M.L.A.
36. Sri P. L. Narasimha Raju, M.L.A.
37. Sri S. Nagappa, M.L.A.
38. Sri L. Krishnaswami Bharathi.
39. Sri O. V. Alagesan.
40. Sri V. C. Kesava Rao.
41. Dr. V. Subrahmanyam.
42. Sri C. Subrahmanyam.
43. Sri V. Nadimuthu Pillai.

BOMBAY

1. The Hon'ble Sardar Vallabhbhai J. Patel.
2. The Hon'ble Mr. B. G. Kher.
3. The Rt. Hon'ble Dr. M. R. Jayakar, P.C.
4. Mr. K. M. Munshi.
5. Mr. Shankar Dattatraya Deo.
6. Mr. Narhar Vishnu Gadgil.
7. Mr. S. K. Patil.
8. Mrs. Hansa Mehta, M.L.C.
9. Dr. Joseph Alban D'Souza, M.L.A.
10. Mr. M. R. Masani, M.L.A. (Central).
11. Mr. R. M. Nalavade, M.L.A.
12. Mr. B. M. Gupta, M.L.A.
13. Mr. S. Nijalingappa.

14. Mr. R. R. Diwakar.
15. Mr. S. N. Mane, M.L.A.
16. Mr. Khandubhai Kasanji Desai.
17. Mr. H. V. Pataskar, M.L.A.
18. Mr. Kanayalal Nanabhai Desai, M.L.A.
19. Mr. K. M. Jedhe.

BENGAL

1. Mr. Sarat Chandra Bose.
2. Dr. B. R. Ambedkar.
3. Mr. Kiran Shankar Roy, M.L.A.
4. Mr. Frank Reginald Anthony, M.L.A. (Central)
5. Mr. Satya Ranjan Baksi.
6. Dr. Prafulla Chandra Ghosh.
7. Sir Uday Chand Mahtab, K.C.I.E., M.L.A.
8. Dr. Suresh Chandra Banerjee, M.L.A.
9. Mr. Debi Prosad Khaitan, M.L.A.
10. Mrs. Leela Ray.
11. Mr. Damber Singh Gurung, M.L.A.
12. Dr. Syama Prasad Mookherjee, M.L.A.
13. Mr. Ashutosh Mallick, M.L.A.
14. Mr. Radhanath Das, M.L.A.
15. Mr. Promatha Ranjan Thakur, M.L.A.
16. Mr. Hem Chandra Nasker, M.L.A.
17. Mr. Somnath Lahiri.
18. Mr. Rajkumar Chakravarty.
19. Mr. Priyaranjan Sen.
20. Mr. Prafulla Chandra Sen.
21. Mr. J. C. Majumdar.
22. Mr. Surendra Mohan Ghose.
23. Mr. Arun Chandra Guha.
24. Mr. Dhananjoy Roy, M.L.A.
25. Mr. Dharendra Nath Datta, M.L.A.

UNITED PROVINCES

1. Acharya J. B. Kripalani.
2. The Hon'ble Pt. Govind Ballabh Pant.
3. The Hon'ble Shri Purushottam Das Tandon.
4. The Hon'ble Pt. Hriday Nath Kunzru.
5. Shri Govind Malaviya, M.L.A. (Central).
6. Pt. Shri Krishna Dutt Paliwal, M.L.A. (Central)
7. Shri Mohan Lal Saxena, M.L.A. (Central).
8. Acharya Jugal Kishore, M.L.A.
9. Mrs. Purnima Banerji, M.L.A.
10. Shri Sri Prakasa, M.L.A. (Central).

11. Shrimati Sucheta Kripalani.
12. Sardar Jogendra Singh, M.L.A. (Central).
13. Shri Damodar Swarup Seth, M.L.A. (Central).
14. Shri Algu Rai Shastri, M.L.A.
15. Shri Banshi Dhar Misra, M.L.A.
16. Shri Bhagwan Din, M.L.A.
17. Shri Kamlapati Tiwari, M.L.A.
18. Shrimati Kamla Chaudhri.
19. Raja Jagannath Bakhsh Singh, M.L.A.
20. Shri Harihar Nath Shastri, M.L.A.
21. Shri Gopal Narain, M.L.A.
22. Shri Feroze Gandhi.
23. Shri Jaspat Roy Kapoor.
24. The Hon'ble Pt. Jawaharlal Nehru.
25. The Hon'ble Mr. Rafi Ahmad Kidwai.
26. Sir S. Radhakrishnan.
27. Shri Dayal Das Bhagat, M.L.A.
28. Shri A. Dharam Das, M.L.A.
29. Shri Gopi Nath Srivastava.
30. Shri Dharam Prakash.
31. Shri Ajit Prasad Jain, M.L.A.
32. Shri Ram Chandra Gupta, M.L.C.
33. Shri Pragi Lal, M.L.A.
34. Shri Phool Singh, M.L.A.
35. Shri Masuria Din, M.L.A.
36. Shri Shibban Lal Saksena.
37. Shri Khurshed Lal.
38. Shri Sunder Lall.
39. Shri Har Govind Pant, M.L.A.
40. Shri R. V. Dhulekar, M.L.A.
41. Shri Vishwambhar Dayal Tripathi, M.L.A.
42. Shri Venkatesh Narayan Tivary, M.L.A.

PUNJAB

1. Diwan Chaman Lall, M.L.A. (Central).
2. Sardar Harnam Singh.
3. Sardar Kartar Singh, M.L.A.
4. Sardar Ujjal Singh, M.L.A.
5. The Hon'ble Mr. Mehr Chand Khanna.
6. Sardar Pratap Singh, M.L.A.
7. Bakhshi Sir Tek Chand.
8. Sardar Prithvi Singh Azad, M.L.A.
9. Pandit Shri Ram Sharma, M.L.A.

14. Mr. R. R. Diwakar.
15. Mr. S. N. Mane, M.L.A.
16. Mr. Khandubhai Kasanji Desai.
17. Mr. H. V. Pataskar, M.L.A.
18. Mr. Kanayalal Nanabhai Desai, M.L.A.
19. Mr. K. M. Jedhe.

BENGAL

1. Mr. Sarat Chandra Bose.
2. Dr. B. R. Ambedkar.
3. Mr. Kiran Shankar Roy, M.L.A.
4. Mr. Frank Reginald Anthony, M.L.A. (Central)
5. Mr. Satya Ranjan Baksi.
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16. Shri Bhagwan Din, M.L.A.
17. Shri Kamalapati Tiwari, M.L.A.
18. Shrimati Kamla Chaudhri.
19. Raja Jagannath Bakhsh Singh, M.L.A.
20. Shri Harihar Nath Shastri, M.L.A.
21. Shri Gopal Narain, M.L.A.
22. Shri Feroze Gandhi.
23. Shri Jaspat Roy Kapoor.
24. The Hon'ble Pt. Jawaharlal Nehru.
25. The Hon'ble Mr. Rafi Ahmad Kidwai.
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6. Sardar Pratap Singh, M.L.A.
7. Bakhshi Sir Tek Chand.
8. Sardar Prithvi Singh Azad, M.L.A.
9. Pandit Shri Ram Sharma, M.L.A.

10. Rao Bahadur Chaudhri Suraj Mal, M.L.A. "
11. Dr. Gopi Chand Bhargava, M.L.A.
12. Chaudhri Harbhaj Ram, M.L.A.

BIHAR

1. The Hon'ble Dr. Rajendra Prasad.
2. Mrs. Sarojini Naidu.
3. The Hon'ble Mr. Jagjivan Ram.
4. The Hon'ble Mr. Shri Krishna Sinha.
5. Mr. Satyanarayan Sinha, M.L.A. (Central).
6. The Hon'ble Maharajadhiraja Sir Kameshwara Singh, K.C.I.E., of Darbhanga.
7. Dr. P. K. Sen.
8. The Hon'ble Mr. Anugrahnarayan Sinha.
9. Mr. Banarsi Prasad Jhunjhunwala, M.L.A. (Central).
10. The Hon'ble Rai Bahadur Sri Narain Mahtha.
11. Mr. Deshbandhu Gupta, M.L.A. (Central).
12. Mr. Ramnarayan Singh, M.L.A. (Central).
13. Mr. A. K. Ghosh, M.L.A.
14. Mr. Bhagwat Prasad, M.L.A.
15. Mr. Boniface Lakra, M.L.C.
16. Mr. Rameshwar Prasad Sinha, M.L.A.
17. Mr. Phulan Prasad Varma, M.L.A.
18. Mr. Mahesh Prasad Sinha, M.L.A.
19. Mr. Sarangdhar Sinha, M.L.A.
20. Rai Bahadur Syamanandan Sahaya, M.L.A., C.I.E.
21. Mr. Brajeshwar Prashad.
22. Mr. Jaipal Singh.
23. Mr. Chandrika Ram, M.L.C.
24. Mr. Kamleshwari Prasad Yadav, M.L.A.
25. Mr. Jagat Narain Lal, M.L.A.
26. Mr. Jadubans Sahay, M.L.A.
27. Mr. Guptanath Singh, M.L.A.
28. Mr. Dip Narayan Sinha, M.L.A.
29. Mr. Devendra Nath Samanta, M.L.C.
30. Dr. Sachchidananda Sinha, M.L.A.

C. P. AND BERAR

1. The Hon'ble Pt. Ravi Shankar Shukla.
2. Dr. Sir Hari Singh Gour.
3. The Hon'ble Mr. Brijlal Nandlal Biyani.
4. Mr. Rustom Khurshedji Sidhwa, M.L.A.
5. Seth Govinddas, M.L.A. (Central).

6. Thakur Chhedilal, M.L.A.
7. Mr. Hari Vishnu Kamath.
8. Mr. Cecil Edward Gibbon, M.L.A.
9. Mr. Shankar Tryambak Dharmadhikar.
10. Guru Agamdas Agarmandas, M.L.A.
11. Dr. Punjabrao Shamrao Deshmukh.
12. Mr. B. A. Mandloi, M.L.A.
13. Mr. H. J. Khandekar.
14. Mr. L. S. Bhatkar, M.L.A.

ASSAM

1. The Hon'ble Srijut Gopinath Bardoloi.
2. The Hon'ble Rev. J. J. M. Nichols-Roy.
3. Srijut Omeo Kumar Das, M.L.A.
4. The Hon'ble Srijut Basanta Kumar Das.
5. Srijut Dharanidhar Basu Matari, M.L.A.
6. Srijut Rohini Kumar Chaudhury, M.L.A. (Central).
7. Babu Akshay Kumar Das, M.L.A.

N.-W. F. PROVINCE

1. Maulana Abul Kalam Azad.
2. Khan Abdul Ghaffar Khan.

ORISSA

1. The Hon'ble Sri Hare-Krushna Mahtab.
2. Mrs. Malati Chowdhury.
3. Sri Biswanath Das.
4. Sri Bodhram Dube, M.L.A.
5. Sri Lakshminarayan Sahu, M.L.A.
6. Mr. B. Das.
7. Sri Nandakishore Das.
8. Sri Raj Krushna Bose, M.L.A.
9. Sri Santanu Kuram Das, M.L.A.

The Chairman (Dr. Sachchidananda Sinha): It has been brought to my notice that there is no Speaker in Sind as there is no legislature there now. Under the circumstances, the Secretary of the Assembly there, has signed the credentials certificates. They may be accepted.

SIND

1. Mr. Jairamdas Daulatram.

DELHI

1. The Hon'ble Mr. M. Asaf Ali.

AJMER-MERWARA

1. Pt. Mukut Bihari Lal Bhargava, M.L.A. (Central).

COORG

1. Mr. C. M. Poonacha, M.L.C.

The Chairman (Dr. Sachchidananda Sinha): If any Hon'ble Member's name has not been called through oversight, he will stand and his name will be called out. He will then come and sign his name in the Register.

(No one stood up.)

The Chairman (Dr. Sachchidananda Sinha): That finishes our agenda for today. Therefore, there will be no sitting in the afternoon. The Assembly will meet tomorrow. A new agenda will be prepared, which is not yet ready. I have asked the Constitutional Adviser's Office to circulate the agenda to Hon'ble Members, if possible by this evening, and I hope it may be done. If you so desire, the Assembly will meet at 11 A.M. or 11-30.

Many Hon'ble Members: 11 A.M.

The Chairman (Dr. Sachchidananda Sinha): We shall meet at 11.

The Assembly then adjourned till Tuesday, the 10th December 1946, at 11 A.M.

CONSTITUENT ASSEMBLY OF INDIA

Tuesday, the 10th December, 1946

The Constituent Assembly of India met in the Constitution Hall, New Delhi, at Eleven of the Clock, the temporary Chairman (Dr. Sachchidananda Sinha) in the Chair.

The Chairman (Dr. Sachchidananda Sinha): If any Hon'ble Member has arrived since yesterday afternoon, who has not yet signed the Register nor presented his credentials, he may do so now.

(Nobody came forward).

The Chairman (Dr. Sachchidananda Sinha): I shall now take up item No. 2 which is the moving of a Resolution prescribing procedure for the election of a permanent Chairman. I understand that Acharya Kripalani will move this resolution. I invite him to do so.

PROCEDURE FOR ELECTION OF PERMANENT CHAIRMAN

Acharya J. B. Kripalani (United Provinces: General): Sir, with your permission, I propose to move the following resolution prescribing the procedure for the election of the permanent Chairman whom we propose to call as the President of the Constituent Assembly. The resolution runs thus:

"The Assembly hereby resolves that the following rules for the election of Chairman be adopted.

(1) At any time before 2-30 P.M., today any member may nominate another member for election by delivering to the temporary Chairman or to a person appointed by him a nomination paper signed by the proposer and by a third member as seconder and stating—

(a) the name of the member nominated, and

(b) that the proposer has ascertained that such member is willing to smallest number of votes shall be excluded from the election, and

(2) At any time to be the temporary Chairman, the temporary Chairman shall read out to the Assembly the names of the members who have been duly nominated together with those of their proposers and seconders and, if only one member has been so nominated, shall declare that member to be duly elected. If more than one member has been so nominated the Assembly shall proceed to elect the Chairman by ballot on a date to be fixed by the temporary Chairman.

(3) For the purpose of rule (2) a member shall not be deemed to have been duly nominated or be entitled to vote, if he and his proposer and seconder have not signed the Assembly Register as members of the Assembly.

(4) Where only two candidates are nominated, the candidate who obtains at the ballot the larger number of votes shall be declared elected. If they obtain an equal number of votes, the election shall be by the drawing of lots.

- (5) Where more than two candidates have been nominated and at the first ballot no candidate obtains more votes than the aggregate votes obtained by the other candidates, the candidate who has obtained the smallest number of votes shall be excluded from the election, and balloting shall proceed, the candidate obtaining the smallest number of votes at each ballot being excluded from the election, until one candidate obtains more votes than the remaining candidate or than the aggregate votes of the remaining candidates, as the case may be, and such candidate shall be declared elected.
- (6) Where at any ballot any of three or more candidates obtain an equal number of votes and one of them has to be excluded from the election under rule (4) the determination as between the candidates whose votes are equal of the candidate who is to be excluded shall be by the drawing of lots."

This resolution for the procedure of election of the President needs no words from me to recommend itself to the House. These are the usual rules applied in all legislative assemblies.

The Hon'ble Pandit Jawahar Lal Nehru (United Provinces : General) : I beg to second the resolution.

The Chairman (Dr. Sachchidananda Sinha) : The resolution has been duly moved and seconded. I shall put it to the vote now.

Dr. P. S. Deshmukh (C. P. and Berar: General) : Sir, may I suggest some verbal alterations?

The Chairman (Dr. Sachchidananda Sinha) : The Hon'ble Member is fully entitled to make any suggestions he desires, and we shall consider them after they have been noted down. Will the Hon'ble Member come to the rostrum before making his suggestions?

Dr. P. S. Deshmukh, (after having come to the rostrum) I suggest that in paragraph (1), line 4, the word "third" be substituted by the word "another", and that in paragraph 3, in the last but one line of that paragraph the word "and" in both places in that line be substituted by the word "or". I think these changes are, in my opinion, necessary.

The Chairman (Dr. Sachchidananda Sinha) : Does Acharya Kripalani accept these changes?

Acharya J. B. Kripalani : There is no objection.

Sri K. Santhanam (Madras : General) : It means that the **seconder** may mean a non-member.

The Chairman (Dr. Sachchidananda Sinha) : I am not here to interpret it. Interpretation is a most dangerous thing. If the House will permit me, I shall read out the proposed amendments. The first amendment proposed is that in paragraph (1) for the word "third" the word "another" be substituted. Does Acharya Kripalani accept it?

Acharya J. B. Kripalani : So far as I am concerned I accept it; I have no objection.

The Chairman (Dr. Sachchidananda Sinha) : Is there any objection on the part of any Hon'ble Member to the word "third" being changed into "another"?

Sri M. Ananthasayanam Ayyangar (Madras: General) : I have got objection to this amendment. The inconvenience of accepting this change is this. There are already in the earlier portion of the paragraph the words "another member" in the second line of the paragraph, and if you accept the present amendment, it means that a person who is to be the Chairman, has himself got to be the seconder, and that is an absurdity. I therefore oppose this amendment. The original word "third" should continue and there is no meaning in this amendment.

The Chairman (Dr. Sachchidananda Sinha) : Do you desire that the original word in Acharya Kripalani's amendment should stand, and that no change should be made?

Sri M. Ananthasayanam Ayyangar : Yes.

Dr. P. S. Deshmukh : I see the objection to my amendment, and do not press it. But, I think it would sound far better if the first word "another" is changed into "a" and the word "third" altered into "another". I am afraid that it might look as if I am suggesting too many changes. But we are making a constitution, and I do not want that anything should go out of this House....

The Chairman (Dr. Sachchidananda Sinha) : It is not a matter of constitution at all. You first made one proposal that the word "third" be changed into "another". If you bring up another proposal before your first proposal is disposed of, that is not fair to the House. Now the only question before the House is, whether the word "third" as put down in Acharya Kripalani's resolution, should be changed into "another". After this is disposed of, you may bring up any other proposal that you like.

Dr. P. S. Deshmukh : This is a consequential suggestion. I will read out to you....

The Chairman (Dr. Sachchidananda Sinha) : No.

Acharya J. B. Kripalani : I think the thing as it stands is the best. I accepted the amendment in order to avoid a controversy.

The Chairman (Dr. Sachchidananda Sinha) : If I may advise the House, I think there is no substantial difference in the meaning. The word may stand as it is, but it is for the House to decide.

The Hon'ble Sri C. Rajagopalachari (Madras: General) : The mover of the amendment is under a misapprehension, I fancy. It is not a matter of elegance of language. The points that are covered by the words as they stand in the original Resolution are these. There should be a proposer distinct from the man proposed. Again, the other point is that the seconder should be distinct from either of these two. Therefore the word "third" is precise and necessary and any change will lead to a mistake.

An Hon'ble Member : When the mover of this Resolution has already accepted the amendment suggested, I don't think any further discussion is necessary.

The Chairman (Dr. Sachchidananda Sinha) : But you may certainly permit the mover of a Resolution to change his mind subsequently. It would do no harm. You would not prevent him from doing that. I think as a result of this discussion, which we have had on this point, the word "third" may be left as it is.

An Hon'ble Member : Sir, it was moved formally by Acharya Kripalani that the name of the chairman should be the "President". That was not put to the vote. I don't know if it is necessary to put it to the vote, and if it has been adopted.

The Chairman (Dr. Sachchidananda Sinha) : No. It has not yet been adopted. I have been advised by the Constitutional Adviser that according to the procedure in Parliament we have to use the word "Chairman" both for me, as the acting Chairman, and the permanent Chairman, but the Rules Committee, which will come into existence before long, will decide this matter. It will be opened to the Rules Committee to adopt the word "President". Therefore the word "Chairman" may be left as it is for the time being.

We shall now take up the third sub-section of Acharya Kripalani's resolution.

"For the purpose of rule (2) a member shall not be deemed to have been duly nominated or be entitled to vote if he and his proposer and seconder have not signed the Assembly Register as members of the Assembly."

The amendment is that the word "and", in the two places in this particular clause, should be substituted by the word "or". I should like to ask Acharya Kripalani whether he is prepared to accept that.

Acharya J. B. Kripalani: I submit that it makes no difference in the meaning, but "and" is more appropriate here.

The Chairman (Dr. Sachchidananda Sinha): I understand that you would prefer to adhere to the word "and" rather than have it changed into "or", though you say that practically they make the same thing?

Acharya J. B. Kripalani: Yes, Sir, I adhere to the words that are in the Resolution.

The Chairman (Dr. Sachchidananda Sinha): What is the sense of the House?

Some Hon'ble Members: "Or" is proper.

Many Hon'ble Members: No change.

The Chairman (Dr. Sachchidananda Sinha): The sense of the House seems to be that there is no need to change the word "and" into "or", and that the Resolution should stand as it is.

Mr. H. V. Kamath (C. P. and Berar: General): Sir, I wish to say a few words on this Resolution. There is no provision for withdrawal of a contesting candidate.

The Chairman (Dr. Sachchidananda Sinha): I think the Hon'ble Member who has now come to address us wants to say that in all such rules there is provision for withdrawal of a member from an election contest. I think that is true. He says there should be—though necessity may not arise for it—but there should be a provision added that if any member nominated for election desires to withdraw himself from the contest he may do so at some time. I don't think there is any harm in adding that.

Mr. H. V. Kamath: With your permission, Sir, I wish to recommend the insertion of this clause "Where more than one candidate has been nominated, the Chairman will fix a date and time for the withdrawal of one or more of such candidates if he or they so desire."

The Chairman (Dr. Sachchidananda Sinha): Quite right, I shall try to put in clear language as well as I can, the substance of your suggestion. It may be added.

Well now, all the amendments having been disposed of, I put it formally to the House now that Acharya Kripalani's Resolution be carried.

The Resolution was adopted.

The Chairman (Dr. Sachchidananda Sinha): I declare Acharya Kripalani's resolution duly carried.

PROVISIONAL ADOPTION OF CENTRAL LEGISLATIVE ASSEMBLY RULES AND STANDING ORDERS

The Chairman (Dr. Sachchidananda Sinha): Now I would invite the Hon'ble Pandit Jawahar Lal Nehru to move the first of the three resolutions remaining to be moved.

PROVISIONAL ADOPTION OF CENTRAL LEGISLATIVE ASSEMBLY RULES AND STANDING ORDERS 19

The Hon'ble Pandit Jawahar Lal Nehru (United Provinces: General): Sir, I beg to move this formal resolution which I hope will facilitate the business of the House, namely—

"That the Assembly do adopt, with such modifications as the Chairman may in his absolute discretion permit, the Rules and Standing Orders of the Central Legislative Assembly, pending the framing by the Constituent Assembly of its own Rules of Procedure."

As the House knows, this Constituent Assembly has started without any rules and regulations made by any outside authority. It has to make its own rules. I am later moving a resolution in the House asking for the appointment of a Committee to make the rules. Presumably that Committee will take two or three days to finish the work. Now we have to function during these few days before our own rules have been made. It is desirable therefore that we should have something to fall back upon. And the easiest method is to adopt the rules of the Central Legislative Assembly in their entirety, not absolutely, because then it might give rise to considerable difficulty. But we should adopt them and give the right to the Chairman to modify them, if necessary, to suit the occasion.

The Chairman (Dr. Sachchidananda Sinha): Will the Hon'ble mover kindly modify the words "the Chairman may in his absolute discretion permit" something to be done. I suppose it means the permanent Chairman.

The Hon'ble Pandit Jawahar Lal Nehru: Whoever is presiding at the time.

The Chairman (Dr. Sachchidananda Sinha): Very well.

The Hon'ble Pandit Govind Ballabh Pant (United Provinces: General): I second the resolution.

The Chairman (Dr. Sachchidananda Sinha): Hon'ble Members may now offer amendments or suggestions, if any.

Sri Biswanath Das (Orissa: General): Sir, I wish to point out....

The Chairman (Dr. Sachchidananda Sinha): May I know if the Hon'ble Member is going to move any amendment?

Sri Biswanath Das: I see certain difficulties in the wording of the Resolution. I wish him to consider the position and see if it is not possible or desirable to withdraw the Resolution.

The Chairman (Dr. Sachchidananda Sinha): I must apologise to you, but I could not follow what you said.

Sri Biswanath Das: I propose to point out certain difficulties, as I see them, in this Resolution in its actual working.

The Chairman (Dr. Sachchidananda Sinha): In other words, you are objecting to the Resolution as drafted and moved.

Sri Biswanath Das: Yes.

The Chairman (Dr. Sachchidananda Sinha): Directly negating the proposition? I hope the Hon'ble Mover will follow that. The speaker foresees certain difficulties in the way of carrying out the Resolution moved by the Hon'ble Pandit Nehru and he, therefore, though he does not use the word 'oppose', is really opposing the Resolution.

Sri Biswanath Das: I am very sorry I have to undertake a job which is very unusual with me. Need I state in this connection that I have been a silent supporter of the lead given by the Working Committee and by the

Hon'ble Pandit Jawahar Lal Nehru. But I see certain difficulties in giving practical application to this Resolution. It proposes two or three things. Firstly, it says 'with certain modifications as the Chairman in his absolute discretion permits'; secondly, it says "the rules of the Central Legislative Assembly may be given application". Sir, in the first place, the Rules Committee is going to be appointed very shortly. I believe it will, at best, take only two or three days to frame the rules and place them before the House. Let me hope that in the meanwhile we do not transact important business. Therefore the temporary proposals will not be very helpful despite the difficulties that are bound to arise in their application with various points of order.

Then, Sir, the Resolution leaves a lot of discretion to the Chair. I would appeal to my leader to consider whether it is not desirable and fair to leave the whole thing—the entire regulation of the business—to the Chair for two or three days within which period the regular rules will be framed and placed before the House. I suggest that if, in the meanwhile, the House proposes to do any business, let the work be regulated by the Chair in his absolute discretion, is being permitted in the Resolution itself.

Thirdly, it is difficult for us to know the Procedure and the Rules and Standing Orders of the Central Legislature. For myself I do not know and I believe there are many Hon'ble Members here who have absolutely no knowledge of the Rules of Procedure of the Central Legislature. The rules differ in very important respects from Province to Province. It will take two or three days for members to acquaint themselves with the rules of the Central Legislature. Instead of putting the Hon'ble Members to this difficulty, I think it is better, to leave it to the Chair to regulate the business, if any, till such time as our own Committee frames rules.

Lastly, Sir each one of the 220 members of this House may have to be supplied with a copy of the Rules of the Central Assembly. I do not know whether the Central Legislature may be able to supply so many copies of the Rules now, at short notice. In view of these difficulties I believe there is no harm if Pandit agrees to withdraw this Resolution and leave the entire option to the Chair as it is proposed in the Resolution. I have nothing more to say. I am very sorry that I have to 'oppose' it as you, Sir, put it though it is not my purpose to do so.

The Chairman (Dr. Sachchidananda Sinha): I may inform Mr. Biswanath Das that, whatever term it might suit him to use, I, as Chairman, have no option but to call his attitude as one of opposition.

Sri Biswanath Das: That may be so; but I have not spoken in any spirit of opposition.

Shri Sri Prakasa (United Provinces: General): I would like to support the Resolution moved by the Hon'ble Pandit Nehru. If my Hon'ble Friend Mr. Biswanath Das were to read the Standing Orders and Rules of the Central Legislature he will find that they are almost perfect. They cannot be improved upon. I am sure when our own Committee has sat and deliberated in the matter, it will find that it cannot make any changes therein. Sir, if your Secretary will circulate a copy of the Rules and Standing Orders of the Central Legislature to Hon'ble Members,—it does not cost very much—Mr. Biswanath Das and everyone else will find that the Rules that are good enough for the Central Legislature will be good enough for us also. I think it will be mere waste of time if we adjourn the business of this House in order to frame our own Rules of Business. I do not think you, Sir, as temporary Chairman, will find that these rules do not cover all possible contingencies that might arise in the course of our debate. I support my Hon'ble Friend, Pandit Jawahar Lal Nehru.

The Chairman (Dr. Sachchidananda Sinha): I am more concerned with knowing whether anyone is supporting Mr. Biswanath Das. (*Laughter*). I

am concerned with the technical aspect of the question that the proposal of Mr. Biswanath Das has not even been seconded. I think the sense of the overwhelming majority of the House is that Pandit Jawahar Lal Nehru's Resolution be adopted.

Mr. N. V. Gadgil (Bombay: General): I want to make a request that all the members of the Constituent Assembly be supplied with a copy of the Manual of Rules of Business and Standing Orders of the Central Legislative Assembly.

The Chairman (Dr. Sachchidananda Sinha): I do not know whether there are as many copies available. We may not have; however, I shall try my best to meet your wishes.

I now put the Resolution of Pandit Nehru to the vote.....I declare it carried.

Now I shall request Pandit Nehru to move the next resolution, No. 6.

CONFIRMATION OF EXISTING ORGANISATION OF CONSTITUENT ASSEMBLY OFFICE

The Hon'ble Pandit Jawahar Lal Nehru (United Provinces: General): Mr. Chairman, Sir, I beg to move the following resolution, namely:—

"That this Assembly do confirm the existing organisation of the Office of the Constituent Assembly, pending the final decision of this Assembly."

The House probably knows that for the last many months the Office of the Constituent Assembly has been functioning and has organised all that has gone before us, before the meeting of this Assembly. Much of their work has been completely behind the scenes and possibly few members realise the hard work that has preceded this meeting. In any event, the Office has to continue till the Assembly decides otherwise. Some kind of Office obviously the Assembly is going to have. It may choose to continue this Office, it may choose to expand it or to vary it but it must continue, and my Resolution is in a sense to legalise the continuation of this Office until such time as the Assembly thinks otherwise. I beg to move, Sir.

The Chairman (Dr. Sachchidananda Sinha): Is this Resolution seconded?

The Hon'ble Mr. M. Asaf Ali (Delhi): I have very great pleasure in seconding this resolution of Pandit Nehru.

The Chairman (Dr. Sachchidananda Sinha): I have very great pleasure in putting it to the vote. (*Laughter*). Am I not entitled to make any observation without provoking laughter? (*Renewed laughter*).

I would like to say, in support of your observations, Pandit Nehru, that in the few days that it has been my privilege to work with Sir B. N. Rau and his staff, I have received the greatest possible assistance, and I am sure they will continue to give the same valuable assistance to my successor.....I declare the Resolution carried.

Acharya Kripalani will now move resolution No. 7.

COMMITTEE ON RULES OF PROCEDURE

Acharya J. B. Kripalani (United Provinces: General): Sir, we have assembled here, having no Rules of Procedure. Therefore it was that Pandit Jawahar Lal Nehru moved his first resolution so that till we are able to make our rules, the rules that apply in the conduct of business in

the Central Assembly may be applied in any resolution that we might discuss here before we have made our rules. These rules require very careful consideration. For that purpose I propose that a Committee be appointed. I therefore beg leave to move the following resolution that :

"This Assembly resolves—

(1) to appoint a committee consisting of a Chairman and 15 other members to report on the following matters:

(a) Rules of Procedure of the Assembly."

You will find in the copy you have got the words "Sections and Committees". Sections and Committees are part of this Assembly, and the words therefore appear to me to be superfluous. I have therefore taken them off. So—

"(a) Rules of Procedure of the Assembly;

(b) Powers of the Chairman;

(c) Organisation of the work of the Assembly, including the appointment and powers of Office-bearers other than the Chairman; and

(d) Procedure for the declaration of the Committee;

(2) that the Chairman shall be the Chairman of the Committee;

(3) that the Members of the Committee be elected in the manner prescribed in the Schedule; and

(4) that, pending the decision of the Assembly in that behalf, the Chairman shall—

(a) fix the allowance of the Members of the Assembly;

(b) in the case of the servants of the Government of India or any Provincial Government whose services are placed at the disposal of the Assembly, fix their salaries and allowances in consultation with the Governments concerned; and

(c) fix the salaries and allowances of all other persons recruited directly for the business of the Assembly.

Schedule

1. The Members of the Committee shall be elected according to the principle of proportional representation by means of the single transferable vote. The election shall be conducted as nearly as possible in accordance with the regulations in force in this behalf in the Central Legislative Assembly.

2. The Chairman shall fix and announce a date and time for the holding of the election (if necessary) of the Members of the Committee.

3. Notice may be given by any member desirous of proposing a member or members for election to the Committee. Notice shall be given in writing addressed to the Secretary and signed by the Member giving notice and shall be left at the Notice Office before 12 noon on a day to be fixed by the Chairman. The member giving notice must satisfy himself that the Members he proposes are willing to serve if elected."

After this I have added another paragraph. It runs as follows: It is not given in the paper you have got but it may be added:

"If within the time appointed by the Chairman any candidate proposed desires to withdraw his name, he shall be free to do.

4. If the number of candidates so nominated is less than the number of vacancies to be filled, the Chairman will appoint a further period within which the notice aforesaid may be given and may thereafter appoint additional further periods until the number of candidates is not less than the number of vacancies to be filled.

5. If the total number of candidates nominated is equal to the number of vacancies to be filled, the Chairman shall declare all the candidates to be duly elected.

6. If the total number of candidates nominated exceeds the number of vacancies, an election shall be held in the manner prescribed in rule 1.

7. For the purpose of these rules, a member shall not be deemed to have been duly nominated or be entitled to vote if he and his proposer have not signed the Assembly Register as members of the Assembly."

An Hon'ble Member: No seconder required for these nominations? All that is mentioned is the proposer and the candidate.

Rai Bahadur Syamanandan Sahaya (Bihar: General): The Rules just now proposed do not include a seconder. I just wanted to make it clear if a seconder is required for these nominations or a proposer will do.

The Chairman (Dr. Sachchidananda Sinha): Rai Bahadur Syamanandan Sahaya wants to know whether the nominations to be made to the election of the Committee will require only a proposer or also a seconder.

Acharya J. B. Kripalani: Sir, no seconder is necessary.

The Chairman (Dr. Sachchidananda Sinha): Very good.

Mr. H. V. Kamath (C. P. and Berar: General): I submit, Sir, that here again there is a pretty serious lacuna with reference to the disposal of election petitions. This Assembly, in my opinion, Sir, must appoint a Tribunal for the disposal of election petitions, where such elections have been challenged by Hon'ble Members. For instance, yesterday, the Baluchistan election was challenged. That was on the Agenda yesterday. But there is no provision for the appointment of a Tribunal.

The Chairman (Dr. Sachchidananda Sinha): The Committee, I understand, will frame certain rules for that purpose. I advise them to keep in mind, that they should frame rules also for going into election cases.

Dr. Suresh Chandra Banerjee (Bengal: General): Is it the intention of the Mover that the Rules should also apply to Sections? In my opinion 'Section' should be specifically mentioned here because you know there are difficulties with particular Sections.

Dr. Syama Prasad Mookherjee (Bengal: General): I also support the proposal made by Dr. Suresh Chandra Banerjee. I think it will be safer to accept it. If it is the intention of the Mover that the Rules Committee will also frame rules for Sections and Committees, it is desirable to include Sections and Committees specifically in the Resolution, so that it may read like this "Rules of Procedure of the Assembly, including Sections and Committees."

The Chairman (Dr. Sachchidananda Sinha): Dr. Syama Prasad Mookherjee is making a suggestion to you that you may kindly accept his proposal to include or add one word there.

Acharya J. B. Kripalani: I think that the Rules of Procedure of Assembly, Sir, include the rules for Sections and Committees and I do not see why this superfluous addition be made in the draft as I have presented before the House.

Dr. Syama Prasad Mookherjee: May I just explain, Sir, that it is very necessary that the words 'including Sections and Committees' should be mentioned here? When the Sectional Assemblies will meet each may frame its own Rules of Procedure. The question may then arise whether the Constituent Assembly as such had the authority to frame Rules of Procedure for the Sections at all. Reference has then to be made to the Resolution which gave authority to the Rules Committee to frame rules and then the only mention which will be found will be that this Committee was appointed to frame Rules of Procedure of the Assembly. It will then be a question of interpretation whether the Rules Committee was at all entitled to frame rules for the Sections. If your intention is that this Rules Committee will also frame rules for the Sections, why not say specifically "including Sections and Committees", so that there may not be any ambiguity or doubt whatsoever when Sections start doing their work.

The Hon'ble Shri Purushottamdas Tandon (United Provinces: General): I support the amendment of Dr. Mookherjee.

The Chairman (Dr. Sachchidananda Sinha): Have you any objection to substituting or adding that word 'including' there to make, as they contend, the sense clear still?

Acharya J. B. Kripalani: I think if there are additional rules necessary for the Sections, it will be laid down that the Sections will not make any rules inconsistent with the rules of the whole Assembly. Mr. submission, Sir, is that this Rules Committee will make general rules of a very broad nature and these will apply to Sections and Committees. If any Committee or if any Section wants any additional rules, they shall be made by it subject to this that such rules shall not be inconsistent with the general rules that this Committee has made. Therefore, I would like this section of the Resolution to stand as it is.

Sardar Harnam Singh (Punjab: Sikh): Mr. Chairman, I have got two points to put before this House regarding the Resolution proposed by Acharya Kripalani. One relates to para. 1(a) of the resolution. I agree with Dr. Syama Prasad Mookherjee that instead of the words in para. 1 (a) of the resolution, "Rules of Procedure of the Assembly" it should be "Rules of Procedure of the Assembly, its Sections and Committees". That is my first proposal. The Cabinet Mission in their elucidations always referred to the Sections as Sections of the Constituent Assembly. Therefore, my proposal is that in para. 1 (a) of the rule must be read as "Rules of Procedure of the Assembly, its Sections and Committees".

Now there is another matter. Acharya Kripalani, in moving the Resolution stated that the words, "Sections and Committees", were superfluous and therefore he was for deleting them. In the proposed Rules of Procedure for the Assembly, it is therefore understood that the Rules of Sections and Committee are included. One of the Committees that you will be setting up in this preliminary session is the Advisory Committee for certain purposes outlined in paragraph 20 of the Cabinet Mission's proposals. The Cabinet Mission have clearly stated that the Advisory Committee must have full representation of the minorities. Now, when the Rules of Procedure for that Committee are to be framed by a Committee which is to be elected by this House, according to paragraph 1 of the Schedule, I fear that minorities will not have any say in the Rules which are to regulate the procedure of the Advisory Committee. Therefore, my second proposal is that para. 1 of the Schedule, must read "Ten of the members of the Committee shall be elected according to the principle of proportional representation by means of the single transferable vote" and I wish to add a second para. That second para. would be, "The remaining five shall be nominated by the Chairman of the Assembly so as to give adequate representation on the Committee to important minorities." Otherwise, I fear the work of the Advisory Committee might be regulated in such a way as may go to the detriment of some important sections of this House, namely, the minorities. These are my two proposals and I submit that clause (1) may be amended as suggested and an additional para. may be added to the Schedule as para. 2 and instead of seven paragraphs in the Schedule, we may have eight.

Mr. K. M. Munshi (Bombay: General): Mr. Chairman, I rise to support the amendment moved by Mr. Suresh Chandra Banerjee and supported by Dr. Syama Prasad Mookherjee. The business of this Assembly, to borrow the phraseology of the House of Commons, would naturally include the business of its Sections and Committees. Therefore, if the words stood as they are, "Rules of Procedure of the Assembly," there would be strictly no need to mention Sections and Committees. There is no doubt about that. But at the same time, we have not yet a clarification of the State Paper about this matter and it would be extremely unwise, I submit, Sir, to omit the words "Sections and Committees" because that would show

that this Constituent Assembly is not a self-determining and self-governing institution which we insist it is. We may lay ourselves open to the argument that any part or any section of it or any Committee of it can function independently or frame its own rules. Acharya Kripalani himself mentioned that if we left the thing as it is, rules could be made, whereby we can lay down that the Sections and Committees will not have the power to make rules which are contrary to or inconsistent with the rules made by this Committee. That argument itself shows that it is competent for this Procedure Committee to regulate to some extent the procedure of the Sections and Committees. In view of the discussion which has already taken place here, it is much better that the words 'Sections and Committees' should stand rather than their absence lead to further discussion on the interpretation of our Resolution. I envisage a point of order. Suppose this Procedure Committee starts considering questions about Sections or even incorporating a rule, as Acharya Kripalani desired, a point of order is sure to be raised whether the word "Assembly" includes 'Sections and Committees'. At that time, it would be the Chairman of the Procedure Committee who will have to give the ruling. It is better that that point should not be left merely to the decision of the Chairman of the Procedure Committee, who may be the permanent Chairman. It should be laid down definitely by this House that the Constituent Assembly is one and indivisible, that the Sections as already pointed out are Sections of the Assembly, and that they do not form independent bodies which can provide for procedure inconsistently with the rules of the Constituent Assembly. I therefore submit that it is necessary, particularly now as the question has been raised on the floor of this House, that the scope and extent of this resolution should be made clear by adding the words "Rules of Procedure of the Assembly including its Sections and Committees".

The Hon'ble Srijut Basanta Kumar Das (Assam: General): Mr. Chairman, Sir, much of what I was going to say has been anticipated by Mr. Munshi. I would like to raise at this stage a point of order on the fundamental question as to whether this Constituent Assembly will have any right to scrutinize the work of the Sections and of Advisory Committees. This is necessary, Sir, in view of the principle that underlies the amendment that has been moved for including the Sections and Committees within the scope of the Resolution. Different functions have been allotted to the Sections and to the Advisory Committees. A Section will frame the Provincial Constitution and also a Group Constitution. The Advisory Committee will advise on the fundamental rights of citizens, on the way as to how the interests of minorities are to be protected and as to the scheme to be formulated for the administration of Excluded Areas. Now whatever the Section and the Advisory Committees do, they may say that this Constituent Assembly, the Plenary Session will have no right to scrutinize their acts. I would therefore request you, Sir, to give a ruling on this point as to how far the Constituent Assembly will be entitled to give direction or to examine the work of the Sections and of the Advisory Committees. Therefore, Sir, before this Resolution is adopted and before all the points that have been discussed in connection with the Resolution and the amendments moved on it, are further discussed, I would like to ask from you a ruling on this point.

The Chairman (Dr. Sachchidananda Sinha): I have no desire that my ruling should be dragged into the Federal Court. Therefore, instead of giving a ruling which I have no desire to do, I shall invite Pandit Jawahar Lal Nehru to express his views.

The Hon'ble Pandit Jawahar Lal Nehru (United Provinces: General): Mr. Chairman, Sir, this Resolution was considered to be a formal resolution but from the trend of the discussions held, it seems there is a certain

misapprehension in the minds of Hon'ble Members. Some hold strong views about it. Undoubtedly anything that is done in the Sections will have to be considered by this House. I think the original draft was a proper draft but when this matter was brought up in the shape of an amendment, then obviously it becomes entirely a different matter. There is opposition and an amendment has been asked to be carried out. If that becomes the expression of the view of the House because that amendment is opposed to the Resolution as originally drafted, it was supposed to give full powers to that Committee to consider the matter. Now an Hon'ble Member from Assam brought in the Advisory Committee into the picture. The Advisory Committee obviously and patently has to report to the Constituent Assembly. There is no doubt about it. I do not think anybody else will have any doubt about it and I take it that all Committees of this House should report to this House. Therefore I wish only to suggest to this Hon'ble House that this is hardly a suitable time at this stage for us to consider the whole scope of this matter when the House is agreed on the main issue. I would therefore suggest that the mover of this resolution, Acharya Kripalani, do accept the amendment that has been put forward.

Acharya J. B. Kripalani: I accept the amendment.

Shri R. V. Dhulekar (United Provinces: General): *[Mr. Chairman, I desire to the amendment that the intended Procedure Committee....]*

The Chairman (Dr. Sachchidananda Sinha): *[May I respectfully ask whether the Hon'ble Member does not know English.]*

Shri R. V. Dhulekar: *[I know English, but I want to speak in Hindustani.]*

The Chairman (Dr. Sachchidananda Sinha): *[Many of the members such as Mr. Rajagopalachari do not know Hindustani.]*

Shri R. V. Dhulekar: *[People who do not know Hindustani have no right to stay in India. People who are present in this House to fashion out a constitution for India and do not know Hindustani are not worthy to be members of this Assembly. They had better leave.]*

The Chairman (Dr. Sachchidananda Sinha): *[please say what you wish to say.]*

Shri R. V. Dhulekar: *[I desire to move that the Procedure Committee should frame all rules in Hindustani which may be translated into English.]*

The Chairman (Dr. Sachchidananda Sinha): *[Order, order! you are not permitted by me to address the House on the question of bi-lingualism, and printing of papers in two or more languages. You are completely out of order. You came to speak on the amendment to Acharya Kripalani's resolution.]*

Shri R. V. Dhulekar: *[My amendment is that the Procedure Committee should frame rules in Hindustani. They may then be translated into English. When a member discusses a rule he will read its Hindustani version and demand a decision on the basis of that version and not English. I am sorry.....]*

The Chairman (Dr. Sachchidananda Sinha): Order, order!

Shri R. V. Dhulekar: *[I am moving an amendment to Acharya Kripalani's resolution. As a member of the House I have a right to do so. I move that the Procedure Committee should frame rules in Hindustani and not in English. As an Indian I appeal that we, who are out to win freedom for our country and are fighting for it, should think and speak in our own language. We have all along been talking of America, Japan, Germany, Switzerland and House of Commons. It has given me a

*[*English translation of Hindustani speech.

headache. I wonder why Indians do not speak in their own language. As an Indian I feel that the proceedings of the House should be conducted in Hindustani. We are not concerned with the history of the world. We have the history of our own country of millions of past years.]*

The Chairman (Dr. Sachchidananda Sinha): Order, order!

Shri R. V. Dhulekar: *[I request you to allow me to move my amendment.]*

The Chairman (Dr. Sachchidananda Sinha): Order, order! *[I do not permit you to proceed further. The House is with me that you are out of order.]*

Acharya J. B. Kripalani: I submit that if it will help the House to cut short the discussion, I would accept what has been suggested.

The Right Hon'ble Dr. M. R. Jayakar (Bombay: General): I want to say a few words on this Resolution. I am not sure whether the views I am now putting before this Assembly will not be regarded as too cautious, but I am bound to point out a few considerations which I want the House to note carefully. These considerations are against the express mention of the words "Sections and Committee". My view is no doubt actuated by a feeling of caution, which I think is desirable at the present stage. Remember the word "Sections". You are asked by express terms to legislate for them in advance of their future formation. Remember "Sections" include 'B' and 'C' Sections. Remember further that in 'B' and 'C' Sections there is likely to be—almost certainly to be—a preponderance of a certain group of men who are not present here today and who may be present at the late when these Sections begin to function. That group of men are not present here today under a feeling of suspicion, if not hostility. Would you like to legislate for them in advance at this stage, or would you not let the matter remain where it is, namely, that as the word 'Assembly' *prima facie* would include 'Sections' no rules can be framed by Sections 'A', 'B' and 'C' which are in conflict with the rules of the Assembly? This would be the usual constitutional rule. Would you not rather let matters rest at this, or would you go further and rub the point in by making an express mention of Sections implying thereby that we here today, in the absence of that group, make it obligatory by express words that the rules framed by the Assembly shall apply to the Sections. Such rubbing in is absolutely unnecessary, because the rules of the Assembly would *prima facie* include rules of the Sections. Remember that this group of men is not present here today and is, besides, watching these proceedings with jealousy and suspicion to discover whether you are taking anything out of their hands and deciding it finally in advance of their arrival? If you do so may it not interfere with their future arrival here in a friendly and trustful atmosphere? I therefore suggest that the words as they stand in the original Resolution of Acharya Kripalani, may be accepted instead of going further to make an express mention of Sections and Committees.

Mr. Debi Prosad Khaitan (Bengal: General): Mr. President, Sir, I had no desire to speak on this motion, but in view of one word used by Mr. Munshi, in the course of the amendment, namely, to add the word "its" and the subsequent speech delivered by my estimable friend, Dr. Jayakar, I felt inclined to speak a few words. I shall first deal with the suggestion made by Mr. Munshi, namely, the inclusion of the word "its". I hope that the Hon'ble Mover of the amendment, Dr. Syama Prasad Mookherjee, will not accept that suggestion. The use of the word "its" in the course of this Resolution might put upon it an interpretation which is not intended either by Dr. Mookherjee or Acharya Kripalani. It might be interpreted

*[*English translation of Hindustani speech.

to mean that the word "its" limits the scope to Committees appointed by the Assembly and not appointed by the Sections. Therefore, I suggest, Sir, that the amendment as moved by Dr. Syama Prasad Mookherjee, namely, "Assembly including Sections and Committees" be accepted by this House.

As regards the fear expressed by Dr. Jayakar, I would only suggest, as explained by Pandit Jawahar Lal Nehru and Acharya Kripalani, that this Assembly is one entitled to make rules governing the procedure not only of the Union Constituent Assembly as such but also governing the procedure of all Sections and Committees that may be brought into operation by it. I have not the slightest doubt that, whether any group of members be present in this House or not, this Assembly has got to proceed with its work in its entirety. Irrespective of the question whether that group decides to join or not to join, we have got to carry on our work, and I do hope that as time passes that group of men will see fit to serve the interests of the country as a whole by joining it and advising us how to shape the destiny of the country. But, so long as they are not here, I repeat my submission that we should go on with our work, with our heart in it and looking to the interests of the country as a whole. I therefore hope that no fears will be felt or expressed. Let us include in this Resolution the words "Sections and Committees" to avoid future complications. I hope the House as a whole will accept that amendment.

Mr. S. H. Prater (Madras: General): Mr. Chairman, I would like completely to support what was being said by Dr. M. R. Jayakar. I feel that while this House might frame general Rules of Procedure it ought not at this stage to interfere with or frame rules for Sections. Dr. Jayakar has pointed out the implications of that, and it would be good politics to follow what Dr. Jayakar has said. We all want to do these things, but not at this stage. There is time for it. Therefore I whole-heartedly support that the Resolution as originally moved by Acharya Kripalani do stand.

Mr. Sarat Chandra Bose (Bengal: General): Mr. Chairman, I think it would conduce to clarity if the words suggested by my friend Dr. Suresh Chandra Banerjee, and which suggestion was supported by my friend Dr. Syama Prasad Mookherjee, were introduced into this Resolution and accepted by the House.

An Hon'ble Member: The words "including its Sections and Committees".

Another Hon'ble Member: Not "its".

Mr. Sarat Chandra Bose: The word "its" does not improve the position and I am quite satisfied if the words "including Sections and Committees" are introduced into the Resolution. Acharya Kripalani in moving the Resolution said that it was his intention that the Rules of Procedure of the Assembly should govern the Sections and Committees as well. But as the point has been raised from different sides of the House, whether it should be done or not done, I think it will settle all future disputes if we accept the addition of these words. I would desire to refer in this connection to what Dr. Jayakar said. I do not think it would introduce any conflict at all in future if this Assembly were to lay down Rules of Procedure which would govern not only the main Assembly but its Sections and Committees as well. On the contrary, I feel that it would resolve many a conflict in advance. I do not desire to say more than this that if we are thinking that any conflicts would arise between the main Assembly and the Sections, we had better resolve the conflict here and now by introducing the words "including Sections and Committees".

The Chairman (Dr. Sachchidananda Sinha): I think we have discussed this long enough.

The Hon'ble Mr. B. G. Kher (Bombay: General): I have a suggestion to make.....

The Chairman (Dr. Sachchidananda Sinha): I hope the Hon'ble Member's suggestion will not be accompanied by a long speech.

The Hon'ble Mr. B. G. Kher: I am not very anxious to make a speech at all. We ought not to leave doubt in the minds of this Assembly or the world outside that this Assembly is supreme in so far as its Sections and its procedure are concerned. After the debate and the various fears that have been now expressed, I think it would be impolitic to refuse to accept the words "Sections" as also "Committees". We are not at all certain to-day whether the Sections are coming in or whether the Sections are going to sit. A good way out of it would be to add the words "with power to co-opt", so that when other people do come, if these rules are not acceptable or if these rules are required to be amended, or if any suggestions are made, it would be possible to amend them. I suggest, therefore, that it would be best to give the Committee which we are now going to appoint power to co-opt so that they may from time to time be able to suggest amendments and alterations which could be afterwards confirmed, ratified or rejected by the House. So that I think we should at present accept the amendment of Dr. Syama Prasad Mookherjee with this further addition "with power to co-opt". If that is done, I feel that we shall meet the needs of the situation much better.

Mr. Jairamadas Daulatram (Sind: General): I do not wish to take much time of the House at this late stage of the debate. I will say very briefly whatever I have to say. I think everybody should take the stand that this Constituent Assembly is the supreme body. It must have the right to frame rules for its Sections and Committees. I do not think that it is wise to keep simply the word "Assembly" and then leave it to be interpreted that we intended the word to include Sections and Committees. "Intentions" and their "interpretations", as experience has shown us, are a dangerous thing. We ought to make everything as clear as possible. At the same time we have got to deal with the possibility of those friends who are absent to-day joining us at a later stage. If that development does take place we may provide for it. Therefore, I support what my friend, Mr. Kher has said. At the same time, the word "including" is, in my opinion, inappropriate. If the original form is retained, then the little rubbing in which the word "including" involves would also be removed. Again we need not frame all the rules at once. It may be that with regard to the Sections, rules may have to be framed later, or we frame rules now with this understanding that if any changes or amendments become necessary, they will be made by the Procedure Committee, and if it has got the power to co-opt additional members, all the difficulties and possible developments will have been met.

Acharya J. B. Kripalani: There seems to be some misapprehension about the scope of the work of this Committee and also the time for which this Committee will be in existence. As I pointed out, while submitting this resolution before you, the rules that are required to be made are for the conduct of business now and here. We have absolutely no rules, we are writing on a clean slate. I also said that the rules would be more or less such as guide the proceedings of all Assemblies, and these would be of a general nature. There is no doubt in my mind that more rules will have to be framed by Committees themselves and by Sections. They may be called by-rules or by any other name. This Committee will not frame exhaustive rules. As for the question of co-option, it need not arise at this stage. This Committee is not going to be permanent. When any section of the House that is absent today decides to come in, then, if they have any objection to the rules that have been framed, this House can always order that they be revised. Therefore this question of co-option also does

not arise. I think it is a bad method to appoint a Committee and to give it powers of co-option when that Committee has been formed by the method of the single transferable vote. I do not know, Sir, whether you have admitted an amendment that ten people be selected by single transferable vote and five be co-opted from minorities. We have already made provision that the members of this Committee be selected by the method of the single transferable vote. That should bring in all minorities. It is not good that minorities should be appointed by a body of ten people. Therefore, I oppose that amendment if you, Sir, have allowed it.

As for including the words 'including Sections and Committees', as there is a large body of opinion in favour of it, I accept it. (Cheers).

The Chairman (Dr. Sachchidananda Sinha): A resolution was moved by Acharya Kripalani. Dr. Suresh Banerjee has moved an amendment to it. There has been prolonged discussion over these and all aspects of the question have been fully thrashed out. Acharya Kripalani has now declared in his final reply that he accepts the amendment proposed by Dr. Suresh Chandra Banerjee. I will now put the proposition to the vote of the House.

Sardar Ujjal Singh (Punjab: Sikh): What about the amendment about nomination by the President or co-option by members?

The Chairman (Dr. Sachchidananda Sinha): That has not been moved. I do not think I can permit at this stage any amendment the text of which is not before me.

The amendment before the House now is this: In clause (a), after the word 'Assembly', insert the words 'including Sections and Committees'.

The amendment was adopted.

Sardar Ujjal Singh: Sir, I move:

"That in line 2, after the words '15 other members', the words 'with power to co-opt' be added."

In moving this amendment my object is this: Under the method of proportional representation, certain important minorities may not be represented. Acharya Kripalani was pleased to say that that method had been provided to give representation to all minorities. Perhaps he has overlooked the fact that out of a House consisting of 212 members, you have to elect 15 and that if a group consists of only four or five members, it may not get representation at all. A member of that group may not get the necessary quota and it will not be possible for that group to find a seat on the Committee. The only means of giving representation to that small minority will be either nomination by the President or co-option. With that end in view, I propose this amendment. I thought it would be quite suitable if this question of addition of members of certain groups that are unrepresented is left to the Chairman. That would be enhancing the power of the Chairman. But if that is not possible or acceptable to the House, I would suggest that this power be given to the Committee itself. A similar procedure exists in various bodies wherein it is not possible to give representation to the various interests to be represented. With these few words I move my amendment.

The Chairman (Dr. Sachchidananda Sinha): The Amendment proposed by the Mover is to the effect that, after the word 'Members' in line 2, the words 'with powers to co-opt' be added.

Sardar Harnam Singh (Punjab: Sikh): I suggest, Sir, that we add, if necessary, 'not more than five'.

Sardar Ujjal Singh: I accept the amendment to my amendment.

Mr. S. H. Prater: I second the amendment.

The Chairman (Dr. Sachchidananda Sinha): Mr. Mohanlal Saksena, who has given notice of an amendment, will kindly move it briefly.

Shri Mohan Lal Saksena (United Provinces: General): *[I move the amendment that in para. 4 of the Schedule.....]*

The Chairman (Dr. Sachchidananda Sinha): *[Which para. does the Hon'ble Member mean?]*

Shri Mohan Lal Saksena: *[I move that in para. 4 after the word "Chairman" the following may be added:]*

"To the members....."

[The present proposal is that if the number of nominated members is less than those of the elected members, a fresh nomination shall be allowed and the process shall continue until such time as the number of nominated member fills up or exceeds the vacancies. The usual method in such cases is that if the number of nominated members falls short, members who are already nominated are taken as elected and for nominated seats, fresh proceedings are undertaken. This is the object of my amendment. I hope the House will accept it. Acharya Kripalani has agreed to it]

The Chairman (Dr. Sachchidananda Sinha): The amendment proposed by Mr. Mohan Lal Saksena is that in paragraph 4 of the Schedule after the word "Chairman" the following words be added "shall declare the persons so nominated as duly elected and for the remaining vacancies".

Is any one seconding it?

An Hon'ble Member: I second this amendment, Sir. It is important and necessary.

Mr. F. R. Anthony (Bengal: General): I did not hear the last part, Sir.

The Chairman (Dr. Sachchidananda Sinha): You could not hear the last part. Sir B. N. Rau will kindly read it out.

Sir B. N. Rau (Constitutional Adviser): After the word 'Chairman' in paragraph 4 of the Schedule, the following words be added: "shall declare the persons so nominated as duly elected and for the remaining vacancies". If you like me to read the amended paragraph, I would be glad to do so.

The Chairman (Dr. Sachchidananda Sinha): Yes, Sir Narsing.

Sir B. N. Rau: The paragraph as amended reads: "If the number of candidates so nominated is less than the number of vacancies to be filled, the Chairman shall declare the persons so nominated as duly elected and for the remaining vacancies will appoint a further period within which the notice aforesaid may be given and may thereafter appoint additional further periods until the number of candidates is not less than the number of vacancies to be filled".

Mr. F. R. Anthony: On a point of information, Sir. I do not know exactly what happened to the amendment proposed by one of my Sikh colleagues.

The Chairman (Dr. Sachchidananda Sinha): That was carried.

An Hon'ble Member: "With power to co-opt not more than five" was carried.

[] English translation of Hindustani speech.

Acharya J. B. Kripalani: Sir, I was never consulted in the matter, whether I accept that or not.

The Chairman (Dr. Sachchidananda Sinha): You were never consulted on the amendment to your resolution?

Acharya J. B. Kripalani: I did not know that the amendment had come before the House. It was only proposed and seconded but that has not been carried by the House.

The Chairman (Dr. Sachchidananda Sinha): Carried by the good sense of the House.

Acharya J. B. Kripalani: Even that was not allowed. (Interruptions)....

The Chairman (Dr. Sachchidananda Sinha): Order, order. The amendment was adopted.

Dr. P. C. Ghosh (Bengal: General): That was not put before the House for voting at all. You simply stated from your Chair that it was carried.

The Chairman (Dr. Sachchidananda Sinha): The work of the House must necessarily be carried on with a certain amount of speed, and if the Hon'ble Member is not sufficiently vigilant, he will have to thank himself.

I am reading out the amendment of Mr. Mohan Lal Saksena. I hope I will not be charged with rushing the business of the House through again as has been done this time. I read it out once, and it was read out again by Sir B. N. Rau. If the House desires, I shall read it out again. In paragraph 4 of the Schedule after the word "Chairman" the following words be added: (Interruption).....

When I am in the midst of addressing the House, I do not like to be interrupted. The amendment is: "the Chairman shall declare the persons so nominated as duly elected and for the remaining". Whatever it may mean, that is the amendment. Those who are in favour of it will kindly raise their hands to express their assent to the proposition. Will you kindly count, Mr. Iengar?

The Hon'ble Pandit Jawahar Lal Nehru: It is not necessary unless anyone is opposed to it, Sir.

Mr. H. V. R. Iengar (Secretary of the Constituent Assembly): 50 for.

The Chairman (Dr. Sachchidananda Sinha): How many against it?

Mr. H. V. Kamath: I have submitted a verbal amendment. May I come

The Chairman (Dr. Sachchidananda Sinha): Your verbal amendments
1. The amendment was adopted.

Mr. H. V. Kamath: I have submitted a verbal amendment. May I come along?

The Chairman (Dr. Sachchidananda Sinha): Your verbal amendments are more dangerous than other people's formal amendments. You desire that in clause 1(c) after the word "appointment" add the word "functions". The clause will read as follows:

"(c) Organisation of the work of the Assembly, including the appointment, functions and powers of Office-bearers other than the Chairman."

Also that in Clause (d) after the word "filling" add the word "in". You will kindly come along. You generally succeed in carrying your point by making very short speeches.

Mr. H. V. Kamath: Sir in clause (c) I desire that after the word "appointment" the word "functions" may also be inserted so that the clause will now read thus: "including the appointment, function, and powers of Office-bearers other than the Chairman".

The next amendment that I wish to make is in clause (d). With due deference to the framer of this Resolution, I submit, Sir, that the more correct phrase is "filling in" and therefore move that the clause should read—

"procedure for the declaration and filling in of vacancies in the Assembly." and in the Schedule accordingly some corrections might have to be made wherever "fill", "filled" or "filling" occurs. I submit with due deference again, Sir, to the framer of the Resolution that the correct phrase is "filling in".

An Hon'ble Member: Why not "filling up"?

Another Hon'ble Member: I would like to make one amendment.

The Chairman (Dr. Sachchidananda Sinha): Mr. Kamath's amendment, which I read out, and which he has again read out, has been duly seconded. Is there any serious opposition to it?

Mr. K. M. Munshi: We have not heard it.

The Chairman (Dr. Sachchidananda Sinha): I am a fairly loud speaker. If you did not hear me, I will again read it out once more.

Diwan Chaman Lall (Punjab: General): I am opposed to the use of the phrase "filling in" of vacancies. It is neither correct, nor is it found in the Rules of Procedure adopted by other Assemblies. The expression "filling of vacancies" is perfectly correct. Again, in regard to the amendment of my hon'ble friend that after the word "appointment" the word "functions" should be included, there can be no difficulty about that although it is obvious that the powers of Office-bearers will also include the functions of the Office-bearers. If it is sought to be made more clear, there can be no objection to it. The objection to the "filling of vacancies" cannot be accepted as I do not think we can start off with ungrammatical or unidiomatic expressions.

The Chairman (Dr. Sachchidananda Sinha): Mr. Munshi, I think, would like to have the proposition read out again.

In clause (c) of rule 1 after the word 'appointment' add 'functions' so that the clause will read 'the appointment, functions and powers of Office-bearers other than the Chairman.' The addition is proposed for the word 'functions' which means between the words 'appointment' and 'powers.' The House, if I am not wrong in interpreting its mood, is not unwilling to accept this amendment.....I declare it carried.

There is a second amendment of Mr. Kamath in Clause (d). After the word 'filling' add the word 'in' so that it may read 'filling in of vacancies'. It is a question of filling in.

Many Hon'ble Members: No, no.

The Chairman (Dr. Sachchidananda Sinha): The sense of the House is against it. It is not accepted. Any other amendments?

Mr. H. J. Khandekar (C. P. and Berar: General): In Clause 7 after the word 'he', there should be 'or she' because there are lady members in the House and nothing is mentioned about them. The meaning of 'Member' conveys the impression that there are no lady members and therefore after the word 'he' there should be 'or she' and after the word 'his' should be 'or her'.

The Chairman (Dr. Sachchidananda Sinha): The amendment sought to be proposed is that we should make our position clear as regards the lady members of this House by using the specific word 'she'. My ruling is that 'he' includes 'she'.

The Hon'ble Pandit Jawahar Lal Nehru: Sir, the Resolution as a whole has not been put to the vote.

The Chairman (Dr. Sachchidananda Sinha): That is what I was saying. The amendments having now been disposed of, I am putting to the vote, but not reading it for a second time the long Resolution. If he so desires, Acharya Kripalani may read it out again. We have discussed these fully, and I declare it carried with all the amendments made.

ANNOUNCEMENT REGARDING NOMINATIONS FOR CHAIRMAN AND COMMITTEE

The Chairman (Dr. Sachchidananda Sinha): I have two announcements to make today. Firstly, the nominations for this Committee will be by 12 noon on the 11th of December in the Secretary's room (Mr. Iengar's). All nominations should be filed by 12 o'clock tomorrow at the latest, and the date and time for the election shall be 4 P.M. tomorrow in the Under Secretary's room. I do not know the reason why the Secretary's room is intended for one purpose, and the Under Secretary's for another. Perhaps the Secretary's room is larger, I do not know. The ballot boxes are there, and I shall be absent at the time. Mr. Anthony will kindly be present on my behalf.

The only other announcement I have got to make is about the nominations for the permanent Chairman. The nominations for that purpose, namely, for the election of the permanent Chairman, is fixed today at 2-30 P.M. in the Secretary's room, and if the election would be necessary, arrangements will be made for that. That finishes our work today. There is no work in the afternoon.

Mr. Sarat Chandra Bose (Bengal: General): As regards the nomination of a permanent Chairman, the Resolution says that the nomination paper has to be delivered to you or to a person appointed by you.

The Chairman (Dr. Sachchidananda Sinha): I have appointed the Secretary, Mr. Iengar, to receive the nomination papers.

Bakhshi Sir Tek Chand: Up to 2-30 today or tomorrow?

The Chairman (Dr. Sachchidananda Sinha): Today. It is now just 1 o'clock and one and a half hours remain for the purposes of nomination. The time for withdrawals shall be 2 P.M. today. Tomorrow the House will meet as it suit you at eleven or half past eleven.

Many Hon'ble Members: 11 o'clock.

The Chairman (Dr. Sachchidananda Sinha): The House is adjourned till Eleven of the Clock, on Wednesday, the 11th December 1946.

The Assembly then adjourned till Wednesday, the 11th December 1946, at 11 A.M..

CONSTITUENT ASSEMBLY OF INDIA

Wednesday, the 11th December, 1946

The Constituent Assembly of India met in Constitution Hall, New Delhi, at Eleven of the Clock, the temporary Chairman (Dr. Sachchidananda Sinha), in the Chair.

The Chairman: If any Hon'ble Member has not yet presented his credentials nor signed the Register, he may do so now.

(None)

REPLY TO MESSAGES OF GREETINGS TO THE CONSTITUENT ASSEMBLY

The Chairman: Though it is not in the agenda, I thought it best, on my own responsibility, to bring before the House the reply which I propose to send to the Governments of the United States of America, the Republic of China, and the Australian Government, in reply to the messages received from them, through their representatives in Delhi, which messages I read out to you on the opening day of the session. My draft is subject to your approval, of course.

"On behalf of myself, and of the Constituent Assembly of India, I desire to thank you most warmly for your exceedingly kind message of goodwill and good wishes which has been highly appreciated by the Constituent Assembly, and the country. It is a source of great encouragement to us to feel that the Government and the people of the United States, China and Australia (as the case may be) are watching our deliberations with keen and sympathetic interest; and we feel sure that their sympathy will stand us in good stead in evolving a democratic constitution for India."

Subject to your approval, Hon'ble Members. (Applause).

ELECTION OF THE PERMANENT CHAIRMAN

The Chairman: The next item of today's agenda is the election of the permanent Chairman.

I have received the following nomination papers:—

"I propose the name of Dr. Rajendra Prasad, Member, Constituent Assembly, for the Chairmanship of the Constituent Assembly. I have secured the consent of the nominee.

Proposer.—J. B. Kripalani.

Seconder.—Vallabhbhai Patel.

I agree to the nomination. Rajendra Prasad."

This nomination paper is valid, and is in order. There is another nomination paper.

"I propose Dr. Rajendra Prasad as Chairman of the Assembly and I have ascertained that he is willing to serve if elected.

Proposer.—The Hon'ble Sri Harekrushna Mahtab.

I second the above. Nand Kishore Das."

This nomination also is in order.

The other two proposals received are invalid. One of them sent by the Hon'ble Mr. Prakasam was sent in beyond time, and I do not see the name of any seconder.

Similarly, I have got before me another proposal by Sir, S. Radhakrishnan. That also, I fear, is not in order, because it has got no seconder;

and neither of these two documents (the one sent by the Hon'ble Mr. Prakasam and the other sent in by Sir S. Radhakrishnan) has got any endorsement from Dr. Rajendra Prasad that he is willing to serve. However, as the other two proposals are perfectly valid and in order, and there is no other nomination paper before me, I hereby declare the Hon'ble Dr. Rajendra Prasad, as the duly elected permanent Chairman. (Cheers).

My next duty as temporary Chairman is to request that Acharya Kripalani and Maulana Abul Kalam Azad Sahib will kindly approach, on behalf of the Constituent Assembly, the duly elected President of this House now, and bring him up to the platform to sit on the chair by my side. (Cheers).

(The Hon'ble Doctor Rajendra Prasad was conducted to the chair by Acharya Kripalani and Maulana Abul Kalam Azad Sahib.).

The Chairman: Hip hip hurrah, hip hip hurrah.

Hon'ble Members: Inquilab Zindabad, Inquilab Zindabad. Jai Hind, Jai Hind.

The Chairman: Now that the permanent elected Chairman of the House has taken his seat, it is open to Hon'ble Members to offer to him their congratulations. I call upon Sir S. Radhakrishnan to be the first speaker.

CONGRATULATIONS TO THE PERMANENT CHAIRMAN

Sir S. Radhakrishnan (United Provinces: General): Mr. President, Sir, I consider it a great honour to be called upon to be the first speaker after the election of the permanent, Chairman of the Constituent Assembly. I offer to him, on behalf of this House, our most respectful congratulations on the unique honour that has been conferred on him.

This Constituent Assembly has met here to frame the constitution, to effect the withdrawal of British control, political, economic and military and to establish a free independent India. If successful, this transfer of authority will be the biggest and the least bloody of all transfers in human history (Cheers).

The first Britisher to arrive in this country was a Jesuit Missionary in 1579. He was followed by merchants who came to trade but stayed to rule. In 1765 the authority was transferred to the East India Company. Later it was gradually subordinated to and replaced by the authority of Parliament and it has been continuing till now on the famous principle enunciated by Cecil Rhodes—the principle fundamental to imperialism, philanthropy plus 5 per cent. On that principle it has worked. Right through however there were protests against the British rule. All these protests became canalized when the Indian National Congress was established in 1885. It adopted mild methods till the advent of Mahatma Gandhi when it became aggressive and dynamic. In 1930 the Resolution for the Independence of India was passed at Lahore and we are now here to give effect to that resolution. The British are empirics from beginning to end. It was Lord Palmerston who said 'we British have no eternal principles, we have only eternal interests'. When they adopt any particular line of action you may take it that it is not a willing surrender of power or authority but it is a response to the historic necessities of the case. When the discontent grew up they gave us the Morley-Minto Reforms and they introduced the principle of communal electorates and these communal electorates were intended to keep the people apart. The higher mind of Britain advised the local officials that they would betray the trust placed upon them if they foisted communal electorates. They would inject a poison into the very body politic which could be removed, if at all, at the cost of a civil war. We know how those anticipations are

getting realized today. We had after that the Montford Reforms and then the 1935 Act, the Cripps' proposals and now the Cabinet Plan. The latest Statement of His Majesty's Government on this question indicates how it is not in human nature to surrender power easily. (Hear, hear). Playing off one section against another is unworthy of a great people. It is much too clever to be permanent and would embitter the relations of this country and Great Britain. (Hear, hear). It is essential for the British to understand that if an act is done it must be done with the utmost grace. All the same we are here assembled to draw up a constitution for future India. A constitution is the fundamental law of the nation. It should embody and express the dreams and passions, the ideals and aspirations of the people. It must be based on the consent of all, and respect the rights of all people who belong to this great land.

We have been kept apart. It is our duty now to find each other. We all deplore—speakers yesterday and day before yesterday deplored—the abstention of the representatives of the Muslim League from this Constituent Assembly. We take it that it will only be temporary, for their co-operation is absolutely essential for the success of any constitution which we may lay down. But in approaching these matters our attitude should be one of realism. Take the problems from which we suffer: our hunger, our poverty, our disease, our malnutrition—these are common to all. Take the psychological evils from which we suffer—the loss of human dignity, the slavery of the mind, the stunting of sensibility and the shame of subjection—these are common to all: Hindus or Muslims, Princes or peasants. The Chains may be made of gold but they are still chains that fetter us. Even the Princes will have to realise that they are slaves in this country. (Hear, hear): If they have a sufficient sense of self-respect and exercise a little self-analysis, they will find how much their freedom is fettered.

Again, the people—whether they are Hindus or Muslims, Princes or peasants,—belong to this one country. Earth and Heaven have combined to make them belong to one another. If they try to disown it, their gait, their cast of countenance, their modes of thought, their ways of behaviour, they will all betray them. (Hear, hear). It is not possible for us to think that we belong to different nationalities. Our whole ancestry is there.

It is essential for any constitution which is drawn up to make all the citizens realise that their basic privileges—education, social and economic—are afforded to them; that there will be cultural autonomy; that nobody will be suppressed; that it will be a constitution which will be democratic in the true sense of the term, where, from political freedom we will march on to economic freedom and equity. Every individual should feel that he is proud to belong to this great land.

Apart from all these, a nation does not depend on identity of race, or sentiment, or on ancestral memories, but it depends on a persistent and continuous way of life that has come down to us. Such a way of life belongs to the very soil of this land. It is there indigenous to this country as much as the waters of the Ganges or the snows of the Himalayas. From the very roots of our civilisation down in the Indus Valley to the present day, the same great culture is represented among Hindus and Muslims, we have stood for the ideal of comprehension and charity all these centuries.

I remember how Anatole France went up to the Musée Guimet on the first of May 1890 in Paris and there in the silence and simplicity of the gods of Asia reflected on the aim of existence, on the meaning of life, on the values which peoples and Governments are in search of. Then his eyes fell on the statue of the Buddha. France felt like kneeling down and praying to him as to a God, the Buddha, eternally young, clad in ascetic

robes, seated on the lotus of purity with his two fingers upraised admonishing all humanity to develop comprehension, and charity, wisdom and love, *prana and karuna*. If you have understanding, if you have compassion, you will be able to overcome the problems of this world. Asoka, his great disciple, when he found his Empire inhabited by men of all races and religions said—

"Samavaya eva sadhuh".

"Concord alone is the supreme good".

India is a symphony where there are, as in an orchestra, different instruments, each with its particular sonority, each with its special sound, all combining to interpret one particular score. It is this kind of combination that this country has stood for. It never adopted inquisitorial methods. It never asked the Parsis or the Jews or the Christians or the Muslims who came and took shelter there to change their creeds or become absorbed in what might be called a uniform Hindu humanity. It never did this. "Live and let live"—that has been the spirit of this country. If we are true to that spirit, if that ideal which has dominated our cultural landscape for five or six thousand years and is still operating, I have no doubt that the crisis by which we are faced today will be overcome as many other crises in our previous history have been overcome. Suicide is the greatest sin. To murder yourself, to betray yourself, to barter away your spiritual wealth for a mess of pottage, to try to preserve your body at the expense of your spirit—that is the greatest sin. If we therefore stand out for the great ideal for which this country has stood, the ideal which has survived the assaults of invaders, the ideals to which the unheeding world today is turning its attention, if we are able to do it, the flame which has sustained us in overcoming foreign rule, will fire our efforts to build a united and free India.

It is not an accident that our temporary Chairman, Dr. Sachchidananda Sinha and our permanent Chairman, Dr. Rajendra Prasad, both come from Bihar. They are both impregnated with the spirit of the *vihara*—the invincibility of gentleness, the gospel of India. The Mahabharata says:

Mrduna darunam hanti, mrduna hanti adarunam nasadhyam mrduna kinchit tasmāt tiksnataram hi mrduth.

Gentleness can overcome the hardest things; it can overcome the softest things. There is nothing impossible to be overcome by gentleness, and therefore the sharpest weapon we have is gentleness.

Softness, gentleness,—that is the greatest weapon which will wear out the highest kind of opposition. We have not been true to it. We have betrayed and done wrong to millions of our own fellow beings. It is now time for us to make atonement for all our past guilt. It is not a question of justice or charity, it is atonement—that is how I would put it.

In Dr. Rajendra Prasad we have one who embodies this spirit of gentleness. (Cheers). He is the soul of goodness, he has great patience and courage, he has suffered. It is not an accident that this year which marks the sixtieth year of the Indian National Congress, is also the year of the opening of the Constituent Assembly. We have to remember with gratitude all those great souls who worked and suffered for the freedom of this country, for the dawn of this day. Thousands died, more thousands suffered privation, imprisonment, and exile, and it is their suffering that has cemented and built up this great edifice of the Indian National Congress. (Hear, hear). We have to remember them all. Rajendra Prasad is

the suffering servant of India, of the Congress, who incarnates the spirit for which this country stands. I only hope that this spirit of amity, concord and harmony which has come down to us from the image of Siva in the Indus civilisation down to Mahatma Gandhi and Dr. Rajendra Prasad, will inspire our efforts. (Applause.)

Shri Sri Prakasa (United Provinces: General): May I know who is the Chairman?

The Chairman (Dr. Sachchidananda Sinha): I am the Chairman.

The Hon'ble Diwan Bahadur Sir N. Gopalaswami Ayyangar (Madras: General): Mr. Chairman, I desire to add my small tribute to Dr. Rajendra Prasad who has been elected unanimously by this Assembly as the permanent Chairman. My tribute, I dare say, will sound prosaic after the eloquence of my friend Sir S. Radhakrishnan, one of the foremost Indian orators in the English language.

Dr. Rajendra Prasad's election is a supreme mark of the unstinted confidence that this Assembly and the country as a whole repose in him. It is not so much an honour to him; he is really honouring us by accepting the invitation that we have extended to him. (Cheers). We have therefore really to felicitate ourselves on his allowing himself to be persuaded to take the Chair of this Assembly as permanent Chairman.

Dr. Rajendra Prasad is taking over a very onerous responsibility. His life has been a life of dedication,—dedication to the service of the country. It has been consecrated by unique sacrifice. It is unnecessary for me to speak of his great erudition, deep scholarship, wide knowledge of men and affairs,—qualities which fit him eminently for the task in which he will have need for requisitioning all this equipment in the solution of the many baffling and intricate problems that are sure to confront him. I have known him in person and have come into contact with him personally only during the last few days. That has made me regret that I had not known him earlier and more intimately than I do. But I have known about him, I had read about him, and during the few days that I have since seen of him, I have seen enough to realise that, while all his great qualities of brain and his knowledge have commanded and will continue to command the respect and admiration of his countrymen, what really has established and will maintain the unique hold he has on the affections of his countrymen, irrespective of community, class and creed, are his great human qualities. His innate courtesy, for instance, the manner of his approach to problems, which manner almost compellingly disarms in controversy people inclined to develop temper or heat, the soft word that turneth away wrath—these will be inestimable assets in contributing to the success of the task that he has so willingly, perhaps after some reluctance, taken upon himself.

With his election to the Chairmanship, the Constituent Assembly may be said to have really started on its fateful career. Before it accomplishes its full task, it is bound to be confronted by situations and difficulties which will try the capacity even of so uniquely equipped a person as Dr. Rajendra Prasad. He will no doubt, and we have every confidence that he will, conquer them all. He will of course maintain the dignity and prestige of this Assembly and the privileges of its members—that goes without saying. But the most onerous of his tasks will be to defeat all attempts, direct or indirect, at weakening or whittling down the sovereign powers of this Assembly. This is not the occasion for me to develop in any elaboration the proposition that, for the task which this Assembly has taken upon itself, it is sovereign in every sense of the word. That its members have been brought together by a machinery employed by the present Government of India does not detract from that sovereignty.

(Hear, hear). The task of the Assembly is, in the not very elegant word that the Cabinet Mission has employed in its Statement, the "settling" of the constitution for all India—all India, including not merely the Union but the units and, if this Assembly and its Sections should so decide, the Groups, if any, are to be formed at all.

The statement of the Cabinet Mission, I would describe as the law of the constitution of this Assembly. That constitution derives its authority not from the fact that its authors were three Members of His Majesty's Government but from the fact that the proposals made therein have been accepted by the people of this country. Any limitations on the powers of this Assembly which are indicated in that Statement are thus self-imposed—imposed by ourselves on this Assembly; and the document and its subsequent exposition by its authors have made it clear that this Assembly has got the constituent power of amending this constitution, of varying or adding to what is provided for in that document, not excluding even what are declared to be its fundamentals.

The law of the constitution of this Assembly does not vest in any outside authority. Judicial or otherwise, the interpretation of any of its provisions. In one single instance alone does it require that the Chairman should obtain the advice of the Federal Court at the request of the majority of either of the major communities in the Assembly before he takes a decision on the issue. It follows therefore that the decision of all questions of interpretation of the law of the constitution of this Assembly will be in the Chairman's hands, subject to such directions as this Assembly itself may give. Reference to an outside authority for decision or even advice in respect of other matters could be made only on authority given by a decision of this Assembly and no such decision could be binding on this Assembly unless it has agreed to abide by it. The idea, therefore, adumbrated in a recent statement of His Majesty's Government, that 'either side', those are the words used, is free to ask an outside authority to decide matters of interpretation and that the Assembly should accept whatever decision it may give, cannot be implemented except on the authority of a resolution of this Assembly. (Hear, hear). The suggestion made in this statement, if implemented without an affirmative resolution of this Assembly, would detract from its sovereign powers and I have no doubt that Dr. Rajendra Prasad will resist such an attempt to his utmost. (Applause).

I would, before closing, refer only to one other aspect of this idea of the sovereignty of this Assembly. The task before the Assembly is not merely one of settling of the constitution, it also includes deciding the method of its implementation so far as India and her people are concerned. In other words, we have to take over power from those who are in possession of it; the method of that taking over of power will be one to be decided by this Assembly. The fact that His Majesty's Government claim to decide the mechanics of the transfer of power, to which in substance they are already committed, does not, in my view, detract from the sovereignty of this Assembly so far as its task is concerned. I do not wish to take any more of the time of this Assembly.

Sir, we are proud to have you as the permanent Chairman of this Assembly and we wish all success to you during your term of office in that capacity. (Loud cheers).

The Chairman (Dr. Sachchidananda Sinha): Two of the most eminent Members of this House, our greatest philosopher and educationist, Sir Sarvapalli Radhakrishnan, and the highly distinguished administrator, Sir N. Gopalaswami Ayyangar, have addressed the House congratulating Dr. Rajendra Prasad, and they have incidentally expressed their views on

certain aspects of the question which Dr. Rajendra Prasad will be concerned with. I will now ask the other speakers who follow to speak briefly mainly about Dr. Rajendra Prasad (laughter) and leave the Constitution to take care of itself.

I will now call upon Mr. F. Anthony to address the House.

Mr. F. R. Anthony (Bengal: General): Mr. Temporary Chairman, it was only a few minutes ago that I was asked whether I would join in giving a message of welcome and congratulations to Dr. Rajendra Prasad. I very gladly and cordially accepted that invitation.

Sir, I have not had the privilege of knowing Dr. Rajendra Prasad personally; but I have known of him and it is not necessary for me to comment on his qualifications and his widely-known very able record of work. The Office to which he has been unanimously elected is not only a unique and high office, but I believe it is equally onerous also. It will be his continuing duty and care to hold the scales evenly between the different interests which go to make up this great country. What we require today in our leaders, more than anything else, is tolerance, breadth of vision and liberality of outlook. I believe, from what I have heard of Dr. Rajendra Prasad, that he is one of those leaders who possesses these qualities in a pre-eminent degree. I believe also that it is the natural and fervent impulse of every Indian, irrespective of community, to strive increasingly for the increasing greatness of our mother country. (Applause). I also believe that whatever difference of language, of community or of social life that must inevitably exist in a great country such as ours, leaders possessing the quality of liberality and breadth of vision will succeed ultimately in joining all these different communities into one stream which will carry on its course, surging forward irresistibly, enabling this country to take her place, her rightful place in the vanguard of the great nations of the world. Finally, I believe I am expressing the consensus of opinion in this House when I express the belief that Dr. Rajendra Prasad will fill this high Office to which he has been elected not only with dignity, but with distinction. (Applause).

Sardar Ujjal Singh (Punjab: Sikh): Mr. Chairman, Sir, I have very great pleasure in associating myself with the chorus of tributes paid to Dr. Rajendra Prasad on his unanimous election to the Presidentship of this Assembly. In fact, I believe no better choice could have been made for the Presidentship of this unique and historic Assembly. By his unparalleled service and sacrifice, his learning, his ability, his gentleness and, above all, his spotless character, he has become the idol not only of the people of Bihar but of the whole of India. I feel certain that this House will have a sense of satisfaction that with Dr. Rajendra Prasad in the Chair, no limitations on the sovereignty of this Assembly will be allowed to be placed beyond those which we have already accepted. A man of his unimpeachable honesty, character and humility can command and, I feel certain, will command the confidence of one and all in this House. I know there is a party which is not present in this House today, but I can say that even that party whose members may be called Dr. Rajendra Prasad's political opponents, can rely upon his sound and good judgment and his impartiality in conducting the business of this House. Sir, I hope and trust that under his able guidance and inspiration this House will succeed not only in framing a constitution but establishing an independent and sovereign state of Indian Republic. I pray the God may give him strength to carry on his onerous duties and heavy responsibilities as Food Member and as President of this unique and historic Assembly.

The Chairman (Dr. Sachchidananda Sinha): I will now request Lt.-Col. Sir Kameshwara Singh, Maharajadhiraja of Darbhanga, to speak.

The Hon'ble Maharajadhiraja Sir Kameshwara Singh of Darbhanga (Bihar: General): Mr. Chairman, this is indeed a proud day for all of us. The accredited representatives of our countrymen have chosen Dr. Rajendra Prasad, an illustrious son of India, to be the custodian of the dignity and power of this august Assembly. In doing so, they have paid the highest tribute not only to his own greatness but also to our province whose brightest jewel he happens to be. I rejoice at this recognition. His character, ability, tact, scholarship, culture, services and sacrifices, and above all, his self-effacement in the cause of our motherland can never fail to attract people to him, and he commands as love, respect and admiration of even those who, strictly speaking cannot be described as his political adherents. I salute him as one of those rare saints who are honoured by all even in their own homes. I realise that the task before him is stupendous. From bondage he shall have to lead this country to freedom. He shall have to help us to proceed on the right path and cross the innumerable hurdles that lie on our way. He shall have to protect us whenever there may be any encroachment on our rights and privileges from any quarter and make everyone feel the force of his justice, impartiality and firmness. Knowing as I do his personal charm, devotion to duty, broadmindedness, and other great qualities, I have no doubt that he will satisfactorily manage the affairs of the high Office—perhaps one of the highest offices in the gift of the people of this country—in which he has been, by common consent, installed. May God grant him health and long life so that he may successfully discharge his onerous duties and enjoy the fruit of his labours. Sir, I congratulate him, wish him luck, and hope that he will have the loyal co-operation of everyone of us who have assembled here to work under his guidance for the achievement, by peaceful means, of our cherished goal, Swaraj.

The Chairman (Dr. Sachchidananda Sinha): Dr. Joseph Alban D'Souza.

Dr. J. A. D'Souza (Madras: General): Mr. Chairman, I join with pleasure in the chorus of congratulations to Dr. Rajendra Prasad on his election as the permanent Chairman of this historic Assembly. The temporary Chairman, Dr. Sachchidananda Sinha, with his keen grasp of essentials, his happy diction and above all his entrancing and fascinating humour has finished his work magnificently during the last two days. He has navigated the good ship "Constituent Assembly" through the harbour, with waters none too easy. He has brought the ship on to the high seas of political constitution and handed it over to our permanent Chairman. I have said high seas of political constitution. What these seas are going to mean and what they are going to be, it is difficult for us at this stage to say or to define. There is no doubt that the permanent Chairman has before him a role of a most responsible nature.

I am and probably will always be an ardent believer in the true and good old saying, "every cloud has a silver lining". Clouds, varying in density, have appeared over the constitution of this Assembly. Yet, because of the silver lining I am confident of the future of India, proximate and remote.

Dr. Sachchidananda Sinha has stated that it will not be for those who succeed the first two speakers to refer to anything historical or constitutional. May I crave his permission to make one small reference?

May I submit that this Constituent Assembly and the work it has before it—the framing of a constitution for India, was presaged if not prophesied more than a hundred years ago? I say "Presaged" and not "prophesied" because a prophecy connotes something favourable to the prophet as well as to the people but presaging signifies a sort of warning. It was presaged more than a hundred years ago when Burke, referring to the imperial control of England over her Indian Empire, applied to it

the doctrine of trusteeship. He declared that as soon as the child India comes of age the trusteeship must end.

The question therefore arises: Has India not come of age? Is India still a minor? When I cast a glance along the first benches of this great Assembly I note that there are great personalities who could play the role of a Churchill or a Roosevelt or a Stalin and not only play the role but even go one better. This is so far as the top ranks of the citizenship of India is concerned. What about the lowest ranks, the ryot in the villages? If our leaders were to go now to the ryot, who some years ago was steeped in abysmal ignorance in regard to his rights, privileges and needs, and speak to him of independent India, he would turn round and tell them: "if you are unable to achieve this for us, we shall do so on our own". He realises that it is due to him. He knows it is his birth-right.

This Constituent Assembly, to my mind, is a celebration of India's coming of age and as such it ought to be a subject matter over which all India, Hindus, Muslims, Sikhs, Christians, Parsees, Scheduled Classes and all, ought to join hands and work with one sole idea: of achieving independence as early and as soon as it possibly can be obtained.

And in this work I am sure, the permanent Chairman we have selected will lead us and help us. During the short period he has worked in the Interim Government he has already given us an earnest of his capability by his masterly control of the food situation in India. He has given us an earnest of the zeal and ability with which he will conduct the affairs of the great Assembly. On behalf of you all I wish our permanent Chairman health and energy in order to carry on with the stupendous work he has undertaken in accepting the Chairmanship of this Assembly.

Sir V. I. Munishwami Pillai (Madras: General): Mr. Chairman, I feel it a proud privilege to stand before this august Assembly and convey to you, Sir, the greetings and affectionate congratulations on your unanimous election to the Chairmanship of this sovereign body. I convey to you, Sir, on behalf of the 60 millions of untouchable classes, the tillers of the soil and hewers of wood, who have been in the lowest rungs of the ladder of political and economical status of this country. It was in 1890, when one of our revered leaders of our Province sent an open letter to the Hon'ble Members of the House of Commons showing the helplessness of the untouchable classes but it was given to Mahatma Gandhi, Sir, in the year 1932 to chalk out in what way these communities could be helped. It was on that memorable occasion, Sir, that I came in contact with you and came to know the sympathy you have towards these Scheduled Castes. From that time, Sir, I know, as a matter of fact and all those who represent the Harijans in this august Assembly will bear testimony to the great services you have done to these Harijan communities. On behalf of these people, Sir, I feel that the position to which you have been elected will give equal status in the sovereign body and see that whatever constitution may be framed for this great continent, that the right place for the Harijans is given and I know you will hold this position with great honour and dignity and do justice to these Scheduled Classes, so that they may be equal in all status with other communities. Sir, the 60 millions of untouchables form the backbone of Hinduism and I am sure, that in your deliberations in framing the constitution you will see that all the disabilities of the Harijans are taken note of and remedied in a manner that they may enjoy equal privileges in this great country.

Khan Abdul Ghaffar Khan (N.-W.F.P.: Muslim): * [Mr. Chairman, Brothers and Sisters: I had no intention of taking part in the debates of this Assembly. You all know that I do not like making speeches and praising persons; but some of my brethren have compelled me to say something

* [English translation of Hindustani speech begins.

at this occasion I congratulate Babu Rajendra Prasad on your behalf and on behalf of North-West Frontier Province for the great honour done to him by this House.

I know Babu Rajendra Prasad well. People who happen to live together in prisons and in other places of pain and sorrow get good opportunity to know each other. I am proud that I have lived a long time in prison with Babu Rajendra Prasad. I know him well. I know his habits and I can say that the greatest quality he possesses, and which every Indian should possess, is that his mind is free from communal bias. Unfortunately, people in India have different prejudices. You all know of Hindu food and Muslim food. Babu Rajendra Prasad is free from all prejudices.

I feel with great sorrow the absence from this House of our Muslim League brethren. I regret to say that my Muslim brethren are displeased with the people of the North-West Frontier Province, especially with me. They say that I am not with them. Many a time while travelling in the train I am told such things, I always tell them that I am always with Muslims, never separating myself for one moment from them. Where, however, they say that I am not with the League, I tell them that the League is a political party and it is not necessary that one should be with it. Every man is free to have his own opinion. No one should be compelled in ways which are employed these days. Everybody has a right to do what he honestly considers good for his country and people. Nobody has got the right to ask me why I am on the side of the Congress. I admit that the people of the North-West Frontier Province are much behind you in literacy and in wealth. Our Province is a small one while yours are larger but I can say that the people of the North-West Frontier Province, if not ahead, are in no way behind you in many things.

When we read the history of India prior to the advent of the British and compare it with the conditions prevalent now, I find the villagers of this once prosperous India steeped in poverty and want. One thing, which causes me great sorrow is that whenever we try to do something for the welfare of our countrymen, impediments are placed in our way. The country and its people are being exploited and ruined. This has caused disappointment to the people of the North-West Frontier Province and they feel utterly helpless. We have been forced to think that we can do nothing for the good of this unfortunate country until we make it free. I desire to tell my Indian brethren why we are with (Mahatma) Gandhi. We believe that the Congress is trying to free this country and that the Congress can remove the poverty of this country. We are with the Congress because we are tired of slavery. It is true that we are behind you in education but in the war of non-violence of 1942, only our Province fought it in non-violent ways. You all know we possess more weapons of violence than any other part of India and yet we adopted non-violent methods. Why? There are many responsible people present here and I see that even the Congress people are being swayed by violent feelings. That is why we walk the way of non-violence. Let us see what violence is and what is non-violence. I tell you that whether we are Hindus or Muslims we can win the people only by being non-violent because violence breeds hate and non-violence creates love. You cannot bring peace to the world by violence. One war will compel us to fight a second war more disastrous than the first. Violence begets hate in the minds of people. I am glad Babu Rajendra Prasad believes in non-violence and I am sure that, if he guides this House to tread the path of non-violence, he will guide it to success. Before I finish I desire to speak briefly to my brethren in the House and to Babu Rajendra Prasad about our Province. I will not go into details. Our Province is the only Muslim Province which desires to end the British rule and drive them out of India. It is not easy to realize

what difficulties, what hardships and what affliction will befall us. I, therefore, earnestly appeal to Babu Rajendra Prasad to keep this in mind. We cannot succeed until the road-blocks created by the British are removed from our way. I hope my prison friend, Babu Rajendra Prasad, who has been elected the Chairman of this House and who loves us, will not forget our difficulties and help us to remove them.]*

The Chairman (Dr. Sachchidananda Sinha): I will now ask Mr. Poonacha from Coorg to speak for a few minutes.

Mr. C. M. Poonacha (Coorg): Mr. President, Sir, I deem it a great pleasure and great honour to associate myself with the sentiments expressed by the previous speakers. Coming from Coorg, Sir, I would like to convey to you, Dr. Rajendra Prasad, our respectful felicitations on behalf of the people of Coorg. As President of the Indian National Congress, you have once visited our Province and extended to us good advice which was a great fillip to us in our freedom movement. Sir, I do not intend making a long speech but would like to cut it short and express once again my respectful congratulations to you and trust that under your Chairmanship the efforts of this Assembly will be a complete success. Sir, I have done. (Cheers).

The Chairman (Dr. Sachchidananda Sinha): Mr. H. V. Kamath will now kindly address the House.

Mr. H. V. Kamath (C. P. and Berar: General): Mr. Chairman, Sir, will you permit me to join in the chorus of tributes that has flowed from all parts of this august Assembly? This Constituent Assembly is the first Assembly of its kind in India. On this occasion, at once happy and solemn, when we have elected to the high office of permanent Chairman, Deshratna Rajendra Prasad, it is well for us to remember that we have come to this stage in our history through the united will and labours of the Indian nation, through the brave struggle and suffering of the Indian National Congress under the leadership of Mahatma Gandhi, as well as by the heroic war waged by the "Azad Hind Fauj" under the leadership of Netaji Subhas Chandra Bose. It is not for me to dilate upon the qualities of head and heart of Deshratna Rajendra Prasad. He embodied in himself the spirit of India, the spirit which has animated our sages and our rishis to preach the ancient gospel, the ancient but ever new—(sanatano nirya nutarih) the gospel of universalism: that spirit Deshratna Rajendra Prasad embodies in himself. When I look at him, I am reminded of a poem of Gurudev—Rabindra Nath Tagore, wherein he says—'Give me the strength to make my love fruitful in service. Give me the strength to surrender my strength to thy will with love'. At this moment of our history we welcome Deshratna Rajendra Prasad to this high office. I pray to God Almighty that in His Grace abounding, He may endow Deshratna Rajendra Prasad with strength and health, with energy and fortitude to steer this barque of our Constituent Assembly to the fair haven of peace, freedom and harmony. Friends, I have done. Before I conclude, I only want to say this that it is well for us to take to heart and to bear in mind the ancient message—

Uttisthata jagrata prapya varannibodhata

"Awake, arise and stop not till the goal is reached." *Jai Hind.*

The Chairman (Dr. Sachchidananda Sinha): Mr. Somnath Lahiri will now address the House.

Mr. Somnath Lahiri (Bengal: General): Let me congratulate Dr. Rajendra Prasad on his election as permanent Chairman of this House and I congratulate him on behalf of the Communist Party which I have the honour to represent.

Well, Dr. Rajendra Prasad, when you happened to be the President of the Indian National Congress we, the Communists, noticed in you your

]* English translation of Hindustani speech ends.

patience, tolerance and your eager desire to know the view-points of the other parties and other points of view. Well, Sir, I hope you will continue to exercise the same qualities as the Chairman of this Assembly and will allow us facilities equal to that of anyone else to express our points of view fully. Sir, one great thing to remember is that British imperialism is still sovereign over us and whatever may be the colour of any member in this Assembly, I am sure that everyone of us burns with the desire to be free, absolutely free, immediately from the clutches of British imperialism which has sucked our blood for the last 200 years and which still retains its grip over us with its army, with its British Viceroy, with its white bureaucracy, with its economic and financial strangleholds and with the aid of its allies—the Indian Native Princes. Well, Sir, some would expect you to be non-partisan as the Chairman of the Assembly. I would not in the sense that you are a patriot, one of the tried patriots of this country and in the matter in which we have to assert our sovereignty, sovereignty not against a section of our own people, not by quarrelling over phrases of Sections and Committees but sovereignty against British imperialism, asserting our sovereignty by asking and compelling the British Viceroy to quit, by asking and compelling the British army to quit. I am sure we could declare our sovereignty here and now by calling upon our people to wage a struggle and to begin that struggle by declaration from this august Assembly that we are free, we no longer recognize the authority of the British Government, of the British Viceroy, of the diplomatic words, etc. I wish we could declare from this Assembly that we are not to be led by the illusions created by British imperialism and its Cabinet Mission plan regarding transfer of power. But I know that illusions die hard. I hope we will have your help in dispelling those illusions and making the people of India again wage the most determined and united struggle against a Plan, a diabolical Plan, which has already reduced us to become a laughing stock of the world. We are already meeting under the dark pall of death and fratricidal warfare which has been the result of this Cabinet Plan.....

The Chairman (Dr. Sachchidananda Sinha): Mr. Lahiri, permit me to interrupt you. You may say something now about Dr. Rajendra Prasad. (Laughter).

Mr. Somnath Lahiri: I know that. That is exactly the point for which I have praised Dr. Rajendra Prasad and hope he will extend to us the same consideration for placing our point of view as you would to any others, because it has always been our experience that when it comes to a question of our placing our views we are invariably asked to be brief. As a matter of fact, I have already been asked twice to be brief even before I got up to speak in this Assembly. However, I don't mind that. What I would expect of Dr. Rajendra Prasad as permanent Chairman of this Assembly is to help us in dispelling our countrymen's illusions, to help us to place our point of view in full, to throw away this Cabinet Mission's Plan and all its award and everything else and be united and fight.

The Chairman (Dr. Sachchidananda Sinha): Hon'ble Members will agree that I am not infallible. I shall therefore now call on Mr. Jaipal Singh to address you for a few minutes. He represents the aboriginal tribes of Chhota Nagpur.

Mr. Jaipal Singh (Bihar: General): I thank you, Sir, for giving me an opportunity to speak as representative of the aboriginal tribes of Nagpur. I want to say a few words in congratulating Dr. Rajendra Prasad, especially on behalf of the community I represent. So far as I have been able to count, we are here only five. But we are millions and millions and we are the real owners of India. It has recently become the fashion to talk of "Quit India". I do hope that this is only a stage for the real rehabilitation

and resettlement of the original people of India. Let the British quit. Then after that, all the later-comers quit. Then there would be left behind the original people of India. We are indeed very glad that we have Dr. Rajendra Prasad as the permanent Chairman of this Assembly. We feel that, as he belongs to a Province where there is, in the southern portion of it, the most compact aboriginal area in the whole of India perhaps, that we, in presenting our case, will at least get sympathetic hearing from him. I do not wish to say anything about his merits. They are already too well known. Let me therefore end by saying that we hope that the rest of the House will, while Dr. Rajendra Prasad gives us his sympathy, also reciprocate with him. (Cheers).

The Chairman (Dr. Sachchidananda Sinha): I shall now request bulbul-i-Hind, the Nightingale of India, to address the House (laughter and cheers) not in prose but in poetry.

(Mrs. Sarojini Naidu then went up to the rostrum amidst acclamation.)

Mrs. Sarojini Naidu (Bihar: General): Mr. Chairman, the manner of your calling me is not constitutional. (Laughter).

The Chairman (Dr. Sachchidananda Sinha): Order, order. No reflection on the Chair please! (continued laughter).

Mrs. Sarojini Naidu: It reminds me of some lines of the Kashmiri poet who said :—

*"Bulbul ko gul mubarak, gul ko chaman mubarak,
Rangeen tabiaton ko range sukhan mubarak"*

and today we are steeped in the rainbow coloured tints of speeches in praise of my great leader and comrade Rajendra Prasad. (Cheers.) I do not know how even poetic fancy can add yet another tint to the rainbow. So I will be modest, emulating the example of Rajendra Babu himself and confine myself, as a woman should, to purely domestic issues. (Laughter). We have all been taken in the chariot of oratory by our great philosopher Sir Radhakrishnan who seems to have evaporated from the scene. (Laughter).

Sir S. Radhakrishnan: No, no. I am here; (Renewed laughter).

Mrs. Sarojini Naidu: He has poured very eloquent wisdom on us. And also all the other speakers representing different provinces, sects, religions, communities and the gentleman who is asking all of us to quit India after the British, tracing his claim to the original people of this land, have all spoken in their turn, and one thing they have all been unanimous is the question of Rajendra Prasad himself. Some time ago I was asked to compress an epic into an epigram about Rajendra Prasad. I was asked to say a line about Rajendra Prasad, and I said that I could only do so if I had a pen of gold dipped in a pot of honey because all the ink in the world would not suffice to explain his qualities or adequately to pay tribute to his qualities. Very rightly one speaker reminded us, though I agree with one part of it, that both the temporary Chairman and the permanent Chairman were born in Bihar and that both have assimilated some of the qualities of the Great Buddha who was born in Bihar. I say that I agree on one point, not on the other. The point which I wish to agree with is that Rajendra Prasad has certainly descended spiritually from the great Buddha, the embodiment of compassion, understanding, sacrifice and love. For many years, I have been privileged to be associated with him. He is my leader, he is my comrade, he is my brother, but much younger brother. That I knew on his birthday, I found that he is over five whole years younger than I am—and therefore, I am in a position to give him my blessings as well as my tribute of praise. In this House where every one has said with conviction that he would be the guardian and the father of the House. I conceive him not as one with the flaming sword but an angel with the lily which wins victories over the hearts of men, because in him there is essential sweetness, that is part of his

strength, there is essential wisdom, that is part of his experience, there is essential clarity of vision, creative imagination and creative faith that brings him very near the feet of Lord Buddha himself. I see gaps in this House and my heart is sore because of the absence of those Muslim brothers to whose coming I am looking forward under the leadership of my old friend Mr. Muhammad Ali Jinnah. I think if any persuasion were necessary, if any fine wand of magic were necessary to bring them in, it would be the essential sweetness, the essential wisdom, the essential creative faith of Dr. Rajendra Prasad. I am hoping and I believe I am right in hoping that my friend Dr. Ambedkar who is so bitter today will soon be one of the most emphatic supporters of this Constituent Assembly in all its purposes and that through him his adherents of many millions will realise that their interests are as safe as the interests of more privileged people. I hope those that call themselves the original masters of this land, the tribal people will realise that there is no distinction of caste, creed, ancient or modern, status in this Constituent Assembly. I hope the smallest minority in this country will, whether represented politically, or I do not know by what other means they may be represented,—I hope they will realise that they have a jealous, vigilant and loving guardian of their interests who will not permit the more privileged to encroach by a hair's breadth on their birth-right of equity and equal opportunity in this country. I hope also that the Princes of India, many of whom I count among my personal friends, who are so harried, so anxious, so uncertain or so afraid today, will realise that the constitution for India is a constitution for the freedom and emancipation of every human being in India, whether Prince or peasant. I want that realisation to be carried home, and in no better manner, in no more convincing manner can it be carried than through the guidance and guardianship of Dr. Rajendra Prasad. I have been asked to speak—for how long? But I believe that I must disprove the age-old proverb that woman has not only the last but the longest word. I have the last word not because I am a woman but because I am acting to-day as the hostess of the Indian National Congress which has so gladly invited those who are outside its fold to come and participate with us in framing the constitution, that is to be the immortal charter of India's freedom.

Friends, I do not praise or command Rajendra Prasad. I affirm that he is the symbol of India's destiny to-day. He will help us in framing that charter that restores to our Mother—our Mother still in fetters,—her rightful place as torchbearer of liberty, love, and peace.

Standing in the immemorial house with its roof of snow and walls of sea, once again in the history of humanity she will rekindle her lamp of wisdom and inspiration to illuminate the world on its onward march to freedom. So, will she be justified of her children and the children be justified of her.

The Chairman (Dr. Sachchidananda Sinha): Hon'ble Members, the last speaker has practically closed me for all time together by declaring that she as a woman must have the last word, and many of you who are lawyers here know that there can be no last word after the last word. I shall therefore not detain you long. If I choose to do so, I could hold your attention till the small hours of the next morning, for of all the people present here in this great gathering I am the one who has had the privilege, the great privilege, the greatest privilege, of knowing intimately Dr. Rajendra Prasad for a period of now 44 long years; since he passed his matriculation in the year 1902, and stood first in the first division in the whole of the Calcutta University of those days, extending from Assam to the Punjab and the North-West Frontier. I remember that when he passed the matriculation examination, standing first in the Calcutta University, I wrote an editorial note in the *Hindustan Review* (which I

was then conducting, and which I am still conducting after 47 years), to the effect that to a man with the brilliant powers of Rajendra Prasad nothing could be denied. I said, we may predict that he will one day be the President of the Indian National Congress, and while delivering the presidential address, like Sir Narayan Chandavarkar at the previous year's session of the Congress, held at Lahore, will receive a communication from the Viceroy of India offering him a High Court Judgeship. That was what I predicted about him then. He has lived to be the President of the Indian National Congress more than once. But he has profoundly disappointed me by not being a High Court Judge. Why was I so anxious that he should be a High Court Judge? Because he would have handled properly the British bureaucracy on the executive side, with his independence of judgment and trenchant criticism of their conduct. But if Dr. Rajendra Prasad has not been a High Court Judge, he has lived to be elected the permanent Chairman of the Constituent Assembly of India. And to-day it is my proud privilege now—the highest privilege I hoped to have achieved in my life—of inducting him into the Chair (which I have so unworthily occupied for the last few days) as the first permanent Chairman of this Constituent Assembly. (Applause.) I now vacate this Chair, and I shall ask Dr. Rajendra Prasad, in the name of this great gathering, to come and occupy this Chair which he so worthily deserves.

(Cries of *Inquilab Zindabad, Rajendra Babu Zindabad*).

(The temporary Chairman, Dr. Sachchidananda Sinha, then vacated the Chair. The Chair was then occupied by the Hon'ble Dr. Rajendra Prasad amidst acclamation).

Acharya J. B. Kripalani (United Provinces: General): * [Mr. Chairman, there have been many speeches in English and I feel that I should speak in Hindi. I spoke in Hindustani when I invited Dr. Sachchidananda Sinha to be our temporary Chairman. I now congratulate him on your behalf, for performing his work so successfully.

I could not at first believe that Dr. Sinha was older than I. I am younger than him and I am proud of my hair but Dr. Sinha's hair are a shade blacker than mine.

He called the meeting to order in a strong voice which did not at all show that he was older than us. He conducted the whole proceedings with a zeal which may be called the fervour of youth. Sometimes, he gave short shrifts to our amendments. Once he remarked on an amendment—"I hope the good sense will prevail".

This kept us silent, fearing that if we said anything, our good sense would be suspected. Thus he performed his work well and I congratulate him on it. I hope he will sit with us in the House in the same spirit in which he conducted the preliminary proceedings of the House.*

Mr. Chairman (The Hon'ble Dr. Rajendra Prasad): † [Brothers and sisters, pardon me if I say that I feel overwhelmed with the burden you have placed on my shoulders by entrusting me with this most important duty. By electing me for this high rank you have bestowed upon me an honour which is the highest honour for an Indian. Allow me to say that in this country of castes and creeds, you have, as it were, cast me out of your caste. Depriving me of a seat among yourselves you have compelled me to sit on a different Chair, and it does not end there. I believe all of you expect me to do nothing in this House which will show that I belong to a particular part or sect; you will expect that whatever I do

* [English translation of Hindustani speech begins.

† [English translation of Hindustani speech ends.

‡ [English translation of Hindustani speech begins.

here, will be done in a spirit of service to you all. I shall try to carry the honour conferred on me in a manner which will gladden the hearts of all of my brethren and my elder sister here, who have felicitated me at this occasion. I am aware that my path is beset with obstacles. The work of this Constituent Assembly is most arduous. Various problems will come before it and it will be confronted with questions which will not yield easily to solution. I know I will not be able to solve them but I have full confidence in you that you will help me at each step with the same kindness and liberality with which you have elected me here.

The Constituent Assembly is meeting at a most critical time. We all know that other constituent assemblies, whenever and wherever they met, were confronted with similar difficulties. They had also to contend with internal differences which were placed before them with great vehemence. We also know that many of these constituent assemblies were held amidst strife and bloodshed; even their proceedings were conducted amidst quarrels and fights. In spite of all these obstacles those assemblies carried on their work to the end. Their members joined together and with courage, kindness, generosity, tolerance and regard for one another's feelings framed constitutions which were then readily accepted by the people of the countries for which they were framed. Even at this time the people of those countries consider them their most valuable possession. There is no reason why our Constituent Assembly, in spite of the obstructions in its way, should not succeed in doing its work. If we are sincere, if we respect each other's opinion, we shall develop so much insight that we will not only be able to understand each others thoughts, but also be able to go deep to the root and understand each others real troubles. We will then function in a manner that no one will give no one cause to think that he has been ignored or that his opinion has not been respected. If this comes to pass and if this strength is born in us, I have full faith that in spite of all obstruction we will succeed in our work.

This Constituent Assembly has come into being a number of limitations, many of which we will have to bear in mind as we proceed. But, it must also be borne in mind that the Assembly is a sovereign body and is fully competent to conduct its proceedings in the manner it chooses to follow. No outside power can meddle with its proceedings. I also believe that it is competent to break the limitations attached to it at its birth. It should be our effort to get free of these limitations and frame a constitution which will assure all men and women of this country, no matter of what religion, province or shade of opinion, that their rights are fully protected. If such an effort is made in this House and we succeed in it, I believe that it will be such a landmark in the history of the world that it will be hard to rival.

It is also to be remembered and we, who are present in the House, cannot forget it even for a moment that many of the seats are vacant in this meeting. Our brethren of the Muslim League are not with us and their absence increases our responsibility. We shall have to think at each step what would they have done if they were here? We have to proceed keeping all these things in view. We hope they will soon come and take their places and share in the deliberations for framing a constitution for their country which will give it freedom, that they will join us in our march for freedom. But if unfortunately these seats continue to remain unoccupied, it will be our duty to frame a constitution which will leave no room for complaint from anybody.

We have been fighting for the freedom of our country for a long time. This Constituent Assembly has been brought into existence by three forces. First, the sacrifice of our patriots. Many men and women gave their lives, bore hardships and persecution and after hard and continuous

struggles ushered in the present stage. Second, the history of the British nation; their selfishness and their generosity. Third, the present world conditions and serious situation and the forces that are raging in the world. All these combined together to bring into being our Constituent Assembly. These forces will continue functioning while we are proceeding with our work. It is quite possible that some of them may draw us to one side and others to the other side. I am, however, confident that success will be ours. I pray to God that he may give us foresight, so that we may understand each other's mind, and that, united together, we may free our country.

I thank my brothers and sisters who have congratulated me. I was overwhelmed with embarrassment and I wished, I had not been present during their speeches. My particular thanks are due to Dr. Sinha who continued in the Chair and did not throw additional burden upon me at that time. I once more thank you all for the inspiring sentiments that have been expressed. I assure you that in the proceedings of this House. I shall freely give you whatever strength God has bestowed upon me, whatever little wisdom has been given to me and whatever experience of the world I have. In return I hope you will unstintingly give me the help that you can give me.]†

Friends, I just want to say a few words in English for the benefit of those of you who have not been able to follow my speech in Hindi. Hon'ble Members will not consider it ungracious on my part if I tell them that at the present moment I feel more overwhelmed by a sense of the burden of responsibility which they have placed on my shoulders than by a sense of elation for the great honour which they have conferred upon me. I realize that the greatest honour which an Assembly like this could confer on any Indian, you have been pleased to confer on me, and I am not using merely the language of convention when I say that I appreciate it greatly and I am grateful to you for it.

I know the difficulties which I shall have to face in the discharge of the heavy responsibilities which I have undertaken on your behest. I know the work of the Constituent Assembly is beset with various kinds of obstacles, but I know too that in the discharge of my duties, I can count upon your unstinted support and the same kind of generosity which you have exhibited in electing me to this high honour. Our Constituent Assembly is meeting in difficult circumstances. We see signs of strife in many places in this unfortunate land. But other countries too, when they elected their constituent assemblies and asked them to frame a constitution for them, were faced with similar difficulties. We can take comfort in the fact that in spite of those difficulties, in spite of the differences in view-points which exhibited themselves with vigour, sometimes with trouble and turmoil, the assemblies were able, in spite of them, to frame constitutions which were acceptable to the people at large and which have become in course of time an invaluable heritage for the people in those lands. There is no reason why we also should not succeed similarly. All that we need is honesty of purpose, firmness of determination, a desire to understand each others view-point, that we shall do justice, that we shall behave as fairly, as squarely as possible towards everyone else—and with that determination, with that resolve, I cannot see why we should not be able to overcome the obstacles in our way. I am aware that this Constituent Assembly has been born with certain limitations placed on it from its very birth. We may not forget, disregard or ignore those limitations, in the course of our proceedings and in arriving at our decisions. But I know too that in spite of those limitations the Assembly is a self-governing, self-determining independent body with the

† English translation of Hindustani speech ends.

proceedings of which no outside authority can interfere, and the decisions of which no one else outside it can upset or alter or modify. Indeed it is in the power of this Constituent Assembly to get rid of and to demolish the limitations which have been attached to it at its birth and I hope you, Ladies and Gentlemen, who have come here for framing a constitution for an independent and free India, will be able to get rid of those limitations and to place before the world a model of a constitution that will satisfy all our people, all groups, all communities, all religions inhabiting this vast land, and which will ensure to everyone freedom of action, freedom of thought, freedom of belief and freedom of worship, which will guarantee to everyone opportunities for rising to his highest, and which will guarantee to everyone freedom in all respects.

I hope and trust that this Constituent Assembly will in course of time be able to develop strength as all such assemblies have done. When an organisation like this sets on its work it gathers momentum, and as it goes along it is able to gather strength which can conquer all difficulties and which can subdue the most formidable obstacles in its path. Let me pray and hope that our Assembly too will gather more and more strength as it goes along.

It is a most regrettable thing that I find many seats unoccupied to-day in this Assembly. I am hoping that our friends of the Muslim League will soon come to occupy these places and will be glad and happy to participate in this great work of creating a constitution for our people, creating a constitution which according to the experience of all other nations of the world, which according to our own experience and which according to our own traditions and our own peculiar conditions, will guarantee to every one all that can be guaranteed, all that need be guaranteed and all that require to be guaranteed, and will not leave any room for any complaint from any side. I am hoping also that you all will do your best to achieve this great objective.

Above all, what we need is freedom and as some one has said "Nothing is more valuable than the freedom to be free". Let us hope and pray that as a result of the labours of this Constituent Assembly we shall have achieved that freedom and we shall be proud of it. (Applause.)

ELECTION OF THE COMMITTEE FOR RULES OF PROCEDURE

Mr. Chairman: This brings us to the close of our proceedings for the day, but I will ask Hon'ble Members to bear with me for a minute or two. You will recollect that yesterday we decided to have a Committee for framing Rules, and 12 O'clock was the time fixed by which all nominations had to be put in. We had to elect 15 members. I find that nominations of only 15 members have been put in. That obviates the necessity of having an election by ballot, and I declare the following persons, who have been proposed, to be duly elected.

The Hon'ble Mr. Jagjivan Ram.
Mr. Sarat Chandra Bose.
Mr. F. R. Anthony.
Diwan Bahadur Sir Alladi Krishnaswami Ayyar.
Bakhshi Sir Tek Chand.
The Hon'ble Mr. Rafi Ahmad Kidwai.
Shrimati G. Durga Bai.
Dr. Joseph Alban D'Souza.

ELECTION OF THE COMMITTEE FOR RULES OF PROCEDURE

The Hon'ble Diwan Bahadur Sir N. Gopalaswami Ayyangar.
The Hon'ble Shri Purushottam Das Tandon.
The Hon'ble Srijut Gopinath Bardoloi.
Dr. B. Pattabhi Sitaramayya.
Mr. K. M. Munshi.
The Hon'ble Mr. Mehr Chand Khanna.
Sardar Harnam Singh.
They are declared duly elected to the Rules Committee.

There is one thing more. On the first day, Dr. Sinha, to save time and for the convenience of the members, did away with the process of hand shaking with every member. I would like to go round and meet every member before you all leave this place. I know there are many with whom it has been by privilege to work for years. I know others with whom I have not been so intimately associated, but whose faces are known and in some cases names too. But there are at least some whom I have not known and I would like to make their acquaintance today, if you don't mind.

After that we disperse for the day. The House remains adjourned till Eleven of the Clock tomorrow morning.

(Mr. Chairman went round and shook hands with all the members present).

The Assembly then adjourned till Thursday, the 12th December 1946, at Eleven of the Clock.

CONSTITUENT ASSEMBLY OF INDIA

Thursday, the 12th December, 1946

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

Mr. Chairman: If there are any Members who have not yet signed the Register, they may do so now.

(Nobody came forward.)

It seems there is nobody who has not yet signed. We now proceed to the next item. The first item that we have is a Resolution by Pandit Jawahar Lal Nehru. I understand that there are some Members who feel that they have not had sufficient time to consider this important Resolution. There is no doubt that the Resolution is a very important one and I would not like any Member to feel that he has not had sufficient time to consider it fully. If the House so desires, I am prepared to adjourn this discussion till tomorrow.

Hon'ble Members: Yes.

Mr. Chairman: Then there is another matter in this connection in regard to which I should like the advice of the House. We have got a Rules Committee and its members should meet to prepare the Rules which they will place before us. They should have time separate from the general session of the Assembly. If you agree, they will meet after this House is adjourned and we shall do as much as we can do. But if it cannot complete the work, the Rules Committee will have to meet tomorrow, and I would like to know whether the House would like to sit in the morning from 11 or in the afternoon because I would suggest that we should have one session only, either in the morning or afternoon, so that the Rules Committee may get the other half of the day for its work. If the House want the morning session, then we can meet in the morning.

Some Hon'ble Members: We want morning sessions.

Some Hon'ble Members: Afternoon sessions.

Mr. Chairman: I am afraid in this matter it is difficult for me to come to a decision. I have to trouble the members to raise their hands—those who would like the morning sessions may please raise their hands.

(More members raised their hands in favour of the morning session.)

It seems the morning session is preferred by a large number of people. We shall have the session at 11 tomorrow morning concerning this Resolution and in the afternoon we may have, if necessary a meeting of the Rules Committee. If any Members have got any amendment to the Resolution to move, I would request them to hand over the amendments to the Secretary in the course of the day and we shall take up the discussion tomorrow. The Secretary will take care, if possible, to circulate the amendments also to Members.

An Hon'ble Member: Are we sitting on Saturday?

Mr. Chairman: I think we should be sitting on Saturday. That is my view but that is entirely in the hands of the House. I think we will be sitting on Saturday too.

The Hon'ble Pandit Hirday Nath Kunzru (United Provinces: General): I think we should not meet on Saturday. Let us have a day off for quiet discussions of the problems between ourselves.

Shri Sri Prakasa (United Provinces: General): I think we should not meet on Sundays and that should be sufficient for quiet discussions for Pandit Hirday Nath Kunzru.

Mr. Chairman: We shall consider that tomorrow. So far as the House is concerned, I think we have to adjourn now till 11 A.M. tomorrow and I would like the Members of the Rules Committee to meet say half-an-hour later. In the meantime we shall fix up some room where they shall meet.

The House stands adjourned till 11 A.M. tomorrow.

Dr. Sir Hari Singh Gour (C. P. and Berar: General): It seems to me that it will serve a useful purpose if the Hon'ble Mover of the Resolution formally moves and expresses his views to enable the Members here to understand the full import of the Resolution, so that we can frame amendments accordingly and these can be taken up tomorrow or the day after.

Mr. Satyanarayan Sinha (Bihar: General): The House has already been adjourned.

Mr. Chairman: Sir Hari Singh Gour has suggested that the Resolution might be moved by the Mover today who in his speech could explain his own point of view so that the other Members may be in possession of that and the discussion might take place tomorrow. I had myself at first thought of that but then I felt that the Members would like to consider the whole thing tomorrow.

Some Hon'ble Members: Tomorrow.

Mr. Chairman: There seems to be a difference of opinion and I do not like to take a vote on this question especially as I have already declared the House adjourned. So we shall now adjourn. The House stands adjourned till tomorrow, 11 O'Clock.

The Assembly then adjourned till Eleven of the Clock, on Friday, the 13th December, 1946.

CONSTITUENT ASSEMBLY OF INDIA

Friday, the 13th December 1946

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

RESOLUTION RE: AIMS AND OBJECTS

Mr. Chairman: Pandit Jawahar Lal Nehru will now move the Resolution which stands in his name.

The Hon'ble Pandit Jawahar Lal Nehru (United Provinces: General): * [Mr. Chairman, this Constituent Assembly has not been in session for some days. It has done much formal business, but more is yet to be done. We have been cutting our way and clearing the ground on which we intend to erect the edifice of a constitution. It, however, seems proper that before we proceed further we should clearly understand where we are going and what we intend building. It is apparent that on such occasions details are unnecessary. In building, you will, no doubt, use each brick after mature consideration. Usually, when one desires to construct a building, one must have a plan for the structure that one wishes to erect and then collect the material required. For a long time we have been having various plans for a free India in our minds, but now, when we are beginning the actual work, I hope, you will be at one with me when I say, that we should present a clear picture of this plan to ourselves, to the people of India and to the world at large. The Resolution that I am placing before you defines our aims, describes an outline of the plan and points the way which we are going to tread.

You all know that this Constituent Assembly is not what many of us wished it to be. It has come into being under particular conditions and the British Government has a hand in its birth. They have attached to it certain conditions. We accepted the State Paper, which may be called the foundation of this Assembly, after serious deliberations and we shall endeavour to work within its limits. But you must not ignore the source from which this Assembly derives its strength. Governments do not come into being by State Papers. Governments are, in fact the expression of the will of the people. We have met here today because of the strength of the people behind us and we shall go as far as the people—not of any party or group but the people as a whole—shall wish us to go. We should, therefore, always keep in mind the passions that lie in the hearts of the masses of the Indian people and try to fulfil them.

I am sorry there are so many absentees. Many members who have a right to come and attend the meeting are not here to-day. This, in one sense, increases our responsibility. We shall have to be careful that we do nothing which may cause uneasiness in others or goes against any principle. We do hope that those who have abstained, will soon join us in our deliberations, since this Constitution can only go as far as the strength behind it can push it. It has ever been and shall always be our ardent desire to see the people of India united together so that we may frame a constitution which will be acceptable to the masses of the Indian people. It is, at the same time, manifest that when a great country starts to advance, no party or group can stop it. This House, although it has

* [English translation of Hindustani speech begins.]

[The Hon'ble Pandit Jawahar Lal Nehru]

not in a spirit of narrow legal wording, but rather to look at the spirit behind that Resolution. Words are magic things often enough, but even the magic of words sometimes cannot convey the magic of the human spirit and of a Nation's passion. And so, I cannot say that this Resolution at all conveys the passion that lies in the hearts and the minds of the Indian people today. It seeks very feebly to tell the world of what we have thought or dreamt of so long, and what we now hope to achieve in the near future. It is in that spirit that I venture to place this Resolution before the House and it is in that spirit that I trust the House will receive it and ultimately pass it. And may I, Sir, also, with all respect, suggest to you and to the House that when the time comes for the passing of this Resolution let it be not done in the formal way by the raising of hands, but much more solemnly, by all of us standing up and thus taking this pledge anew.

The House knows that there are many absentees here and many members who have a right to come here, have not come. We regret that fact because we should have liked to associate with ourselves as many people, as many representatives from the different parts of India and different groups as possible. We have undertaken a tremendous task and we seek the co-operation of all people in that task; because the future of India that we have envisaged is not confined to any group or section or province or other, but it comprises all the four hundred million people of India, and it is with deep regret that we find some benches empty and some colleagues, who might have been here, absent. I do feel, I do hope that they will come and that this House, in its future stages, will have the benefit of the co-operation of all. Meanwhile, there is a duty cast upon us and that is to bear the absentees in mind, to remember always that we are here not to function for one party or one group, but always to think of India as a whole and always to think of the welfare of the four hundred millions that comprise India. We are all now, in our respective spheres, partymen, belonging to this or that group and presumably we shall continue to act in our respective parties. Nevertheless, the time comes when we have to rise above party and think of the Nation, think sometimes of even the world at large of which our Nation is a great part. And when I think of the work of this Constituent Assembly, it seems to me, the time has come when we should, so far as we are capable of it, rise above our ordinary selves and party disputes and think of the great problem before us in the widest and most tolerant and most effective manner so that, whatever we may produce, should be worthy of India as a whole and should be such that the world should recognise that we have functioned, as we should have functioned, in this high adventure.

There is another person who is absent here and who must be in the minds of many of us today—the great leader of our people, the father of our Nation (applause)—who has been the architect of this Assembly and all that has gone before it and possibly of much that will follow. He is not here because, in pursuit of his ideals, he is ceaselessly working in a far corner of India. But I have no doubt that his spirit hovers over this place and blesses our undertaking.

As I stand here, Sir, I feel the weight of all manner of things crowding around me. We are at the end of an era and possibly very soon we shall embark upon a new age; and my mind goes back to the great past of India, to the 5,000 years of India's history, from the very dawn of that history which might be considered almost the dawn of human history, till today. All that past crowds around me and exhilarates me and, at the same time, somewhat oppresses me. Am I worthy of that past? When I think also of the future, the greater future I hope, standing on this sword's edge of the present between this mighty past and the mightier future, I tremble

a little and feel overwhelmed by this mighty task. We have come here at a strange moment in India's history. I do not know but I do feel that there is some magic in this moment of transition from the old to the new, something of that magic which one sees when the night turns into day and even though the day may be a cloudy one, it is day after all, for when the clouds move away, we can see the sun later on. Because of all this I find a little difficulty in addressing this House and putting all my ideas before it and I feel also that in this long succession of thousands of years, I see the mighty figures that have come and gone and I see also the long succession of our comrades who have laboured for the freedom of India. And now we stand on the verge of this passing age, trying, labouring, to usher in the new. I am sure the House will feel the solemnity of this moment and will endeavour to treat this Resolution which it is my proud privilege to place before it in that solemn manner. I believe there are a large number of amendments coming before the House. I have not seen most of them. It is open to the House, to any member of this House, to move any amendment and it is for the House to accept it or reject it, but I would, with all respect, suggest that this is not moment for us to be technical and legal about small matters when we have big things to face, big things to say and big things to do, and therefore I would hope that the House would consider this Resolution in this big manner and not lose itself in wordy quarrels and squabbles.

I think also of the various Constituent Assemblies that have gone before and of what took place at the making of the great American nation when the fathers of that nation met and fashioned out a constitution which has stood the test of so many years, more than a century and a half, and of the great nation which has resulted, which has been built up on the basis of that Constitution. My mind goes back to that mighty revolution which took place also over 150 years ago and to that Constituent Assembly that met in that gracious and lovely city of Paris which has fought so many battles for freedom, to the difficulties that that Constituent Assembly had and to how the King and other authorities came in its way, and still it continued. The House will remember that when these difficulties came and even the room for a meeting was denied to the then Constituent Assembly they betook themselves to an open tennis court and met there and took the oath, which is called the Oath of the Tennis Court, that they continued meeting in spite of Kings, in spite of the others, and did not disperse till they had finished the task they had undertaken. Well, I trust that it is in that solemn spirit that we too are meeting here and that we, too, whether we meet in this chamber or other chambers, or in the fields or in the market-place, will go on meeting and continue our work till we have finished it.

Then my mind goes back to a more recent revolution which gave rise to a new type of State, the revolution that took place in Russia and out of which has arisen the Union of the Soviet Socialist Republics, another mighty country which is playing a tremendous part in the world, not only a mighty country but for us in India, a neighbouring country.

So our mind goes back to these great examples and we seek to learn from their success and to avoid their failures. Perhaps we may not be able to avoid failures because some measure of failure is inherent in human effort. Nevertheless, we shall advance, I am certain, in spite of obstructions and difficulties, and achieve and realise the dream that we have dreamt so long. In this Resolution which the House knows, has been drafted with exceeding care, we have tried to avoid saying too much or too little. It is difficult to frame a resolution of this kind. If you say too little, it becomes just a pious resolution and nothing more. If you say too much, it encroaches on the functions of those who are going to draw

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up a constitution, that is, on the functions of this House. This Resolution is not a part of the constitution we are going to draw up, and it must not be looked at as such. This House has perfect freedom to draw up that Constitution and when others come into this House, they will have perfect freedom too to fashion that constitution. This Resolution therefore steers between these two extremes and lays down only certain fundamentals which I do believe, no group or party and hardly any individual in India can dispute. We say that it is our firm and solemn resolve to have an independent sovereign republic. India is bound to be sovereign, it is bound to be independent and it is bound to be a republic. I will not go into the arguments about monarchy and the rest, but obviously we cannot produce monarchy in India out of nothing. It is not there. If it is to be an independent and sovereign State, we are not going to have an external monarchy and we cannot have a research for some local monarchies. It must inevitably be a republic. Now, some friends have raised the question: "Why have you not put in the word 'democratic' here. Well, I told them that it is conceivable, of course, that a republic may not be democratic but the whole of our past is witness to this fact that we stand for democratic institutions. Obviously we are aiming at democracy and nothing less than a democracy. What form of democracy, what shape it might take is another matter? The democracies of the present day, many of them in Europe and elsewhere, have played a great part in the world's progress. Yet it may be doubtful if those democracies may not have to change their shape somewhat before long if they have to remain completely democratic. We are not going just to copy, I hope, a certain democratic procedure or an institution of a so-called democratic country. We may improve upon it. In any event whatever system of Government we may establish here must fit in with the temper of our people and be acceptable to them. We stand for democracy. It will be for this House to determine what shape to give to that democracy, the fullest democracy, I hope. The House will notice that in this Resolution, although we have not used the word 'democratic' because we thought it is obvious that the word 'republic' contains that word and we did not want to use unnecessary words and redundant words, but we have done something much more than using the word. We have given the content of democracy in this Resolution and not only the content of democracy but the content, if I may say so, of economic democracy in this Resolution. Others might take objection to this Resolution on the ground that we have not said that it should be a Socialist State. Well, I stand for Socialism and, I hope, India will stand for Socialism and that India will go towards the constitution of a Socialist State and I do believe that the whole world will have to go that way. What form of Socialism again is another matter for your consideration. But the main thing is that in such a Resolution, if, in accordance with my own desire, I had put in, that we want a Socialist State, we would have put in something which may be agreeable to many and may not be agreeable to some and we wanted this Resolution not to be controversial in regard to such matters. Therefore we have laid down, not theoretical words and formulae, but rather the content of the thing we desire. This is important and I take it there can be no dispute about it. Some people have pointed out to me that our mentioning a republic may somewhat displease the Rulers of Indian States. It is possible that this may displease them. But I want to make it clear personally and the House knows that I do not believe in the monarchical system anywhere, and that in the world today monarchy is a fast disappearing institution. Nevertheless it is not a question of my personal belief in this matter. Our view in regard to these Indian States has been, for many years, first of all that the people of those States must share completely in the freedom to come. It is quite

inconceivable to me that there should be different standards and degrees of freedom as between the people in the States and the people outside the States. In what manner the States will be parts of that Union, that is a matter for this House to consider with the representatives of the States. And I hope in all matters relating to the States, this House will deal with the real representatives of the States. We are perfectly willing, I take it, to deal in such matters as appertain to them, with the Rulers or their representatives also, but finally when we make a constitution for India, it must be through the representatives of the people of the States as with the rest of India, who are present here. (Applause). In any event, we may lay down or agree that the measure of freedom must be the same in the States as elsewhere. It is a possibility and personally I should like a measure of uniformity too in regard to the apparatus and machinery of Government. Nevertheless, this is a point to be considered in co-operation and in consultation with the States. I do not wish, and I imagine this Constituent Assembly will not like, to impose anything on the States against their will. If the people of a particular State desire to have a certain form of administration, even though it might be monarchical, it is open to them to have it. The House will remember that even in the British Commonwealth of Nations today, Eire is a Republic and yet in many ways it is a member of the British Commonwealth. So, it is a conceivable thing. What will happen, I do not know, because that is partly for this House and partly for others to decide. There is no incongruity or impossibility about a certain definite form of administration in the States, provided there is complete freedom and responsible Government there and the people really are in charge. If monarchical figure-heads are approved by the people of the State, of a particular State, whether I like it or not, I certainly will not like to interfere. So I wish to make it clear that so far as this Resolution or Declaration is concerned, it does not interfere in any way with any future work that this Constituent Assembly may do, with any future negotiations that it may undertake. Only in one sense, if you like, it limits our work, if you call that a limitation, i.e., we adhere to certain fundamental propositions which are laid down in the Declaration. Those fundamental propositions, I submit, are not controversial in any real sense of the word. Nobody challenges them in India and nobody ought to challenge them and if anybody does challenge, well, we accept that challenge and we hold our position. (Applause).

Well, Sir, we are going to make a constitution for India and it is obvious that what we are going to do in India, is going to have a powerful effect on the rest of the world, not only because a new free independent nation comes out into the arena of the world, but because of the very fact that India is such a country that by virtue, not only of her large size and population, but of her enormous resources and her ability to exploit those resources, she can immediately play an important and a vital part in world affairs. Even today, on the verge of freedom as we are today, India has begun to play an important part in world affairs. Therefore, it is right that the framers of our Constitution should always bear this larger international aspect in mind.

We approach the world in a friendly way. We want to make friends with all countries. We want to make friends in spite of the long history of conflict in the past, with England also. The House knows that recently I paid a visit to England. I was reluctant to go for reasons which the House knows well. But I went because of a personal request from the Prime Minister of Great Britain. I went and I met with courtesy everywhere. And yet at this psychological moment in India's history when we wanted, when we hungered for messages of cheer, friendship and co-operation

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from all over the world and more especially from England, because of the past contact and conflict between us, unfortunately, I came back without any message of cheer, but with a large measure of disappointment. I hope that the new difficulties that have arisen, as every one knows, because of the recent statements made by the British Cabinet and by others in authority there, will not come in our way and that we shall yet succeed in going ahead with the co-operation of all of us here and those who have not come. It has been a blow to me, and it has hurt me that just at the moment when we are going to stride ahead, obstructions were placed in our way, new limitations were mentioned which had not been mentioned previously and new methods of procedure were suggested. I do not wish to challenge the *bona fides* of any person, but I wish to say that whatever the legal aspect of the thing might be, there are moments when law is a very feeble reed to rely upon, when we have to deal with a nation which is full of the passion for freedom. Most of us here during the past many years, for a generation or more, have often taken part in the struggle for India's freedom. We have gone through the valley of the shadow. We are used to it and if necessity arises, we shall go through it again. (*Hear, hear*). Nevertheless, through all this long period, we have thought of the time when we shall have an opportunity, not merely to struggle, not merely to destroy, but to construct and create. And now, when it appeared that the time was coming for constructive effort in a free India to which we looked forward with joy, fresh difficulties are placed in our way at such a moment. It shows that, whatever force might be behind all this, people who are able and clever and very intelligent, somehow lack the imaginative daring which should accompany great offices. For, if you have to deal with any people, you have to understand them imaginatively; you should understand them emotionally; and of course, you have also to understand them intellectually. One of the unfortunate legacies of the past has been that there has been no imagination in the understanding of the Indian problem. People have often indulged in, or have presumed to give us advice, not realising that India, as she is constituted today, wants no one's advice and no one's imposition upon her. The only way to influence India is through friendship and co-operation and goodwill. Any attempt at imposition, the slightest trace of patronage, is resented and will be resented. (*Applause*). We have tried, I think honestly, in the last few months in spite of the difficulties that have faced us, to create an atmosphere of co-operation. We shall continue that endeavour. But I do very much fear that that atmosphere will be impaired if there is not sufficient and adequate response from others. Nevertheless, because we are bent on great tasks, I hope and trust, that we shall continue that endeavour and I do hope that if we continue, that we shall succeed. Where we have to deal with our own countrymen, we must continue that endeavour even though in our opinion some countrymen of ours take a wrong path. For, after all, we have to work together in this country and we have inevitably to co-operate, if not today, tomorrow or the day after. Therefore, we have to avoid in the present anything which might create a new difficulty in the creation of that future which we are working for. Therefore, so far as our own countrymen are concerned, we must try our utmost to gain their co-operation in the largest measure. But, co-operation cannot mean the giving up of the fundamental ideals on which we have stood and on which we should stand. It is not co-operation to surrender everything that has given meaning to our lives. Apart from that, as I said, we seek the co-operation of England even at this stage which is full of suspicion of each other. We feel that if that co-operation is denied, that will be injurious to India, certainly to some extent, probably more so to England, and to some extent, to the world at large. We have just come

out of the World War and people talk vaguely and rather wildly of new wars to come. At such a moment this New India is taking birth—renewed, vital, fearless. Perhaps it is a suitable moment for this new birth to take place out of this turmoil in the world. But we have to be clear-eyed at this moment,—we, who have this heavy task of constitution-building. We have to think of this tremendous prospect of the present and the greater prospect of the future and not get lost in seeking small gains for this group or that. In this Constituent Assembly we are functioning on a world stage and the eyes of the world are upon us and the eyes of our entire past are upon us. Our past is witness to what we are doing here and though the future is still unborn, the future too somehow looks at us, I think, and so, I would beg of this House to consider this Resolution in this mighty prospect of our past, of the turmoil of the present and of the great and unborn future that is going to take place soon. Sir, I beg to move. (*Prolonged Cheers*).

Mr. Chairman: Shri Purushottam Das Tandon will second the Resolution.

The Hon'ble Shri Purushottam Das Tandon (United Provinces: General): * [Mr. Chairman, I fully support the Resolution moved by my brother Pandit Jawahar Lal Nehru. Today's session of the Constituent Assembly is an historical occasion. After centuries such a meeting has once more been convened in our country. It recalls to our mind our glorious past when we were free and when assemblies were held at which the Pandits met to discuss important affairs of the country. It reminds us of the Assemblies of age of Asoka. We have dim impressions of those days before our eyes. We are also reminded of Assemblies of other countries such as, America, France and Russia. Our Constituent Assembly will be remembered with those others which met to frame the constitutions of other free nations. We have met here to frame a constitution which will show to the world that India is determined to live honourably not in isolation but as a part of the world. It will co-operate with other countries and help them in their difficulties and assist them in all those affairs which make for the general progress of the world. We hope that what we are doing today will be a historic event which will be counted those great events which have helped in the progress of the world.

India has been under the sway of the British for the last 150 years. We do not wish to go into things against which we have continuously raised our voice ever since the advent of the British Raj. We will not at present speak of the injuries done to India during this one and a half century. They not only deprived us of our freedom but also created disunity among us. We are not to go into these things today. We, however, cannot ignore the struggle and sacrifices of our leaders. In the beginning our leaders demanded freedom by passing resolutions with explanations and submitting them to the Government. We were subjected openly to high-handedness and the Government were everywhere openly favouring the British. We earnestly appealed to our rulers to treat us with justice. Our leaders referred them to their high ideals, to the ideals of Burke and Mill. They were steeped in British ideals and they hoped that the British would do them justice and give them freedom. That time is now gone. Our experience has shown us that freedom cannot be had by requests and appeals and that drastic steps are unavoidable. The pages of our history show that new movements were started and open opposition began to be offered to the British. The movement of 1905-6 helped our country to ascend a few rungs higher on the ladder of progress. At that time our brave Bengali leaders and youths did act which will be written in golden letters in our history. We forged ahead. Our national leader, Mahatma Gandhi, appeared in the field of politics and changed the methods of our

* [English translation of Hindustani speech begins.]

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struggle. He taught us new ways and we started afresh. British laws were not only openly defied but were also openly contravened without minding the dire consequences which were likely to follow such action. Thousands of our people broke the laws and went to jails. The pictures of those, who gave their lives or lingered for years in prisons, stand before our eyes. The more recent movement—the movement of 1942—is, in fact, the creator of this Assembly. This movement played a most important role in making the British Government call this Constituent Assembly. It opened a new field for our further advance. The eyes of the British Government were opened and the world was confronted with the fact that the British Government could no longer stay in India. Other countries did not help us openly. We have, however, to admit that in addition to the expression of our strength, which is the main thing which will carry us towards our goal, we were helped by powers which are today engaged in uniting the world. The world has seen, that oppression perpetrated in its remotest corner, has far-reaching repercussions involving the oppressor's country and its neighbours. This has been proved by the last two world wars. Now the great leaders of the world are thinking of the means to save the world from the ravages of a third world war. They desire to make it a paradise, to turn it into a place where no more wars will be fought, no more human blood will be shed, where no great distinction will exist between the rich and the poor, where everybody will get food and amenities, where people will be allowed to live according to their ideas, where every child has a right to be educated, where ideals will become noble and nobler and where spiritual ties will grow between the sons of man. Wise people are trying to bring out laws which will extricate the world from the slough in which it is at present wallowing and which will give equal rights to all countries. The time is swiftly changing and world forces are contributing towards these new ideas. We, too, living in this world cannot escape them. We ardently welcome the new forces which have always been the basis of our high hopes. It can be particularly said about India that its people have always considered the whole of mankind as one family and the whole world as one country. The best people among us never made any distinction between the people of the world. Many foreigners came to our country. We received them with open arms. We never practised the policy, which some countries have adopted against the people of our country. Our history shows that we welcomed all those who came from other countries and gave them whatever help they needed, assisting them to stay in our country. How did the people of England first come to this country? They found here protection and refuge. There have been quarrels and strifes; but on the whole our history shows that we have always protected human rights. We do not consider it right to divide brother from brother nor do we make any distinction in their political rights. We have no doubt, had and still have shortcomings; and we cannot ignore them.

Our past history urges us to go forward. We have to reach the point where we may place the ideal of equality not only before our own country but before the world at large. On this historical occasion it is quite natural that our thoughts dwell on our past history and to the events which occurred in our country: On our struggles, our sacrifices and help that we have received from other nations which have brought us here together and we must take strength from them. We have come here to frame a constitution which will give our country peace and tranquillity. We aim at giving equality to each and every inhabitant of our motherland.

The Resolution placed before you to-day has equality as its underlying theme. The different sections of the country have been given autonomy and India as a whole remains one with full sovereignty. We shall stand

united in affairs which demand our unity. The one important thing in the Resolution is the recognition of India as a free country. Our country is one and yet we shall give full freedom to its various sections to have for themselves whatever administration they liked. The present division of our country into provinces may change. We shall do justice to all communities and give them full freedom in their social and religious affairs.

There is an amendment to the Resolution asking for a postponement of its consideration until such time as the Muslim League joins the Assembly. We should not ignore the fact that for every action there is a proper time. If we postpone the Resolution today, when will it again come before us? We are not certain as to when the League would come in. We have gathered together to-day; should we disperse without doing anything? Should we not have at least an objective for our future proceedings? Should we go away after merely appointing a Procedure Committee? Our brethren advise us to postpone the consideration of the Resolution to some other time. If they wanted not to do anything in the absence of the Muslim League, why have they met here at all?

We do want the Muslim League to co-operate with us; but can we contribute to the present aims and aspirations of that body? We shall try our utmost not to hurt the cause of the Muslim League; and, I point out to you, that the Resolution takes note of this fact. There are many of us who are against giving residuary powers to the provinces. Personally, I would oppose the grant of residuary powers to the provinces in the best interests of my country, especially in view of the conditions prevalent in the provinces owing to this Hindu-Muslim problem. We all know what has happened in Bengal and in other provinces. Residuary powers and political rights, which may conduce to unity and progress in the country, should lie with the Central or Federal Government. The Resolution, however gives residuary powers to the provinces so that the Muslim League may not say that we have done in their absence what as we pleased. Moreover, the State Paper issued by the Cabinet Mission, which is the foundation of the Constituent Assembly, also said that the residuary powers should go to the provinces. We accepted it in the hope that this will enable the Muslim League to work with us. We went as far as we could to make the Muslim League co-operate with us; nay, I would rather say, we went farther than was needed, because the Muslim League aims at certain objectives which are absolutely against our objectives and this will cause a lot of trouble in the future. For the sake of securing Muslim League's co-operation we have been accepting many things against our ideals. We should now put a stop to that and should not ignore our fundamental principles for the sake of coming to an agreement with the Muslim League. I am opposed to the postponement of the Resolution, and I am sure, the House realises the importance of this Resolution. Constituent Assemblies in other countries began with their objectives before them. If you postpone this Resolution, what will the world think? When they hear of this Resolution they would think that India was going to be free; that the fight of 'Quit India' against the British started by Indians in 1942, was being won. This Resolution will lend a great importance to your cause of freedom, and its postponement, I think, is not expedient.

There are other amendments to the Resolution. It has been clearly pointed out in the Resolution that power shall entirely vest in the people. Some members suggest to substitute 'working people' for 'people.' I am opposed to this. The word 'people' means all the people. I am myself a servant of the farmers. To work with them is my highest glory. The term 'people' is comprehensive and contains all the people. It is, therefore, my opinion that no adjective should be attached to it. There are amendments asking for universal compulsory education and so on. These are petty

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matters. Times have changed. Provincial Governments have enacted laws to enforce these things. For the nonce we should concentrate on larger issues. All these amendments are non-essential and should not be moved.

As I have already said we have got this of making a constitution after passing through many ordeals. We obtained some privileges in 1935. We continued the fight until we came to 1942. Now, as a result of these struggles, we have gathered here to frame a constitution and we do not yet know what will be the result of our efforts. Our path is still full of obstructions. Our friends in London send us their advice. Sir Stafford Cripps, while speaking of certain principles, advises us to accept the formula that the majority should frame its own constitution, while the minority should also have the right to have its safeguards against any obstructions from the majority. I am sorry to say though Sir Stafford professes to help us, his real aim is to erect obstacles in our way. The history of our relations with the British show that Hindu-Muslim differences are purely a British creation.

The differences on which the British harp upon have been created by them. They were not in existence before their advent. Hindus and Muslims had a common civilization and lived amicably. Can the British say that the situation now obtained in India is not of their creation and is not backed by them? Those who are opposing us under the instigation of the British are our brethren and we certainly desire their co-operation; but in order to have them on our side, we cannot sacrifice these basic principles to which we have been wedded till now and which go to make a nation. Sir Stafford warns us of civil war and advises us to co-operate with each other to avoid it. No patriot would like civil war and shedding the blood of his own countrymen. Congress has always tried to unite all the sections of the population to fight for the freedom of their country. Our leaders have never indulged in communal bickerings. Congress is the only body in which Hindus, Muslims, Parsees, Jains and Buddhists can unite. In politics it refuses to recognize any difference on account of religion. To say that such and such sections be separated from the country on religious basis, is no religion but pure politics—politics which destroy the unity of a country. We ask Sir Stafford and other British leaders: "If a hundred years or, for that matter, twenty years ago, the right of separate elections were given to different sects of your country what sort of Government you would have had today?" Again, we ask America: "if the right of separate elections was given to different communities and Christian sects of your country, would you have had the same form of government as you now have? Would you not have had continuous civil wars in your countries?" The possibility of civil war in our country has been created by the British Government. The British Government is playing the old game. The Cabinet's Statement shows the same mentality. The interpretation given by them stresses the point that the different groups of the Indian Federation shall have full power to frame whatever constitution they liked for them. They say, as they said before, that a province will have full option to remain in a group or not; but at the same time they qualify this statement with conditions which preclude the possibility of a province using that right. You tell a province that it was free to remain in a group or not but at the same time you say that all the people of a group should join together to frame its constitution. The North-West Frontier Province will have to attach itself to the Punjab, Sind and Baluchistan, and Assam to Bengal. Their constitutions will be framed by 'B' and 'C' groups. The group consisting of Punjab, Sind and Baluchistan will frame constitutions for N.-W. F. Province and Bengal for Assam. Is it honest? You say that a province

has the right to go out of a group but you frame a constitution that precludes its going out of it. In the Cabinet Mission's Statement, it was clearly said that a province will have option to join a group. The option to go out is given at the end of the Statement. The meaning of the first part is that at the time of the formation of groups a province will have free option to be in the group or not. We understood it as such and so the Congress accepted it; but now it is said that a province has no option even at the time of formation of groups to remain out of its group not does it have the right to frame its constitution. It will be framed by the delegates of the whole group. This means that we should accept the division of India and deliver the N.-W. F. Province and Assam into the hands of persons who openly assert that they are out to divide India into two parts. If civil war is unavoidable, let it come. We cannot be coerced to do a wrong thing by threats of civil war. It is quite possible that civil war may occur in a corner of India and we may have to fight the British, too. They threaten us with civil war; but the fact is that they are sowing the seeds of civil war among us. They wish that we should fight so that they may rule over us. I feel pained when I say these things. I have a great regard for the British people. They are far advanced in the field of politics and they are wise and freedom-loving. We have learnt many things from them. I have not a trace of hatred in my mind for them. I was happy that a new era had dawned in England, that the Government had passed to the Labour Party who would reverse the old policy. For the last hundred years the policy of the British Government had been one of selfishness and cunning towards countries, while in their own country they are very liberal and have a great regard for each other. For the benefit of their own people they consider it expedient to coerce and exploit other people. It was expected that with the advent of this new government and the defeat of the old Tories their policy would be entirely reversed and the foreign policy of England would be based on honesty but I am disappointed to see that some of the recent statements aimed only at creating a breach among the people of India.

I admit that the Congress had come into the Assembly by accepting the Cabinet Mission's Proposals but I want to point out that Constituent Assembly after meeting may adopt an altogether a different course. In France people met on the invitation of King Louis. When they saw they could not do what they wanted to do, they began their own procedure. The King who had called them for granting him money, seeing their intentions, wanted to disperse them but they refused to disperse. Our Constituent Assembly has met on the invitation of the British Government but we are free to carry on the work as we please. Some of us were against the Congress participation in this Assembly. They were afraid of British tactics. The Congress, however, had full confidence in itself. My humble voice was also for coming into the Assembly I believed in the power and determination of my colleagues. The occasion was not to be lost. If we could not succeed on account of obstructions from the British Government we shall at least show the world the sort of constitution we want. Our Chairman in his speech made many good points. I was elated to hear him say that we would not subject ourselves to limitations laid down by the British Government.

In this House we cannot accept the British Government's proposals to divide India into sections and to give that right of framing constitution for provinces into the hands of persons who are bent upon dividing India. I do not like to say these things but I feel it my duty to say that the British Government shows a lack of honesty in assertions which it makes on behalf of the Muslim League.

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Somebody has rightly said that the League was the British Government's Front (morchha). Pandit Nehru said the other day in the Congress that the League members who had come in the Interim Government were acting as the King's Party. The fact is that the League is being duped by the British Government. They are our countrymen and our brethren and we are always prepared to come to an agreement with them. Today the British are using them as their morcha from behind which they are throwing arrows upon us. We know the British arrows and we have to protect ourselves. In the Constitution that we would frame, we would try to save ourselves from these arrows. In doing so, if we have to fight the British and their proteges, we are prepared to do so. We are sure we will surmount all obstacles. It is the time of our trial. When success comes nearer a host of difficulties crop up. When *yogis* begin to ascend higher in their *yogas* they are beset by apparitions, spectres and evil spirits. They threaten them and try to dupe them. We are nearer the success and many evil spirit have arisen to make us deviate from our purpose. It is our duty that we should neither fall to their machinations or should we feel afraid of them.

In framing the Constitution we should remember that whatever plans of progress we make, we should never yield to the proposal of dividing India. India should remain one. Thus protecting our past civilization, we may proceed forward and take the greatest part in bringing peace to the world.

Mr. Chairman: The Resolution has been moved and seconded. I have received notice of a large number of amendments. I think I have got more than 40 amendments already before me and therefore I do not think it necessary to give any more time for giving notice of more amendments. I think all who wanted to put in amendments have already done so, taking into consideration the number of amendments.

It is now 1 o'clock and I think we may rise. But before we rise, I desire to point out to the House that from the next day, I may have to do the unpleasant duty of imposing some sort of time-limit on the speakers. This being the first day, I did not like to interfere and I allowed the speakers to have full time.

Tomorrow being Saturday, I would not like that the House should meet. It is not as if I am laying down a rule that we shall not meet on Saturdays. We are not meeting this Saturday for the reason that we are meeting in the Rules Committee and I want the Committee's work to be finished as soon as possible. So to allow the Members of the Committee full time tomorrow, we are not meeting here. We meet on Monday, and on Monday we shall meet in the afternoon from 3 o'clock, not in the morning. The House stands adjourned to 3 o'clock on Monday.

The Assembly then adjourned till 3 P.M. on Monday, the 16th December, 1946.

Monday, the 16th December, 1946

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

RESOLUTION RE: AIMS AND OBJECTS—contd.

Mr. Chairman: We proceed now with the further discussion of the Resolution moved on the 13th December. The number of amendments is very large but I understand that some of them will not be moved. I call upon Dr. Jayakar to move his amendment.

The Right Hon'ble Dr. M. R. Jayakar (Bombay: General): Mr. Chairman and friends, before I move my amendment I would like to say a few words to tender my congratulations for the excellent speech which Pandit Jawahar Lal Nehru made in moving the Resolution. Its lucidity, modesty and gravity were very impressive and as I listened to it, my thoughts went back to the old days when, a few yards from here, under the guidance and the leadership of his distinguished father, we carried on legislative fights which, viewed back from the dignity of the present Assembly now, seem to be so diminutive and unreal. I always considered Pandit Motilal Nehru a very fortunate man in the sense that he had two children, each of whom has become very distinguished after his death—(cheers)—Pandit Jawahar Lal Nehru, the guiding soul of the present Assembly, and that distinguished lady whom we are waiting to receive after her achievement at the U.N.O. at New York.

Before I read the terms of my amendment to the Resolution I would like to remove a few misunderstandings which have arisen about its purposes. Many distinguished and loving friends have come and said to me, in all earnestness, that I ought not to move this Resolution. I would like to remove all misunderstandings about my reasons in moving this amendment. It was said that it will divide this Assembly, which is bad tactics at the present moment. When you hear my speech I hope you will agree that my motion is not intended to nor is it likely to cause a division in the sense these friends meant. Some others said that I was deliberately appeasing the Muslim League. I see no harm in that, if it is necessary for the purpose of making successful the work of this Assembly. One friend went the length of saying that I am supporting Mr. Churchill of all people in the world, the one person whom I tried to expose in my cross-examination at the Round Table Conference Committee. There is no possibility of my supporting Mr. Churchill by any means. Some friends touched me to the quick by saying that all my life, having been a champion of Hindu interests, I now propose to support and placate the Muslims. In reply I said that I saw no conflict between the two. Because I support Hindu interests it does not mean that I should trample on what I consider the just rights of another community. My real purpose in moving this amendment is to save the work of this Assembly from frustration. I fear that all the work we shall be doing here is in imminent danger of being rendered infructuous. I am anxious that the work of this Constituent Assembly should not be made futile and ineffective by our neglecting one or two difficulties which lie in our way. One friend said: 'You have been elected on the Congress ticket'. I recognise the generosity of that step and when the invitation came I accepted it at some personal inconvenience; but if the obligation of that step means that my services, which you have a right to demand at every step, must always take the form of popularity, then I am

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afraid it is not possible. I am here to render you as much co-operation and service as I can, but I cannot guarantee that such service will always be, in a form, popular with you. It may sometimes assume a painful form, e.g., of asking your attention to some pitfalls and difficulties in the way.

The points which I make are two-fold, Sir. One is a purely legal point and after putting it in brief, I shall leave it to you, Sir, in the Chair and to the Constitutional Adviser whom I have known for the last 10 years as a man of great constitutional knowledge, rectitude of behaviour and stern independence. It is an advantage, if I may say so, from my place here that we have got the assistance of a person like Sir B. N. Rau and I have no doubt that the point, which I am putting before you, Sir, today will receive his best attention. I do not want to raise this as a point of order but I am now raising it as indicating a legal difficulty in our way. I have no doubt that in the time which you have at your disposal you will consider it very carefully and give such decision on it as you choose. The point which I propose to raise is that in this preliminary meeting of the Constituent Assembly at this stage no question like laying down the fundamentals of the Constitution can be considered. That the Resolution is intended to lay down the fundamentals of the Constitution, even Pandit Jawahar Lal Nehru has admitted. It is a very vital resolution and it lays down the essentials of the next Constitution. If you examine it, a cursory glance will reveal to you that the several things which are mentioned here, are fundamentals of the Constitution. For instance, it speaks of a Republic; of a Union; it talks of present boundaries, and the status of Provincial Authorities; Residuary powers, all powers being derived from the people, minorities rights, fundamental rights—all these can be accurately described as fundamentals of the Constitution. My point is that within the limits of the power which the Cabinet Mission's Statement of 16th May accords to this preliminary meeting, it cannot validly lay down any fundamentals, however sketchy they may be, of the Constitution. That must wait until after we meet in the Sections and the Provincial Constitutions have been prepared. At that stage, the two other partners, the Muslim League and Indian States, are expected to be present. At our present preliminary meeting our work is cut out and limited by express terms which I shall presently read out to you and those express terms do not include the preparation or acceptance of the fundamentals of the Constitution which must await until we reach that stage which I have just mentioned. We are no doubt a sovereign body as you, Sir, very rightly remarked but we are sovereign within the limitations of the Paper by which we have been created. We cannot go outside those limitations except by agreement and the two other parties being absent, no agreement can be thought of. Therefore, we are bound by those limitations. Of course, if the idea of some people is to ignore those limitations altogether and convert this Constituent Assembly into a force for gaining political power, irrespective of the limitations of this Paper, to seize power and thereby create a revolution in the country, that is outside the present plan, and I have nothing to say about it. But as the Congress has accepted this Paper in its entirety, it is bound by the limitations of that Paper. If you will just permit me a few minutes to read to you the relevant parts of the Paper....

Mr. Kiran Sankar Roy (Bengal: General): Mr. Chairman, on a point of order. I would like to know whether Dr. Jayakar is raising a point of order or moving his amendment. If he is raising a point of order, we feel, Sir that that point of order should be disposed of first before he can proceed to move his amendment.

Mr. Chairman: I think Dr. Jayakar has said that he is not raising a point of order, but he is pointing out the difficulties in the way of accepting this Resolution and I take it that he is proceeding in that way. As I understand it, he is not raising a point of order.

Dr. B. Pattabhi Sitaramayya (Madras: General): May I take it Sir, that this is a motion for adjournment of the consideration of the Resolution, as I make it out to be?

Mr. Chairman: I don't think it is a motion for adjournment either. He wants the Resolution to be discussed, but wishes to place before the House his own point of view with regard to the advisability or otherwise of the Resolution at this stage, and in doing so he points out certain difficulties in the way of accepting it.

Dr. B. Pattabhi Sitaramayya: May I respectfully suggest that he does not want us to proceed with the consideration of this subject. It is clear from the wording of his amendment. I invite your attention to the wording Sir.

Shri Mohan Lal Saksena (United Provinces: General): On a point of order. Under the Assembly rules, the mover of an amendment has to move his amendment before he makes his speech. I would suggest that Dr. Jayakar should be asked to move his amendment before he goes on to make his speech.

The Right Hon'ble Dr. M. R. Jayakar: Well, I will read the amendment. I wanted to save your time by a few minutes. This is the amendment:

"This Assembly declares its firm and solemn resolve that the Constitution to be prepared by this Assembly for the future governance of India shall be for a free and democratic Sovereign State; but with a view to securing, in the shaping of such a constitution, the co-operation of the Muslim League and the Indian States, and thereby intensifying the firmness of this resolve, this Assembly postpones the further consideration of this question to a later date, to enable the representatives of these two bodies to participate, if they so choose, in the deliberations of this Assembly."

In substance, my amendment means that the further consideration of this Resolution should be postponed to a later stage,—the stage of Union constitution-making at which, I take it, the Indian States and the Muslim League are expected to be present. I am not raising this as a point of order, but I am raising it as a difficulty which we have got over before we proceed to a consideration of this question, and this is an argument for the purpose of postponing the further discussion of this question. I am merely pointing out the legal difficulty in the way of this Constituent Assembly adopting this Resolution at this preliminary meeting. Therefore the point I am making is that our power to transact our business at this stage of a preliminary meeting is limited. It is limited by express words and those limitations being accepted by us, this Assembly has no power at this stage to adopt any fundamentals of the Constitution. I would invite your attention, Sir, to a few paragraphs in the State Paper. I shall begin with Clause 19. Sub-clause (i) mentions the way the representatives of the several bodies are to be elected. Then follows Sections 'A', 'B' and 'C'. Then comes the note about Chief Commissioners' Provinces, etc. I shall leave that out. Then comes sub-clause (ii) which relates to the States. Then comes sub-clause (iii) which says that "representatives thus chosen", i.e. the Hindus, Muslims and the Negotiating Committee for the States, (I will leave the Negotiating Committee out for the moment) "shall meet at New Delhi as soon as possible". We have met. Then comes the preliminary meeting which is the meeting we are holding today. That it is a preliminary meeting cannot be disputed. In this connection, I may ask your attention to the letter of invitation, dated the 20th of November, which you

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received from the Viceroy to attend here this meeting. There it is described as the "first" meeting. Therefore this is the preliminary meeting mentioned in sub-clause (iv). Then let us see what this preliminary meeting is entitled to do:

"A preliminary meeting will be held at which (1) the general order of business will be decided (2) a Chairman and other Officers elected and (3) an Advisory Committee (see paragraph 20 below) on rights of citizens, minorities and tribal and excluded areas set up...."

I understand that this is soon going to be done. Apart from this, there is not a word there about passing either the essentials or the fundamentals or even a sketchy outline of any constitution.

Sri K. Santhanam (Madras: General): On a point of order, Sir. If the Hon'ble Member's argument is correct, the first sentence of his amendment is as much not within the power of this Assembly as the original Resolution by Pandit Jawahar Lal Nehru.

The Right Hon'ble Dr. M. R. Jayakar: I think having regard to the difficulty which one finds in hearing from a distance, it will be more convenient if after my speech is ended all objections to it may be raised by members walking up to this rostrum. It will be more easy to hear them at that time and nothing is going to happen in the meantime. I am not going to engage you very long. Whatever objections you may have to urge against my speech, they may be presented by members coming here and I shall then reply to them if I am given a chance, instead of members now interfering. Therefore, my submission, right or wrong, is that the powers of the preliminary meeting are limited to these steps.

Mr. Chairman: Order, order. What is your point of order, Mr. Santhanam?

Sri K. Santhanam: My point of order is that if the Hon'ble Member's argument is correct, then the first sentence of his amendment is outside the powers of this meeting of the Assembly.

Mr. Chairman: Mr. Santhanam says that the first sentence of your amendment (turning to Dr. Jayakar), according to your own argument, is out of order.

The Right Hon'ble Dr. M. R. Jayakar: If that is your view, it can be deleted. I am willing to do so. I do not want to waste the time of the House in arguing against this view. I am prepared to delete that portion if necessary and let the remaining portion stand. It is sufficient for my present purpose.

Dr. B. Pattabhi Sitaramayya: That is why I submitted at the very outset that this was a motion for postponing the consideration of the Resolution.

Mr. Chairman: That really creates a difficulty—it is the first part of your amendment which makes it an amendment by bringing it within the four corners of the Statement. If your argument is correct, and if that is omitted, then the result is that your amendment becomes only a motion for adjournment.

The Right Hon'ble Dr. M. R. Jayakar: Supposing for a moment that you treat this as a motion for adjournment, can I not move it at this stage? It is a motion which should be taken up before any other amendment on merits is considered. Therefore, even supposing you treat it as a motion for adjournment, I can urge it now.

Mr. Chairman: I seek the assistance of Members of this House on this point. The difficulty is that, if Dr. Jayakar's argument is correct on the legal point, the Resolution moved by Pandit Jawahar Lal Nehru is out of

order. This question should have been raised at the time when the Resolution was moved. But at this stage I do not think that that point of order can be raised. Therefore, we take both the amendment and the Resolution as being in order, and we proceed with the discussion.

The Right Hon'ble Dr. M. R. Jayakar: Then can I urge this as a legal question?

Mr. Chairman: I think this legal question would not arise. You put it on merits.

The Right Hon'ble Dr. M. R. Jayakar: I was mentioning to you, Sir, that at this stage the fundamentals of the Constitution cannot be considered or adopted. I will read out to you a few clauses more. Clause (v) says:

"These sections shall proceed to settle provincial constitution for the provinces included in each section....."

I understand these will meet in March or April next. I leave the other irrelevant portions. Then comes clause (vi)—which relates to the stage at which questions relating to the Constitution can be settled.

"The representatives of the Sections and the Indian States shall reassemble for the purpose of settling the Union Constitution."

That is the stage at which the fundamentals of the Constitution can be settled, because at that stage the States and the Congress and the Muslim League will all be present. This is so because the Scheme considers it necessary that all these three elements should have a chance of having their say on matters relating to the Constitution. That stage has not been reached yet. Therefore, my submission is, that this question at the present time cannot be considered or finally decided. I am however suggesting a way out of the difficulty if you like to adopt it.

Mr. N. V. Gadgil (Bombay: General): There is no prohibition in clause (iv).

The Right Hon'ble Dr. M. R. Jayakar: That is implied there. If you take clauses (iv) and (vi), the meaning is clear that the preliminary meeting shall be concerned only with a few things and the settling of the constitution shall be postponed till we come to clause (vi). Otherwise clause (vi) becomes absolutely redundant and is in conflict. Therefore, taking the two clauses together, it is clear that what is intended to be done at the stage of clause (iv), is clearly and expressly mentioned in that clause. All that concerns the Union constitution either by way of an elaborate settlement or a sketchy outline of the fundamentals—all that must wait till the stage in clause (vi) is reached.

Now I come to clause (vii) which throws more light on this question. It provides that if any major communal issue arises, it will be dealt with as provided in that clause. There is no party here who is likely to raise the question of a major communal issue. Therefore, if you look back on clause (vii), its sense is clear in the way I have mentioned. This is my brief submission on the law point.

Apart from this legal point I want to urge before you a few considerations of practical expediency for postponing the consideration of this question to a later stage. As a way out of this difficulty I suggest that the Resolution, having been discussed during all this time and the object of public ventilation being served, this Assembly should not vote on it for the present but defer its consideration to the stage mentioned in clause (vi) so that when deliberating on it afresh at that time with the view of taking a final vote on it, they may be present here, to take part in such

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deliberations, the representatives of the two parties who are absent here now. I suggest this as an alternative course, to meet the difficulty.

Mr. R. K. Sidhwa (C. P. and Berar: General): I rise to a point of order, Sir. Dr. Jayakar's amendment says:

"....this Assembly postpones the further consideration of this question to a later date, to enable the representatives of these two bodies (Indian States and Muslim League) to participate, if they so choose, in the deliberations of this Assembly."

He has quoted clause (ii) of paragraph 19. That clause says:

"It is the intention that the States would be given in the final Constituent Assembly appropriate representation...."

That stage has not been reached, and therefore, raising an objection that the Indian States are not represented here now cannot hold water. Again, if you further see.....

Mr. Chairman: That is not a point of order. That is an argument against what has been said.

The Right Hon'ble Dr. M. R. Jayakar: May I proceed, Sir?

Mr. Chairman: Yes.

The Right Hon'ble Dr. M. R. Jayakar: The plea which I am urging is this: This Constituent Assembly, as it is formed today, is not complete. Two persons are absent: The Indian States for no fault of theirs, because they cannot come in at this stage; that is the true position. The Negotiating Committee has been formed by the States, but we have not yet formed our Negotiating Committee. When we have done so, the two Committees will meet; that is the stage at which the States can come in according to the terms of this Document. As for the Muslim League, the position is different and the difference is very great.

The Muslim League has recently obtained three or four important concessions. Whether it is by superior strategy or any other means, it is not for me to say here. They have got three or four important points in their favour.

There are two points for interpretation, one is about voting and the other is about grouping into Sections. I understand that that question is going to be referred to the Federal Court. As an ex-Judge of the Federal Court and a sitting Member of the Superior Tribunal, namely, the Judicial Committee of the Privy Council, I recognise the necessity of not saying anything more about the proposed reference to the Federal Court or whether it is right and proper. I will only say that I wish you good luck. I congratulate you that you will have on your side the services of one of the ablest constitutional lawyers you can engage for your purpose, namely, my friend, Sir Alladi Krishnaswami Ayyar. Beyond that I do not want to say anything about the reference to Federal Court. But it is clear that, although you may go to the Federal Court for getting the interpretation, viz., relating to grouping and voting, you cannot go to the Federal Court on the last point gained by the Muslim League, viz., the provision that if a large section of people is not represented at the constitution-making. His Majesty's Government will not be willing to force such a constitution upon unwilling parts of the country. That is not a question of interpretation. It is a fresh concession which has been given to the Muslim League by way of addition to the Statement of May 16. I do not think that you can refer that point to the Federal Court. It is a substantive point which has been conceded to the Muslim League, viz., that contrary to the Statement of Mr. Attlee, the Prime Minister, on 15th March this year, in the House of Commons, to the effect that though minorities will be protected, they will not be allowed to veto the progress of the majority. That was the position enunciated by no less a person than the Prime Minister in March 1946. That is gone. Now the position is very different indeed.

The Hon'ble Sardar Vallabhbhai J. Patel (Bombay: General): May I know, Sir, if the Right Hon'ble Gentleman is interpreting here the policy laid down by His Majesty's Government? All those so-called concessions which the Right Hon'ble Gentleman is referring to, are in addition to or over and above the Statement made in the White Paper. We have not accepted them and this House is not going to accept any addition, or alteration in the Document of May 16th (Applause)

The Right Hon'ble Dr. M. R. Jayakar: I am only pointing out the difficulties in your way. I am not asking you to admit any addition. I am pointing out the advantage, freshly found by the Muslim League, which creates a great difficulty in your way and the necessity for holding up matters until the Muslim League comes in. On that point, my remarks are quite relevant. If the Hon'ble Sardar Patel thinks that any addition like this will be rejected by the Congress, they are welcome to do so.

Now, Sir, what does it mean? What follows from it if a community like the Muslim community is not represented here at the constitution-making. The words 'unwilling parts of the country' have also been interpreted by Sir Stafford Cripps. He says that the words mean any part of India where the Muslims are in a majority. On such parts, if they are unwilling, the constitution which you may frame in the absence of the Muslim community, will not be forced. The words used are "unwilling parts of the country". Whether any other community can take advantage of this provision, I do not know. That is a matter that may have to be cleared up. But this much is certain, and it was so expressly stated by Sir Stafford Cripps in the debate in the House of Commons. That those parts of the country where Muslims are in a majority, will not be forced to accept a constitution at the making of which they are not represented. Mark the words: "they are not represented", i.e., they are not present.

Now, this particular addition has been hailed with delight in England by certain schools of thought. Mr. Churchill calls it 'an important milestone in the long journey'. Whether it is an important milestone or a dangerous milestone, we are not concerned with. The fact is there that the Muslims have secured this right at the present moment.

So, the position is this that, if they choose to remain absent from your deliberations for whatever reasons, they can make your work futile and fruitless. All your efforts will fail to bind them. Whatever constitution you may frame in their absence here will be binding upon perhaps willing portion like Section 'A'; I am very doubtful whether it will affect Sections 'B' and 'C'. The result is that whatever you may do in the way of providing a constitution for the whole of India here and now, as this Resolution proposes, if you accept it today in the absence of the Muslim League, your effort is not going to bind the Muslim League at all. That raises the question whether it will not be wise, merely as a means of saving your trouble and labour, to postpone to a future date, the further consideration of these constitutional points. To put it at the lowest, it will save labour.

If you look at the constitution suggested in the Resolution, there are points in it with which the States and the Muslims are most intimately concerned. You speak of a Republic. I personally have no objection.

Dr. Suresh Chandra Banerjee (Bengal: General): On a point of information, Sir. If the Muslims do not come at all, how long are we to wait? How long are we to sit quiet? They could have come in. They have not come of their own accord.

The Right Hon'ble Dr. M. R. Jayakar: That is not a point of order.

Dr. Suresh Chandra Banerjee: That information should be given by Dr. Jayakar.

Mr. Chairman: That is an argument which the Hon'ble Member may advance when his turn comes.

The Right Hon'ble Dr. M. R. Jayakar: If the Hon'ble member had not interrupted me and had waited for a little while, I would have given an answer to the query.

Sir, the result is that merely by adopting the simple device of not being present here, the Muslim League can make the whole of your work useless. What does it mean? It means further that if the Muslim League does not come in, the States may not come in. They have made it clear more than once. And, in the House of Commons, it was stated clearly that the States might not deal with a Constituent Assembly which is composed of one party only. Therefore it is clear that if the Muslim League chooses to remain absent, and we provoke it by our action to do so, the States may not come in.

The Hon'ble Pandit Govind Ballabh Pant (United Provinces: General): How is it the Right Hon'ble Member said that it was made abundantly clear in the House of Commons that if the Muslim League did not come in, the States will not join the Constituent Assembly?

The Right Hon'ble Dr. M. R. Jayakar: yes.

The Hon'ble Pandit Govind Ballabh Pant: I differ from the Right Hon'ble Gentleman in the interpretation of what was said there.

The Right Hon'ble Dr. M. R. Jayakar: I place my interpretation on that, and the Hon'ble Member is free to place his interpretation on that.

The Hon'ble Pandit Govind Ballabh Pant: Dr. Jayakar has no right to represent the States' view here unless the States representatives or the Negotiating Committee make the position clear.

The Right Hon'ble Dr. M. R. Jayakar: I am not stating the view of the States. I am stating what was stated in the House of Commons. If the Muslim League does not come in, the States may not come in. The States may not conceivably like to deal with a Constituent Assembly which is composed of one party only. If so what will be the result? (Interruption).

Mr. Chairman: I think it will be better if we allow Dr. Jayakar to continue.

The Right Hon'ble Dr. M. R. Jayakar: Won't you allow me to go my own way for about 20 minutes? The whole of this week, I understand, is going to be at your disposal to pick holes in my speech.

The Hon'ble Pandit Govind Ballabh Pant: We will have something more to do than pick holes in your speech.

The Right Hon'ble Dr. M. R. Jayakar: If the Muslim League does not come in, then in all probability the States will not come in. What happens? Probably you will frame a constitution for Section 'A'. Perhaps you will be framing a constitution for a Union Centre for the Provinces in Section 'A'. You may like to have a Union Centre for those Provinces. It is certain however that you will be unable to frame a constitution for Section 'B', the majority there being of the Muslim League. The result will be that there will have to be another Constituent Assembly, as Mr. Jinnah is wanting, for the purpose of framing a constitution for Sections 'B' and 'C'. Whether the minorities in those Sections can take advantage of the formula that unwilling parts will not be forced to accept the constitution, whether the Hindus and the Sikhs of the Punjab and the Hindus of Bengal and Assam can take advantage of that provision, I do not know. I can

express no opinion on that. It may be that they will be able to take advantage of the principle of this dictum and say, "We had no hand in framing this constitution. Therefore that constitution should not be forced on us." That is a possibility. This much however is certain that our endeavour to frame a constitution for the whole of India as a Union will be defeated. The possible result of that will be that there may be one constitution for Hindus and another constitution for the Muslims and if this happens, there will be a third constitution for the States, and instead of having one United India, we may be forced to the necessity of having a Hindustan constitution, a mild, abbreviated, or qualified Pakistan Constitution and a Rajasthan constitution also. Your Union at the Centre will go. It will not be established. At present you have got at least this advantage that even though some form of Pakistan will be established in Sections 'B' and 'C', you have got a Union Centre, attenuated though it may be. Therefore the obvious necessity of the present occasion is that every effort ought to be made to invite the Muslims to come in here, and we should not make it more difficult. This is mainly because our work has to bear fruit. I admire in this behalf the sentiments expressed by Pandit Jawahar Lal Nehru in moving the Resolution. He said in effect that we seek the co-operation of the Muslims. We must continue to make an endeavour, though, in the past, our efforts did not evoke enough response. I do not think that my plea can be put in better words. It is clear that you cannot do any constitution-making at least till April next. Therefore, where is the harm in deferring the further consideration of this Resolution for a few weeks more until at least you know that the Muslim League, by a formal resolution, has declared its intention not to come in. They must declare their intention during the next few weeks. I read the statement of Sir Stafford Cripps in the parliamentary debate that it was understood that, when Mr. Jinnah went back to India, if the Congress accepted the Statement of 6th December, he would call a meeting of the Muslim League and decide on this question. That was a statement made on the floor of the House of Commons. After you know that by an authoritative formal resolution, the Muslim League has decided not to come in, you can then decide what to do. One hurdle would have been crossed; but I am not disposed to take it for granted that the Muslim League will not come in. It is not practical politics. A friend came to me this morning and said: "Until yesterday, Dr. Jayakar, I was entirely in favour of your Resolution, but Mr. Jinnah's Press Conference in London has made the whole difference." I said, "What difference has it made?" He said, "Mr. Jinnah has now stated that he will never come into this Constituent Assembly." I do not think that Mr. Jinnah has made such a statement, and even if so made, I am not disposed to take that statement as the final, authoritative, deliberate, formal decision of the Muslim League. What is the harm in postponing the final vote on this Resolution till then? You are not in any event going to do anything substantial at least until the 20th January, that is four weeks from now. At least till then you should keep the way clear for the Muslim League to come in and take part in the proceedings. One answer to my plea is, "We are not doing anything to which the Muslim League can legitimately object." That does not touch my point. It is not a question of doing anything to which the Muslim League does not object. It is a question of giving it the right and the opportunity to be present here during the deliberations on this Resolution. That is what I am trying to obtain. Then it is said that there is nothing here which is contrary to the White Paper. That again does not touch my point. My object is to save the work of this Constituent Assembly from becoming infructuous. Wait, go slow. A few weeks are not going to make any substantial difference. It is not going to cause any great harm if you, instead of passing this Resolution in the present session, deferred it to a few weeks hence. The fact is that you are going to adjourn till the end of January but you will not do so, not in compliance with the terms of my amendment. That

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is a significant fact. Why don't you wait for a little while and thereby make it less difficult for the Muslim League to come in. I am told what is the grievance. The Muslim League can come in later after we pass this Resolution. My reply is that it is their right to be present at these deliberations, and to make their contribution. Please remember that the Muslim League leader has already raised the grievance in his Press Conference in London. "I do not want to be presented with a *fait accompli*", he complains. Will you now give him the opportunity of justly complaining that an important and vital question, like laying down the fundamentals of the Constitution, has been finished in his absence, knowing that he was likely to come in? Are you not thereby making it more difficult for the Muslim League to come into the Constituent Assembly? What I am urging on your attention is this: that as you are doing a good deal of what my amendment wants you to do, what is the harm in accepting my amendment? I say, "go slow". What is the harm? Do you wish to say we shall go slow, but not in compliance with your amendment i.e., not for enabling the Muslim League to come in? That is hardly dignified. It looks so petty. It will be a graceful gesture, if you say 'we are postponing because we wish to give the Muslim League of chance of coming in, so that this question may be discussed and finally adopted in their presence'. This is the position Sir, as Pandit Jawahar Lal Nehru said, there is great need of the spirit of co-operation and accommodation at the present time, having regard to the great difficulties through which we are passing. I have explained to you the difficulties and also the danger of this work becoming fruitless. In the light of that possibility and danger, I would urge, with all the words at my command, that the words of Pandit Jawahar Lal Nehru ought to be translated into action. We seek Muslim co-operation, we go out of our way to seek it by postponing this Resolution. Sir, miles away from here is working that solitary figure, whose steps we claim to follow, the great Mahatma;—alone, stunted of sleep, stunted in food and stunted in health, grieved and solitary, he is trying to win the Muslim community by friendly co-operation and goodwill. Why can we not follow his example here? Sir, if I may say so, I am glad you are here to preside over the deliberations of this august Assembly, and from what I have known of you all these years, your great capacity for goodwill, your gentleness, your spirit of accommodation and your ability to see the opposite point of view, having regard to all these virtues, I think, it is very significant that at this time you are in the Chair and my effort is for establishing that atmosphere in which your efforts, with your particular gift of fascination, can best thrive. Therefore, I am making this plea that we should defer the consideration of this Resolution so that you will have the chance of obtaining Muslim co-operation. But it is said we will alter the Resolution when they come in. It is neither wise nor easy to alter deliberately-adopted Resolution. The substance of my plea is to allow the Muslim League an opportunity to take part in the deliberations, sit by your side, make speeches not *ex post facto*, but before and during the passing of this Resolution. That is real co-operation and not asking them after they want to come in and accept what you have done.

From this view I fear many of you will differ. I was warned, "you are making yourself extremely unpopular." But I said to my friend, "unpopularity has been my guerdon since my childhood." I have passed through many unpopularity. When I helped to start the Swaraj Party, I was unpopular. When I started the Responsive Co-operation Party, I was unpopular. When I went to the Indian Round Table Conference in London, I was unpopular. When I joined in passing the 1935 Act, I was unpopular—that piece of legislation which you, very thoughtlessly in my opinion, turned down. Having done that you are now borrowing out of that detested legis-

lation, four important features, a Federation, an attenuated Centre, Autonomous Provinces and lastly residuary powers in Provinces. May I say, however, that my unpopularity has, with lapse of time, swollen into bulky majorities. Unpopularity does not therefore frighten me at my age and with my experience. My duty is to tell you that the course you propose to adopt is wrong, it is illegal, it is premature, it is disastrous, it is dangerous. It will lead you into trouble. As I am elected on your ticket, I am bound to tell you frankly that there is danger ahead, danger of frustration, danger of discord and division, which it is our duty to avoid, Sir, I have done.

Mr. Chairman: Sir Hari Singh Gour has given notice of an amendment. This appears to me to be out of order, but before ruling so, I would ask Sir Hari Singh Gour to point out how it becomes relevant. The amendment is this:

"That in the said Resolution for the words:

"This Assembly postpones the further consideration of this question to a later date to enable the representatives of these two bodies to participate, if they so choose in the deliberations of this Assembly."

The following words be substituted:

"This Assembly is of the opinion that the demand made by the Muslim League is suicidal in view of the history of Pakistan elsewhere and that it is in the interests of the Mussalmans and the other communities to constitute joint electorate reserving for the minority communities their equality of status for the next five years and providing a further safeguard that no member of one community shall be deemed to have been duly elected unless he holds a certain percentage of the votes of the other community."

It may seem that this amendment goes much beyond what is contained in either the original Resolution or the amendment of Dr. Jayakar. I am therefore inclined to say, it will not be in order, but I am not giving my ruling at this stage. I will ask him to point out how it is in order.

Dr. Sir Hari Singh Gour (C. P. and Berar: General): Mr. Chairman. The point that at present I am called upon to reply to, is the question of my amendment to the Hon'ble Dr. Jayakar's amendment being in order. I wish to submit that if Dr. Jayakar's amendment is in order, my amendment to that amendment is in order. It must be assumed that I have not done anything more than pointing out the legality or orderliness of that amendment. I have always been feeling that if Dr. Jayakar wants the whole thing to be shelved, it cannot possibly come in as an amendment. An amendment means correction. The Hon'ble Dr. Jayakar's amendment therefore means that the Hon'ble Pandit Nehru's original Resolution should be passed as corrected by him. That may mean an amendment. If you wish to completely obliterate the main Resolution and want that there should be no further discussion for an indeterminate period, I fail to understand what Dr. Jayakar is trying to amend. He had better amend his own amendment first. I assume that amendment may go through and therefore I have given notice of my amendment. But, Mr. Chairman, you will further find that with some mental reservation about the legality of his amendment and mine, I have supplemented it by giving notice of another amendment to the original Resolution, which substantially reproduces the terms of my present amendment. Now, briefly stated, my case is this. If this amendment of the Hon'ble Dr. Jayakar is in order and is to be discussed, I am entitled to correct it. If on the other hand, that amendment is ruled out of order, I do not wish to move my amendment.

[Dr. Sir Hari Singh Gour.]

In that case I would move the second amendment of which I have given notice.

Mr. Chairman: We shall deal with the second amendment when the time comes.

The amendment of Dr. Hari Singh Gour would make the Resolution as a whole read as follows:

"This Assembly declares its firm and solemn resolve that the Constitution to be prepared by this Assembly for the future governance of India, shall be for a free and democratic Sovereign State; but with a view to securing, in shaping such a constitution, the co-operation of the Muslim League and the Indian States, and thereby intensifying the firmness of this resolve, this Assembly is of opinion that the demand made by the Muslim League is suicidal in view of the history of Pakistan elsewhere and that it is in the interests of the Muslims and other communities to constitute a joint electorate reserving to the minority communities a particular quota of seats for the next five years, providing a further safeguard that no member of one community shall be deemed to have been duly elected unless he polled a certain percentage of the votes of the other community."

I am afraid Dr. Hari Singh Gour has not been able to connect the two parts of the Resolution, and it is out of order.

I propose to ask the Members who have given notice of amendments one after another to move them if in order. The Resolution and amendments may be discussed together. I think that will save time.

Dr. B. Pattabhi Sitaramayya: The Hon'ble Dr. Jayakar's amendment being in the nature of an adjournment motion of the consideration of the Resolution, it should gain priority both in discussion and in decision over the other amendments which are amendments of a substantive nature to the proposition.

Diwan Chaman Lall (Punjab: General): Dr. Jayakar's amendment is also a substantive one. It is not a procedural one. It also speaks of democracy, eliminating the word Republic and although it says that further consideration may be postponed, it cannot be considered merely as a procedural amendment.

Mr. Chairman: We have treated it as an amendment. The next amendment of which notice is given is by Mr. Somnath Lahiri. With regard to that amendment also, my view, as at present advised, is that it is not in order. I will ask him to show how it is in order.

Mr. Somnath Lahiri (Bengal: General): Mr. Chairman, the original Resolution, to which mine is an amendment, resolves the aim of the Constituent Assembly to declare India as an Independent Sovereign Republic. My amendment would be considered an amendment for the very simple reason that it deal with the same subject and it does not go contrary to the main idea of the original Resolution. It is always within the scope of an amendment to extend the scope of the original Resolution.

Mr. Chairman: The objection that was taken to your amendment is that it lays down certain action to be taken that is not in the main Resolution. For instance, it wants to declare a Republic here and now. It calls upon the Interim Government to act in a particular way and there are several other matters of this character. It is a resolution which directs action to be taken here and now and in that sense it is suggested that it is out of order.

Mr. Somnath Lahiri: I think that if in furtherance of the objects of that Resolution, some action is suggested, that certainly is within the scope of the amendment. For instance, you have allowed in Dr. Jayakar's resolution certain things about the Muslim League and other things which are

not contained in the original Resolution moved by the Hon'ble Pandit Jawahar Lal Nehru. Just because he thinks that the Muslim League and others should be given an opportunity to come in, action to the extent of postponing this Assembly should be taken; and he has suggested his amendment and you have agreed that it is quite in order. Just as postponing is a kind of action, any other thing which may be suggested is also certainly in order. If I may remind you, Sir, of an incident in 1939, when you were the President of Congress, at the time of the declaration of War, a resolution came up at the A.I.C.C., where Pandit Jawahar Lal Nehru moved a resolution asking the British to declare their war, aims, and laid down certain conditions as a basis of co-operation, on which we could co-operate in the war. I remember myself having moved an amendment which said that we must prepare the country for a struggle and I remember that you, as Chairman, said it was quite in order although the Hon'ble Pandit Jawahar Lal Nehru pointed out that the intention of the amendment was just contrary to what was conveyed in the original resolution.

An Hon'ble Member: Is it a reported case?

Mr. Chairman: I am afraid that cannot go in as a precedent. (Laughter).

Mr. Somnath Lahiri: This is my submission. If in spite of this you think that it should be ruled out of order, then I may be given an opportunity to speak on the main Resolution so that I can express my views.

Mr. Chairman: I think the amendment is out of order. I would give you an opportunity to speak on the main Resolution later.

I have received intimation that a number of the amendments, of which notice had been given by the members, have been withdrawn. I will only call upon those members who have not expressed such desire to move their amendments if they wish to. So, the next amendment which has not been withdrawn is that of Rai Bahadur Syamanandan Sahaya, who may please come forward to move his amendment if he so wishes.

Rai Bahadur Syamanandan Sahaya (Bihar: General): Mr. Chairman, Sir, I move:

"That for the 1st and the 2nd paras. of the Resolution the following be substituted:—

This Constituent Assembly declares its firm and solemn resolve to constitute India, within the shortest time, into an Independent Sovereign Republic, comprising initially of—

- (a) The territories that now form British India, and as soon as possible, also of—
- (b) The territories that now form the Indian States,
- (c) Such other parts of India as are outside British India and Indian States, and
- (d) Such other territories as are willing to join the Independent Sovereign Republic of India, and further resolves that a constitution for the future governance be framed and laid down."

It is not, Sir, without a certain amount of diffidence that I stand here to move my amendment. After the great and magnificent speech of the Hon'ble the Mover of this Resolution it took me a great deal of thought and vacillation before I decided to send in this amendment especially because I thought my amendment perhaps achieved the objective which the Hon'ble the Mover had rather than stand in the way of it. I have an apprehension that perhaps attempts might be made by interested parties to isolate those of us who constitute the Constituent Assembly to-day but whatever happens, it is my desire—my extreme desire, as I know it is the desire of every one assembled here—that this Constituent Assembly shall proceed with its task. The Hon'ble Dr. Jayakar in his speech made

[Rai Bahadur Syamanandan Sahaya.]

references to several difficulties. One of the difficulties pointed out, was that we have to work under the limitations laid down by the Cabinet Mission. I am no where near him in the matter of knowledge of constitutional law but I heard the Chairman of this Constituent Assembly saying in his speech that although there may be limitations placed on the Constituent Assembly, it has the inherent right of getting over them. I have based part of my amendment on this consideration. I will now try to point out, Sir the difference between the original Resolution and the amendment as I have put it, for it will be necessary to explain why is it that I have introduced certain changes in the Resolution. In the first place, I have altered the word 'proclaim' into 'constitute'. I shall give my reason for doing so at a later stage and I would point out now only what the difference is between the Resolution and the amendment. Then I have omitted the word 'Union'. I have introduced the words "within the shortest time" and I have said that the Constitution should not only be framed but should be laid down. These are some salient points of difference between the Resolution as proposed and my amendment. I have read the Resolution carefully and I had, on one occasion, an opportunity of placing my views to a certain extent before the Hon'ble the Mover of the Resolution, who agreed that the wording of the Resolution at certain places looked archaic. Perhaps in laying down a law or framing a constitution, it is necessary to use terms which were used 100 years before either by the framers of the American Constitution or the constitutions of other countries but I think, in our case, it might be more useful and more helpful to be precise and to state our view-point clearly in unambiguous and in easily understandable language rather than use words only because they were used in previous constitutions. I will now try to explain the reasons for the changes, I propose, I think the word "proclaim" is not exactly what you would like this Constituent Assembly to do. Proclamation of independence, I suppose, has been made on other occasions before this. It is now our duty to actually constitute the State into an Independent Sovereign Republic and therefore I introduced the word "constitute", instead of the word "proclaim". I have also, Sir, left out the word "Union". I believe that India is India. It needs no Union. It has got a providential Union, and I would not like even to reiterate it now as it might be interpreted that the Union of India was still to be achieved. It is quite another matter that for the time being, we may be able to enforce the Constitution we frame on only a part of India. But we look forward at the earliest possible moment to introduce it on other parts also. As such I would, if it were left to me, stick to India as such and not introduce the word "Union"—where the word "Union" has been used in other countries there has been good reason for using that term. Here, I suppose we would be better advised to leave out the word "Union". Then, as I said, I have used the words "frame and lay down". I have heard it said in this House before that the Constituent Assembly has got the sanction behind it to enforce the Constitution that it frames. I have also read carefully the Declaration of May 16. It does not in any way state that the Constitution that is passed here will require the sanction of the British Parliament. The two essential conditions laid down are that a treaty will be entered into between England and India and that the minorities will be protected. I take it, therefore, that we assembled here, have not merely the right and the power to frame a constitution, but also to lay down the Constitution and enforce it. That is why I have omitted the word "draw up" and used in its place the words "frame and lay down".

The other important change, Sir, which I have made in the amendment is that I have tried to specify different stages when the Constitution will come into force on the whole of India. Even in the original Resolution, I may point out, there are certain territories envisaged which perhaps might

come into the Union at a very late stage. I refer, Sir, to the two territories described as territories outside both British India and Indian States, and such other territories as might like to join the Union. Now these two parts of the Union surely are not going to come in now and here. Therefore different stages of the formation of the complete Union have been envisaged even in the original Resolution and I have tried in my amendment to clarify that the Independent Sovereign Republic will comprise initially of the territories that now form British India, and, as soon as possible, also of the territories that form the Indian States. My whole purpose in moving this amendment is, as I said before, to see that in framing the first Resolution we should so word it that it may not have to be altered at any stage. After all, it is the first act of this Assembly and no one would like, that circumstances developing later on, might require the Resolution to be altered. An Independent Sovereign Republic for the territories that form British India has been accepted in the past by the majority elements constituting that territory. There may be difficulties pointed out by others. We shall probably have to take note of those difficulties and try to solve them. I therefore, introduced in the Resolution stages by which we could form the Independent Sovereign Republic ultimately in its entirety. But even if we may not be able to secure the association of people whose association we definitely seek and are anxious to secure, even then the march to independence will not be hindered and we shall not have to wait for all the territories to agree before the Constitution can be laid down. These, Sir, are the reasons which led me to move this amendment. I am very sorry that the Hon'ble the Mover of the Resolution is not here today. As a matter of fact my desire entirely was to bring to his attention the points which I had in mind and to request him to consider whether it might be possible to accept the amendments or portions of it that might not be in conflict with the original idea which he advocated.

Mr. Chairman: The next amendment which has not been formally withdrawn and of which notice has been given is by Shri Govind Malaviya. He is absent, but I have his authority—he has told me himself—that he would not like to move his amendment. So I take it that is also withdrawn.

Then, there is another amendment by Rai Bahadur Syamanandan Sahaya.

Rai Bahadur Syamanandan Sahaya: The second amendment, Sir, which stands in my name is that in para. 4 of the Resolution, the following words be omitted:

"of the Sovereign Independent India, its constituent parts and organs of Government."

The original Resolution reads as follows:.....

Professor N. G. Ranga (Madras: General): Is a member entitled to speak more than once on the same Resolution? When he has got two or three amendments, let him move the whole lot of them and make one speech.

Rai Bahadur Syamanandan Sahaya: The amendments have been recorded according to the several paragraphs of the Resolution.

Mr. Chairman: He has got one other amendment in his name. He may move both of them.

Rai Bahadur Syamanandan Sahaya: The other amendment, Sir, is as follows:

"That in para. 5 of the Resolution the words 'of protection under the law' be substituted for the words 'before the law'."

I shall not move this.

Now, Sir, my reason for bringing this amendment asking the House to omit the words—

"Sovereign Independent India, its constituent parts and organs of Government."

[Rai Bahadur Syamanandan Sahaya.]

was to avoid an impediment in the way of the smooth working and functioning of this Constituent Assembly and not to do anything before the other parts of it join this House which might frighten them here at the early stage.

Paragraph (4) says:

"Wherein all power and authority of the Sovereign Independent States, its constituent parts and organs of government, are derived from the people."

Among its constituent parts are territories that now form Indian States. I suppose the attention of most members of this House has been drawn to the recent statement in the Legislative Assembly (or whatever the name may be, of Bikaner wherein the Prime Minister said that so far as the States are concerned the power is derived from the sovereign and not from the people. I submit that these are matters on which there can be a difference of opinion and it would not be proper to pass a resolution containing such statements which might give the other important elements of this Constituent Assembly a real grievance to keep out. The Resolution as amended by me will read:

"wherein all power and authority are derived from the people."

I have purposely omitted the words "Sovereign Independent India, its constituent parts and organs of government". With regard to the constituent parts I have pointed out the difficulty and the reason why I move the amendment. Even the amended Resolution retains the purport of the Hon'ble Mover's Motion as it says,

"wherein all power and authority are derived from the people."

without in any way specifically bringing in the constituent parts. The Hon'ble Mover of the Resolution in his speech said that even in the Republic which he envisaged, there will be room for ruling chiefs and States where there is a system of monarchy or kingship. That being so, it would not be advisable to pass a resolution saying that all power and authority of the constituent parts also are derived from the people. Perhaps members of the House have noticed the statement which was broadcast last night in which the representatives of the different States made a statement signifying some objection to the Resolution and complaining that there had been no consultation about it before. In view of all that, and in view of this extreme desire of every one assembled here to carry this difficult work through, I think we ought to avoid passing a resolution or making statements which might give reasonable cause for an honest difference of opinion.

I do not move amendment No. 30 because that is only a verbal change and I shall not move it. There is one other amendment (No. 43) also standing in my name and I am not moving it.

Mr. Chairman: The next amendment stands in the name of Sir Uday Chand Mahtab—No. 25.

Maharajadhiraja Bahadur Sir Uday Chand Mahtab of Burdwan (Bengal: General): I do not propose to move the amendment.

Mr. Chairman: I find that the movers of all other amendments given notice of here have withdrawn their amendments. I suppose there is no mistake here, and if there is any, any Hon'ble Member may point it out to me. There is one amendment of which notice has been given by Dr. Sir Hari Singh Gour, but unfortunately that was received only this morning. I had already put a definite limit to the time for giving notice of amendments and as Dr. Sir Hari Singh Gour has exceeded that limit, I am unable to allow his amendment.

Now, the Resolution has been moved, and also amendments to it have been moved. The Resolution and these amendments are now for discussion by the House.

I will ask Hon'ble Members to confine their speeches to as short a time as possible because we have already had two days on this, and though I do not wish to curtail the right of any Hon'ble Member to speak, I will ask Members to bear my remark in mind. I have got a list of names here who will take part in the debate, but I take it, it is not a complete list. There may be some other members who may be willing to speak, but I shall proceed according to this list and interpose other speakers also if they wish to speak. The first name that I have got here is Mr. Shri Krishna Sinha.

The Hon'ble Mr. Shri Krishna Sinha (Bihar: General): Mr. Chairman, Sir, I stand here to support the Resolution as originally moved by Pandit Jawahar Lal Nehru. In my opinion, it is really unfortunate that a resolution of such a sacred nature should have been subjected to amendments. I purposely call it sacred because by this Resolution an attempt is made to give expression to that aspiration to be free which has stirred us for the last several years.

Sir, the Resolution, if carefully analysed, comes to this. It gives a picture of the vision of future India. That India of the future is to be a democratic and, decentralised republic, in which the ultimate sovereignty is to lie with the people and in which fundamental rights are to be safeguarded to minorities inhabiting this land. Now, Sir, these are the three fundamental features of this Resolution and it is because of these three fundamental features that I call this Resolution sacred. I shall try to be brief. Yet I cannot refrain from reminding this House that we are all assembled here in assertion of a right, a cherished and valuable right which mankind has achieved for itself after undergoing untold sufferings and sacrifices. Some sort of political structure is required in every society to make life therein possible. A careful analysis of the process of evolution of States in this world shows that the nature of these has changed with the change in the conception of life. Sir, I was not a little surprised to hear just now from an Hon'ble Member of a House which has assembled in assertion of the constituent power of the people that there can be honest difference of opinion regarding the place where political sovereignty resided in society. Certainly, Sir, not long ago, the world did not believe that all individuals composing society had an equal right to liberty and happiness. Society was composed of classes and the individual had no place in society. The place of man in society was determined by the class to which he belonged and so there was no individual liberty to be safeguarded. Poverty was not thought to be a disease which society must get rid of. Some of the great thinkers of the 18th century France, were of the opinion that the presence of poverty in society was necessary for the proper production of wealth. In such a society, Sir, there could be no place for the principle of the sovereignty of the people. Sovereignty belonged to the King whose privilege it was to rule. The people existed merely to pay the taxes demanded of them by the king and obey the laws enacted by him. But with the lapse of time, the conception of society and life changed. Men came to believe that every individual has an equal right to liberty and happiness. With this change in the conception of life, a change in the structure of the State became necessary. But those who held political power were reluctant to part with it and effect a change in the political structure. There was thus a clash between the ideologies which swayed the people and those which swayed the men in power. There were revolutions on both sides of the Atlantic at the end of the 18th century in which the principle that the power belonged to the people was vindicated. Even after this, there were rulers who would not recognise this principle and so another blood-bath in the shape of a revolution had to be gone through to get finally sanctioned the principle that political power belonged to the people. It was to achieve this constituent power that we in this country have been fighting British Imperialism for the last

[The Hon'ble Mr. Shri Krishna Sinha].

several years. It is this which moved this country from one end to the other in 1921 and made its millions rally under the banner of revolt raised by Mahatma Gandhi in that year. It was for asserting this basic right of a people that hundreds mounted the scaffold, thousands faced bullets and men in lakhs swarmed the jails. There was a wide gap between the political ideals on which the Government of India was based and the political ideology which swayed the people, and the result has been strife. So, Sir, we are not here in this Assembly because the British Government in a fit of generosity have thought it proper to ask us to take over power. I have been in a position from where I can form my own opinion as to whether there is any sincerity behind all this talk of peaceful transfer of power. We are here because we have succeeded in compelling those who still entertain the dream of governing India according to the political ideals embodied in the Government of India Act, to give up that dream. We have succeeded because of that spirit of rebellion which spread all over the country in 1942. It is as a result of the 1942 rebellion that we are here in this Constituent Assembly. Gathered together in such an Assembly it should be our first duty to draw up a picture of future free India and present it to our people. The Right Hon'ble Dr. Jayakar who spoke eloquently, has drawn a picture of the difficulties which the absence of our Muslim League friends will cause. I do not think that we required a speech from a man of the eminence of Dr. Jayakar to point out these difficulties. We know what those difficulties are. If I understood him aright, however, he did not give us a counsel of despair. He has actually advised us to go on with our work if our friends of the Muslim League do not come in after some time.

Sir, our leader, the Hon'ble Pandit Jawahar Lal Nehru, has made it quite clear that we are anxious to see our Muslim League friends occupying their rightful place in this Assembly. Every one of us is equally anxious to see them come back. But I fail to understand how this particular Resolution would stand in the way of their so coming here at a future date. If we have understood the political ideology of the Muslim League correctly, if we understood the Cabinet Declaration correctly, there is one matter in which all are agreed and that is that the future India is to be a United India and that that India might also be outside the British Commonwealth of Nations, if the Indian people so decide. From the pronouncements made from time to time by Muslim League leaders I think we can rightly draw the conclusion that the Muslim League also stands for a free and independent India. So, Sir, according to all of us including the League, the future India is going to be an independent free India. In that independent free India the source of authority is going to vest in the people who inhabit this land. That is the cherished right which has been won for the peoples inhabiting this globe by those who have gone before. That is the principle for which we have been fighting all along. Now when this Constituent Assembly meets and we draw up a declaration, I think the first thing to be included in that declaration should be this elementary right of a people which decides to be free, and therefore to this feature of the Resolution no one can have any objection.

Now, Sir, the Union which we are going to have in India is going to be a Union of all the parts of India. This certainly means that the future India is going to be a united India. I will again say that the shape of that future India which this Resolution envisages certainly shows that the framers of this Resolution have taken pretty good care to see that nothing is said in this Resolution which can create difficulties in the way of our friends of the Muslim League coming into this Assembly at some later date. I know, Sir, there are members in this Assembly—and I must confess

that I am one of those,—who believe that there has arisen in Indian, an Indian nation, an Indian nation with an Indian culture and an Indian civilisation. Such men certainly are only too anxious to have a republic of the unitary type in this country. There has been such a tremendous increase in the economic forces of production in the world that if full use is to be made of these forces in this world, it is necessary that we should have still larger political units which will transgress the national boundaries of national states. It is a realisation of this truth which makes many Indians feel that India must have a centralised republic. But in spite of that, if we by this Resolution want to have a republic in India which will be democratic and at the same time decentralised, it is because the framers of this Resolution have taken care to take into account the feelings of our Muslim League friends. Sir, there was a time when because of the historical circumstances prevailing in the world of those days, States of large sizes, containing populations homogeneous in language and religion, could be erected. There can be no doubt that a national state with a homogeneous population is a force and a living force. But unfortunately at a time when there is a tendency for these national states to pass out of existence, we have to deal with a bitter legacy left behind by them and that is the legacy of small nationalities, consisting often of a few thousands or a few lakhs, clamouring for separate states of their own. This has been creating havoc in this world. The whole of Eastern Europe has become the zone for breeding wars because in that portion of Europe are living small nationalities so intermixed that they cannot be divided into small states, and yet they clamour for separate political existence.

Sir, this Resolution gives expression also to the aspiration that India shall have her place, her rightful place, among the nations of the world. Every Indian legitimately aspires that one day India will give a lead to the whole of Asia and we can give this lead now by successfully constructing a state which will be a democratic republic, and, at the same time decentralised so that different cultural groups based on language, on religion, may be integrated in a vast republic. It is hoped that very soon the flood of Western Imperialism will retreat from the lands of Asia, and no sooner it has retreated, these lands will have to solve the problem of erecting independent states of their own. This question of nationalities is bound to raise its head even in those countries. They have such problems in Palestine, in the Arab world, and in the small islands in the south-eastern portion of Asia. If we are to lead them rightly so that like the Balkans these Asiatic lands may not also become the battleground of the Imperialisms of the West, it is very necessary that we should set an example by having a state in India which will be a state for the whole of India and at the same time provide safeguards for cultural minorities. This is what this Resolution contemplates by further making provision for the fundamental rights of the individuals and groups living in this country and for safeguarding the fundamental rights of the minorities.

Sir, it is because of these features of this Resolution that I said that the Resolution was of a sacred nature and one which is bound to rank with those declarations which were made on similar occasions in the past by peoples just after they had shed their shackles of slavery. It not only is sacred, it is arduous also, arduous not only because of the difficulties pointed out by Dr. Jayakar, but arduous because of the attitude of British statesmen over there in England. I have just now told you that from my personal experience as an administrator I do not feel that the Britishers have made up their mind to peacefully transfer power to the people of India. Only the other day you had the speech of Mr. Churchill. Not one word of cheer from that great imperialist. At a time like this in the history of our country when so many of us have assembled here to advise a constitution

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for this land, instead of giving a word of cheer, he was again at his old game. He had a fling at the Congress, he had a fling at Pandit Jawaharlal Nehru. In the advent of Pandit Jawaharlal Nehru into the Interim Government he sees the butchery of innocent men in Bihar. To Mr. Churchill, living seven seas across, I will say, you have been supplied with a lie by some interested person and you have made yourself the willing tool for the propagation of that lie. The Government of Bihar did not hesitate for one single moment to use force and it used force, whatever force it had, to give protection to the lakhs of Mussalmans living in that Province. The Bihar Government is a proud Government. It is not going to have dictations from the Government of India, so long as it is constituted under the Government of India Act, 1935. Pandit Jawahar Lal Nehru is our leader and so he went to Bihar. He is a source of inspiration to us. I may tell Mr. Churchill that during his strenuous tours of a few days through the Province he gave the people a bit of his mind. I told the greatest official of this country that he could not restore order in Bihar in the short period in which we did it. Order could be speedily restored, not because of the bayonets that the Government of Bihar had or because of those bayonets that were lent to them by the Government of India. It was the dynamic personality of Pandit Nehru, the saintly presence of Dr. Rajendra and the spectre of a fast unto death by the Mahatma that restored order quickly in Bihar. Mr. Churchill has done great mischief by giving currency to such lies. I have taken much of your time. But I must tell you that before you pass this Resolution you must try to visualise the difficulties that may come in your way. I have not studied this declaration of the Cabinet from the point of view of a lawyer. Spurn to look at it from the point of a lawyer. I have been a soldier all my life and I would look at it from the point of view of a fighter. The statements of British statesmen are not quite helpful. It is just possible that not because of the difficulties that have been dangled before us by Dr. Jayakar but because of the difficulties which may be created in our way by those in power. This Constituent Assembly may one day have to go the way the Constituent Assembly of France in 1799, had to go, because of the attitude of the King and statesmen of that time. So before I sit down, I would remind Hon'ble Members of the House that before they make up their minds to vote in favour of this Resolution they must realise the difficulty that they may have to face in giving effect to their resolve. If we pass this Resolution we must at the same time take a firm resolve to tear down that political edifice which owes its existence in India to the Government of India Act, 1935—a monument of constitutional jugglery—and build on it a Republic of the type which this Resolution envisages, whatever may be the difficulties that may come in the way.

Mr. Chairman: It is already past five. I would like to know whether the Hon'ble Members would like to sit till half past five.

Many Hon'ble Members: Half past five.

Mr. Chairman: Opinion is divided.

The Hon'ble Sardar Vallabhbhai J. Patel: Opinion is unanimous for five.

Mr. Chairman: Those who are in favour of half past five will please raise their hands.

Those who are not in favour of half past five will now raise their hands.

Mr. Chairman: The "fives" have it. The House will now adjourn till Eleven of the Clock tomorrow.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 17th December, 1946.

CONSTITUENT ASSEMBLY OF INDIA

Tuesday, the 17th December, 1946

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

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

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

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

RESOLUTION RE: AIMS AND OBJECTS—contd.

Mr. Chairman: We shall proceed to the discussion of the Resolution and the amendments. I have got a long list of members who wish to speak. The list covers more than 50 names. I do not know how I can accommodate all the 50 speakers who have sent in their names. There may also be some others who wish to speak. I would therefore select according to my own choice. I am not sure that that may not cause complaint in some quarter or other, but I suppose that that is the only way. I want to suggest to the speakers to be as brief as they can, because after all we have got to go through this work, finish this Resolution and take up other business. Sitting, as we are doing now for two hours a day, if every speaker takes 15 minutes, that means 6 days and if we sit both in the morning and evening, it means 3 days. I do not think we can afford so much time on this Resolution. I would therefore request the speakers to be as brief as they can without my fixing any time-limit. Ten minutes may be taken as a reasonable limit. I would call upon Mr. Masani.

Mr. M. R. Masani (Bombay: General): Mr. Chairman, in rising to speak on this Resolution, I would like to make it clear at the outset that I do so, not as a member of one of the several communities into which unfortunately, our nation is today divided, but as an Indian first and last. (Hear, hear). I do so even though I owe my origin to the very smallest or tiniest of our national minorities. It was one of those groups of people who received that welcome, that hospitality and that protection to which Babu Purushottamdas Tandon referred in his speech in seconding this Resolution. I hope, Sir, that these minorities which exist in our country, will, along with the majority, continue their progress towards becoming a nation, a process which in this ancient country was happening through the absorption of new groups that came into it through the centuries, but a process which seems to have been retarded through the rigidity of caste and through the exclusiveness of society in the past few centuries. I would only observe at this stage that the conception of a nation does not permit the existence of perpetual or permanent minorities. Either the nation absorbs these minorities or, in course of time, it must break up. Therefore, while welcoming the clause in this Resolution which promises adequate safeguards for the minorities, I would say that it is a good thing that

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J. Patel
the house will
let it be

[Mr. M. R. Masani]

we have these legal and constitutional safeguards, but that ultimately no legal safeguard can protect small minorities from the overwhelming domination of big masses, unless on both sides an effort is made to get closer and become one corporate nation, a homogeneous nation. That process has been shown to us by the United States of America, where peoples of different races have, with one unfortunate exception, been absorbed into one nation.

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

I approach this part of the Resolution, Sir, as a Democratic Socialist, a Socialist who feels that democracy needs to be extended from the political to the economic and social spheres and that, if socialism does not mean that, then it means nothing at all. I welcome this Resolution in spite of the fact that neither the word 'Democracy' nor the word 'Socialist' finds a place in its Preamble. It is perhaps just as well that those words have been avoided because, as one of us here put it in his Presidential Address at the Meerut Congress, terms like Socialism or Democracy can be made to cover a multitude of sins. The fog of words often covers realities. We know that the French Revolution was made in the name of fraternity but, towards the end of that Revolution, a cynic remarked—

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

That, I fear, is true of other revolutions as well.

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

every boy and girl, will get an equal opportunity to develop those faculties which he or she possesses in order contribute to the common good.

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

As I said, Sir, I approach this as a Democratic Socialist and, if Socialism is there, so is Democracy or the content of Democracy included in the Resolution. I do not think the word 'Republic' there is adequate. As Pandit Jawahar Lal Nehru himself has stated; it is conceivable that a Republic may not be democratic. If we cast our eyes around the globe to-day, we shall see several instances of this and therefore, apart from saying that we shall be a Republic, it is necessary that we should make it clear, as clauses 4 and 5 do, that in our view Democracy does not mean a Police State, where the Secret Police can arrest or liquidate people without trial. It does not mean a totalitarian State where one party can seize power and keep opposition parties suppressed and not give them the freedom to function freely and with equal facilities. It cannot mean a Society or State where an individual is made a robot or where is reduced to "a small screw in the big machine of State". Pandit Jawahar Lal Nehru has pointed out that this Resolution is based on Democracy, and that all our past bears witness to the fact that we stand for Democracy and for nothing less. But it is not only our past which is a guarantee of our democratic faith. It is also our present.

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

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

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

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

And as if to find an echo of that in a thinker of a very different school, I shall now cite a sentence or two from a recent Picture of Socialism drawn by the leader of the Indian Socialist Party, Jai Prakash Narain. I regret, Sir, that he has not joined us in our labour here, but this is what he says and it sounds almost like an echo of Gandhiji's thought:

"The State under Socialism threatens, as in Russia, far from withering away, to become an all-powerful tyrant maintaining a strangle-hold over the entire life of the citizen. This leads to totalitarianism of the type we witness in Russia today. By dispersing the ownership and management of industry and by developing the village into a democratic village republic, we break this strangle-hold to a very large extent and attenuate the danger of totalitarianism....."

[Mr. M. R. Masani]

Thus my picture of a socialist India is the picture of an economic and political democracy. In this democracy, men will neither be slaves to capitalism nor to a party or the State. 'Man will be free.'

Sir, it is a fashion of our day to argue that the social and economic changes that are at present required cannot be made unless individual liberty and democracy are first destroyed and an all-powerful State can push its programmes through. This Resolution, if I read it aright, is a refutation of that thesis. It envisages far-reaching social changes—social justice in the fullest sense of the term but it works for those social changes through the mechanism of political Democracy and individual liberty. To those defeatists who say that this cannot be done, this Resolution says it can be done, and we have the intention and the determination to do it. The central problem of our times is whether the State is to own the people or the people are to own the State. Where the State belongs to the people, the State is a mere instrument subordinate to the people and it serves the people. It only takes away the liberty of the individual to the extent that the people really desire it. Where the State owns the people, the people are mere robots in a big machine—pushed about here and there by the whims of an all-powerful dictator or an all-powerful party. It is because I believe, Sir, that this Resolution points the direction to a constitution where the people will be in power, where the individual will occupy the centre of the stage and the development of the individual personality will be the main aim of our social good, that I support this part of the Resolution, this aspect of it, for I believe that, as the fathers of the United States Constitution put it, every individual Indian has an 'inalienable right to Life, Liberty and pursuit of Happiness'. (Cheers.)

Mr. F. R. Anthony (Bengal: General): Mr. President, Sir, I have risen to support the amendment moved by Dr. Jayakar. I have given the most earnest consideration to the Resolution moved by Pandit Nehru and to the amendment as it has been moved by Dr. Jayakar. I appreciate the solemn character of the main Resolution, and I am not going to support the amendment purely by arguing technical or legal reasons in support of it. I appreciate the fact that the first part of that main Resolution affirms our solemn resolve to proclaim India as an Independent Sovereign Republic. That, I realise, is an article of faith with the Congress Party. It represents the supreme objective for which they have fought so long and so arduously. No one could, should, more than that, would dare ask them not to reiterate that pledge of theirs on this, the first and the most appropriate occasion. Apart from that, I think it is a pledge which is enshrined in the heart of every Indian. I also appreciate the fact that constitutional precedent shows that assemblies such as ours have at the very first opportunity declared their main and fundamental objective. And ours is to proclaim India as a Sovereign Independent Republic. Pandit Jawahar Lal Nehru has asked us, quite rightly, not to read into this word "Republic" any unnecessary bogeys. It is only meant to indicate a constitution in contradistinction to a monarchical form of government. At the same time, he emphasised that it does not preclude units, autonomous units, from joining this Republic and retaining to themselves a monarchical form of government. The reasons why I have supported Dr. Jayakar's amendment are that, I believe that it fulfils essentially both these things. The amendment respects the Congress pledge. It affirms our solemn resolve to frame a constitution for a free and democratic Sovereign State. The words used may not be identical. I would prefer the words to have been adopted from the main Resolution, but I believe that from the constitutional point of view, the connotations of these two phrases are virtually identical. Further, Dr. Jayakar's amendment meets the second need, to proclaim at this first stage our fundamental objective of framing a constitution for a free and democratic Sovereign State. What I believe Dr. Jayakar's amendment

really seeks to do is to ask us to defer a declaration on the remaining parts of that main Resolution. That is, those parts relating to the Indian States, to the powers and functions of the Provinces and to the powers and functions of the Union. That, I believe is the intention of this amendment—to ask us to defer a declaration, however just it may be,—a declaration which may expose us to the charge, however baseless, that we are pre-judging matters of detail which have to be traversed in this Assembly and on which decisions should be made after they have been fully canvassed and discussed here. That is why, Sir, I feel that Dr. Jayakar's amendment should be supported. It ought to be adopted because it is dictated, if I may say so, with all humility, by considerations of statesmanship, by the desire of every one of us to see the greatest measure of agreement and goodwill between the two major parties and by the desire of every one of us to see this great country of ours embracing, giving strength to and being given strength by those who make up her children.

Dr. Syama Prasad Mookherjee (Bengal: General): Mr. Chairman, Sir, I believe in the course of the chequered history of our country, we have often passed motions and resolutions from different political parties and platforms embodying our demands for an Independent Sovereign State for our motherland. But so far as today's Resolution is concerned, it has a deep and special significance. It is for the first time in the history of our country, since we came under British rule, that we have met to frame our own constitution. It is a great responsibility—in fact, as the Hon'ble the Mover of the Resolution reminded us, it is a solemn and sacred trust which we Indians have agreed to perform and we propose to do so to the best of our ability. Now, Sir, the amendment which has been moved by Dr. Jayakar raises certain questions of fundamental importance. I am sorry I cannot support the amendment. The effect of the amendment practically is that we cannot pass a resolution of this description at all until the Sections have met and made their recommendations. Dr. Jayakar wants that we should not pass this Resolution until both the Indian States and the Muslim League are enabled to attend the Constituent Assembly. So far as the Indian States are concerned, they cannot come even if they wish to, until the Sections have met and settled the provincial constitutions, which means how many months none can foretell. So far as the Muslim League is concerned, no doubt, every one regrets that the Muslim League has not found it possible to attend the preliminary session of the Constituent Assembly. But what guarantee is there that, if this Resolution is postponed till the 20th January next, as Dr. Jayakar suggests, the Muslim League will come and attend the session?

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

[Dr. Syama Prasad Mookherjee]

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

The Resolution has an importance of its own. After all, we are sitting here not in our individual capacity, but we claim to represent the people of this great land. Our sanction is not the British Parliament; our sanction is not the British Government; our sanction is the people of India (*cheers*). And if that is so, we have to say something, not merely to frame rules and regulations,—we have to say something concrete to the people of India as to why we have assembled here on the 9th December, 1946. If what Dr. Jayakar says had been the correct position, then this Constituent Assembly should not have been called at all; in fact, Dr. Jayakar need not have attended the meeting. He should have informed the Governor General,—“I regret I cannot accept your invitation because I feel you are doing wrong in calling the Constituent Assembly as the Muslim League and the Indian States are not attending.” But having come here, for us to raise this issue is practically to walk into the trap of the Muslim League and to strengthen the hands of reactionaries in Great Britain. I know that Dr. Jayakar will be the last man to do such a thing. I admire his courage of conviction; in fact, every one who feels that a certain thing should be done, must be able to come forward and present his view point. But we may also respectfully point out to Dr. Jayakar the great danger that lies in the innocent looking amendment that he has put forward before the House, and I hope that he will withdraw the amendment in due course when the time comes.

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

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

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

There has been considerable difference of opinion with regard to one clause of the Statement of May 16, 1946, and that is with regard to the question of grouping. Now, it is for the Congress to decide, as one of the major parties involved, what interpretation it is going to accept ultimately. If the interpretation as given by His Majesty's Government is not accepted, and if the Congress considers that the interpretation put upon that portion of the Statement by it (the Congress) is correct, then of course a crisis may come. That is a question which has to be decided apart from a discussion on this Resolution. In fact, the greater the delay in making a decision on that question, the greater will be the atmosphere of unreality; so far as the proceeding of this House are concerned. But, after that question is decided, supposing the interpretation put by His Majesty's Government is accepted, whether by a reference to the Federal Court, or not, I need not go into, then we shall go on. We shall proceed with our work. The Muslim League may come or may not come. If it comes, well and good; and even if it does not come, it cannot retard India's freedom and we must claim to proceed with our business in this

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Constituent Assembly. I feel, Sir, that if a crisis does come, as I visualise, it is likely to come, if our country is to be free, it is not going to be in accordance with constitutional means. In view of the developments that have taken place during the last few days, our task will not be performed so easily. But let me emphasise that whatever has to be done, it has to be done through the agency of this Constituent Assembly and none other. If ultimately we have to function, we shall function on our own responsibility and prepare a constitution which we shall be able to place before the bar of world opinion and satisfy everyone that we have treated the people of India, minorities and all, in a just and equitable manner.

After all, what happened with regard to the South African question? We have today in our midst, the Hon'ble Mrs. Pandit, who has come back to her motherland after a great victory. But even there she was not supported by our self-constituted trustee—His Majesty's Government in Great Britain. In fact the vote went against India so far as Great Britain was concerned. But she won. The Indian Delegation won before the bar of world opinion. Similar may be the case with regard to the Constituent Assembly also. If we take courage in both hands and frame a constitution which will be just and equitable to all, then we shall be able, if need be, to declare this Constituent Assembly as the first Parliament of a Free and Sovereign Indian Republic. (*Loud cheers.*) We then may be able to worm our own National Government and enforce our decision on the people of this land. As I said a few minutes ago, our sanction is not the British people of the British Government. Our sanction is the people of India and therefore we have to make the ultimate appeal to the people of our country.

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

Only last night, Lord Simon made the startling announcement that the Constituent Assembly sitting in Delhi consists of only Caste Hindus. So many false statements have been uttered during the last few days in England that it is difficult to keep count of them all. But who are represented in this House today? There are Hindus; there are some Muslims too. At least there are Muslims from one Muslim province who come as representatives of a Government which is functioning there in spite of the Muslim League. There are the representatives of the Province of Assam which is supposed to be part and parcel of Mr. Jinnah's Pakistan-to-come. That Province is also officially represented by the majority of the people of that province. You have the Scheduled Castes. All the Scheduled Caste members who have been elected to the Constituent Assembly are here. Even Dr. Ambedkar who may not agree with us in all matters is present here, (*applause*), and I take it, it will be possible for us to convert him, or reconvert him and to get him to our side, (*renewed applause*) when we go to discuss in detail the interests of those whom he represents. There are other Scheduled Caste members also present here. The Sikhs are present here; all of them. The Anglo-Indians are present and so are the Indian Christians. So, how did it lie in the mouth of Lord Simon..... (*A Voice: Parsis also are present here.*) Yes, last but not least, the Parsees also are present here. So, how did it lie in the mouth of Lord Simon or anybody else. (*A Voice: The Tribal representatives are here.*) Tribal areas and the Adibasis are here represented by my friend Mr. J. Singh. In fact, every element that has been elected to the Indian Constituent Assembly is

here barring the Muslim League. The Muslim League represents a section. I take it a large section, may be a very large section of the Muslim community, but it is absolutely false to suggest that this Constituent Assembly consists only of one section of the people, the Caste Hindus, as though Caste Hindus have been born only to oppress the others and to fashion out something which will be disastrous to the interests of India. Now, is it suggested that if one section of the Indian people chooses to be absent from the Constituent Assembly, India should continue to remain a slave country? (*A Voice: "No".*) That reply has to be given to the people of this country who are absent and also their instigators. I would say, Sir, that we should say to the British people once and for all, "We want to remain friendly with you. You started your career in this country as traders. You came here as supplicants before the Great Moghal. You wanted to exploit the wealth of this country. Luck was in your favour. By forgery, fraud and force, you succeeded in establishing—these are all matters of history—your Government in this country, but not with the willing co-operation of the people of this land. You introduced separate electorates, you introduced religion into Indian politics. That was not done by Indians. You did it, only to perpetuate your rule in this country. You have created vested interests in this country which have become powerful enough now and which cannot be destroyed with their own willing co-operation. In spite of all these, if you really want that you and India should remain as friends in the future, we are prepared to accept your hand of co-operation. But for heaven's sake, it is not the business of the British Government to interfere so far as the domestic problems of India are concerned. Every country will have its own domestic problems and unfortunately India has her domestic problems too, and those domestic problems must ultimately be settled by the people of this country." I hope, Sir, as we are not framing a constitution now, as we are only laying down a general outline of the things that we want to do in the future, the House will refuse to listen to narrow technicalities. We shall go ahead with our work in spite of all difficulties and obstacles and help to create that great India, united and strong, which will be the motherland of not this community or that, not this class or that, but of every person, man, woman and child, inhabiting this great land, irrespective of race, caste, creed or community, where everyone will have an equal opportunity, an equal freedom, an equal status so that he or she could develop himself or herself to the best of his or her talents and serve faithfully and fearlessly this beloved common motherland of ours.

Mr. Chairman: Dr. Ambedkar.

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

Mr. Chairman, the Resolution in the light of the discussion that has gone on since yesterday, obviously divides itself into two parts, one part which is controversial and another part which is non-controversial. The part which is non-controversial is the part which comprises paragraphs (5) to (7) of this Resolution. These paragraphs set out the objectives of the future constitution of this country. I must confess that, coming as the Resolution does from Pandit Jawaharlal Nehru who is reputed to be a Socialist, this Resolution, although non-controversial, is to my mind very

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disappointing. I should have expected him to go much further than he has done in that part of the Resolution. As a student of history, I should have preferred this part of the Resolution not being embodied in it at all. When one reads that part of the Resolution, it reminds one of the Declaration of the Rights of Man which was pronounced by the French Constituent Assembly. I think I am right in suggesting that, after the lapse of practically 450 years, the Declaration of the Rights of Man and the principles which are embodied in it has become part and parcel of our mental make-up. I say they have become not only the part and parcel of the mental make-up of modern man in every civilised part of the world, but also in our own country which is so orthodox, so archaic in its thought and its social structure, hardly anyone can be found to deny its validity. To repeat it now as the Resolution does is, to say the least, pure pedantry. These principles have become the silent immaculate premise of our outlook. It is therefore unnecessary to proclaim as forming a part of our creed. The Resolution suffers from certain other lacuna. I find that this part of the Resolution, although it enunciates certain rights, does not speak of remedies. All of us are aware of the fact that rights are nothing unless remedies are provided whereby people can seek to obtain redress when rights are invaded. I find a complete absence of remedies. Even the usual formula that no man's life, liberty and property shall be taken without the due process of law, finds no place in the Resolution. These fundamental rights set out are made subject to law and morality. Obviously what is law, what is morality will be determined by the Executive of the day and when the Executive may take one view another Executive may take another view and we do not know what exactly would be the position with regard to fundamental rights, if this matter is left to the Executive of the day. Sir, there are here certain provisions which speak of justice, economical, social and political. If this Resolution has a reality behind it and a sincerity, of which I have not the least doubt, coming as it does from the Mover of the Resolution, I should have expected some provision whereby it would have been possible for the State to make economic, social and political justice a reality and I should have from that point of view expected the Resolution to state in most explicit terms that in order that there may be social and economic justice in the country, that there would be nationalisation of industry and nationalisation of land, I do not understand how it could be possible for any future Government which believes in doing justice socially, economically and politically, unless its economy is a socialistic economy. Therefore, personally, although I have no objection to the enunciation of these propositions, the Resolution is, to my mind, somewhat disappointing. I am however prepared to leave this subject where it is with the observations I have made.

Now I come to the first part of the Resolution, which includes the first four paragraphs. As I said from the debate that has gone on in the House, this has become a matter of controversy. The controversy seems to be centred on the use of that word 'Republic'. It is centred on the sentence occurring in paragraph 4 "the sovereignty is derived from the people". Thereby it arises from the point made by my friend Dr. Jayakar yesterday that in the absence of the Muslim League it would not be proper for this Assembly to proceed to deal with this Resolution. Now, Sir, I have got not the slightest doubt in my mind as to the future evolution and the ultimate shape of the social, political and economic structure of this great country. I know to-day we are divided politically, socially and economically. We are a group of warring camps and I may go even to the extent of confessing that I am probably one of the leaders of such a camp. But, Sir, with all this, I am quite convinced that given time and circumstances nothing in the world will prevent this country from becoming one. (Applause): With all our castes and creeds, I have not the slightest hesitation that we shall in some form be a united people. (Cheers). I have no

hesitation in saying that notwithstanding the agitation of the Muslim League for the partition of India some day enough light would dawn upon the Muslims themselves and they too will begin to think that a United India is better even form them. (Loud cheers and applause).

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

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

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I am personally concerned, I do not like the idea of grouping (*hear, hear*). I like a strong united Centre, (*hear, hear*) much stronger than the Centre we had created under the Government of India Act of 1935. But, Sir, these opinions, these wishes have no bearing on the situation at all. We have travelled a long road. The Congress Party, for reasons best known to itself consented, if I may use that expression, to the dismantling of a strong Centre which had been created in this country as a result of 150 years of administration, and which, I must say, was to me a matter of great admiration and respect and refuge. But having given up that position, having said that we do not want a strong centre, and having accepted that there must be or should be an intermediate polity, a sub-federation between the Union Government and the Provinces I would like to know why there is no reference in para. 3 to the idea of grouping. I quite understand that the Congress Party, the Muslim League and His Majesty's Government are not *ad idem* on the interpretation of the clause relating to grouping. But I always thought that,—I am prepared to stand corrected if it is shown that I am wrong,—at least it was agreed by the Congress Party that if the Provinces which are placed within different groups consent to form a Union or Sub-federation, the Congress would have no objection to that proposal. I believe I am correct in interpreting the mind of the Congress Party. The question I ask is this. Why did not the Mover of this Resolution make reference to the idea of a Union of Provinces or grouping of Provinces on the terms on which he and his party was prepared to accept it? Why is the idea of Union completely effaced from this Resolution? I find no answer. None whatever. I therefore say in answer to the two questions which have been posed here in this Assembly by the Prime Minister of Bihar and Dr. Syama Prasad Mookherjee as to how this Resolution is inconsistent with the Statement of May 16th or how this Resolution is going to prevent the Muslim League from entering this Constituent Assembly, that here is para. 3 which the Muslim League is bound to take advantage of and justify its continued absentation. Sir, my friend Dr. Jayakar, yesterday, in arguing his case for postponing a decision on this issue put his case, if I may say so, without offence to him, somewhat in a legalistic manner. The basis of his argument was, have you the right to do so? He read out certain portions from the Statement of the Cabinet Mission which related to the procedural part of the Constituent Assembly and his contention was that the procedure that this Constituent Assembly was adopting in deciding upon this Resolution straightaway was inconsistent with the procedure that was laid down in that Paper. Sir, I like to put the matter in a somewhat different way. The way I like to put it is this. I am not asking you to consider whether you have the right to pass this Resolution straightaway or not. It may be that you have the right to do so. The question I am asking is this. Is it prudent for you to do so? Is it wise for you to do so? Power is one thing; wisdom is quite a different thing and I want this House to consider this matter from the point of view, not of what authority is vested in this Constituent Assembly, I want this House to consider the matter from another point of view, namely, whether it would be wise, whether it would be statesmanlike, whether it would be prudent to do so at this stage. The answer that I give is that it would not be prudent, it would not be wise. I suggest that another attempt may be made to bring about a solution of the dispute between the Congress and the Muslim League. This subject is so vital, so important that I am sure it could never be decided on the mere basis of dignity of one party of the dignity of another party. When deciding the destinies of nations, dignities of people, dignities of leaders and dignities of parties ought to count for nothing. The destiny of the country ought to count for everything. It is because I feel that it would in the interest not only of this Constituent Assembly so that it may function as one whole, so that it may have the reaction of the Muslim League before it proceeds to decision that I support

Dr. Jayakar's amendment—we must also consider what is going to happen with regard to the future, if we act precipitately. I do not know what plans the Congress Party, which holds this House in its possession, has in its mind? I have no power of divination to know what they are thinking about. What are their tactics, what is their strategy, I do not know. But applying my mind as an outsider to the issue that has arisen, it seems to me there are only three ways by which the future will be decided. Either there shall have to be surrender by the one party to the wishes of the other—that is one way. The other way would be what I call a negotiated peace and the third way would be open war. Sir, I have been hearing from certain members of the Constituent Assembly that they are prepared to go to war. I must confess that I am appalled at the idea that anybody in this country should think of solving the political problems of this country by the method of war. I do not know how many people in this country support that idea. A good many perhaps do and the reason why I think they do, is because most of them, at any rate a great many of them, believe that the war that they are thinking of, would be a war on the British. Well, Sir, if the war that is contemplated, that is in the minds of people, can be localised, circumscribed, so that it will not be more than a war on the British, I probably may not have much objection to that sort of strategy. But will it be a war on the British only? I have no hesitation and I do want to place before this House in the clearest terms possible that if war comes in this country and if that war has any relation to the issue with which we are confronted to-day, it will not be a war on the British. It will be a war on the Muslims. It will be a war on the Muslims or which is probably worse, it will be a war on a combination of the British and the Muslims. I cannot see how this contemplated war be of the sort different from what I fear it will be. Sir, I like to read to the House a passage from Burke's great speech on Conciliation with America. I believe this may have some effect upon the temper of this House. The British people as you know were trying to conquer the rebellious colonies of the United States, and bring them under their subjection contrary to their wishes. In repelling this idea of conquering the colonies this is what Burke said:—

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

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

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

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

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

Sir, the Constituent Assembly is the culmination of the final stage of the struggle for freedom. The Resolution before this House is an expression of the pent-up emotions of the millions of this country. It can be divided into three parts. The first part deals with the declaration of an Independent Sovereign Republic of India. The second deals with autonomous units, having residuary powers with a Union of them all i.e., including the Indian States. The third part deals with social and economic freedom and justice to all and with adequate safeguards for the minorities, backward classes and tribal areas. Opinions may differ with regard to the exact wording of the Resolution or its brevity in certain respects, but taken as a whole it is an expression of the will of the people of this country.

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

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

tution making. Are we to postpone a resolution of this nature to the very last stage when a good part of our constitution has been framed? A resolution of this importance must be considered and adopted at the beginning of our work.

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

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

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

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

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

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

Ever since this resolution was passed, the Sikhs have made a common cause and have fought the country's battle for freedom side by side with the Congress. Unfortunately, when the British Mission came and formulated their proposals, i.e., the Statement of May 16, although they admitted the Sikhs to be one of the three main communities in India, they completely failed to provide any protection or safeguards for the Sikhs. In the case of the Mussalmans, the Mission pointed out that there was a real apprehension of their culture, and political and social life becoming submerged in a unitary India, in which the Hindus would be a dominant element. They however entirely failed to realise the same plight of the Sikhs in the Punjab which is the Holy Land and the Homeland of the Sikhs, under a Muslim majority. It was the height of injustice on the part of the Cabinet Delegation not to have provided similar safeguards for the Sikhs in the Punjab and the 'B' Section, as they had provided for the Muslims in the Union. Sir Stafford Cripps, while speaking in the House of Commons the other day, remarked that they could not give similar rights to the Sikhs in the Punjab and the 'B' Section as they had given to the Mussalmans in the Union, as a similar right would have had to be

[Sardar Ujjal Singh]

given to other minorities. May I ask whether the Mission took into consideration the other minorities when they provided safeguards for the Mussalmans in the Union Centre? They did not consider the Sikhs although they were admitted to be one of the main communities of India. On the other hand, I feel that the Sikhs have a stronger claim for having similar safeguards in the Punjab than the Mussalmans have in the Union Centre. I also feel and believe that any safeguards given to the Sikhs in Section 'B' and in the Punjab will be a guarantee for the protection of the rights of other minorities in that area. As nothing was done by the Mission, a wave of indignation went throughout the entire Sikh community and their indignation rose to the highest pitch. A resolution was passed by the Sikhs at a special meeting held at Amritsar—their holy centre, that the Constituent Assembly should be boycotted and the Sikhs did boycott the Assembly. The Congress, however, accepted the proposals of the Cabinet Mission, and eminent leaders of the Congress appealed to the Sikhs to accept the proposals also. Sardar Patel particularly pleaded the cause of the Sikhs at the All-India Congress Committee session in Bombay and our sincere thanks are due to him. In the House of Lords on the 18th July last, while speaking on a debate, the Secretary of State made significant reference to the Sikhs in the following words:

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

He further said:

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

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

"The Committee are aware that injustice has been done to the Sikhs and they have drawn attention of the Cabinet Delegation to it. We are, however, strongly of the opinion that the Sikhs would serve their cause and the cause of the country's freedom better by participation in the Constituent Assembly than by keeping out of it. It therefore appeals to the Sikhs to reconsider their decision and express their willingness to take part in the Constituent Assembly. The Working Committee assures the Sikhs that Congress will give them all possible support in redressing their legitimate grievances and in securing adequate safeguard."

The Sikhs reviewed the whole position on the 14th August. The resolution of the Congress Working Committee carried the greatest weight with them, and it was on that account that the Panthic Board, which was called at a special meeting, decided to lift the ban on participation in the work of the Constituent Assembly. The resolution of the Panthic Board decided to give the Constituent Assembly a trial to secure for the Sikhs similar safeguards as were given to the Mussalmans in the Union. The Sikh members are here assembled according to that mandate. I have great faith in the Congress leaders and sincerely hope that the assurances given to the Sikhs will be implemented without delay as the time has come for the translation of those solemn words into action.

I am sorry to take the time of the House in going in a little detail into the Sikh position, but I thought it my duty to acquaint the House with the Sikh case. Let me, however, make it clear that the safeguards which the

Sikhs demand for their due and strong position in the Punjab and the North West, are meant to be provided within the Indian Republic and not outside. They are anxious that all communities may live together in harmony and peace. They are prepared to live happily with their Mussalman brothers in the Punjab and the North West, even treating them as elder brothers, but not as a superior ruling race or a separate nation. The Sikhs, therefore, cannot tolerate the partition of this great and ancient land. They will stoutly oppose the establishment of Pakistan and all that it implies or stands for.

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

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

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

I have come to speak for the Resolution and against the amendments. While speaking in favour of the Resolution I cannot resist the desire to offer my thanks to the Hon'ble Dr. Jayakar for his beautiful speech. I was surprised to hear of Dr. Jayakar's amendment yesterday. Dr. Jayakar and I have been friends since the days of the Swaraj Party. I can understand his amendment. I can understand his desire to defer voting on the Resolution until the Muslim League joins; but I fail to understand the logic of the arguments advanced by him in support of his contention. I do not want to speak on the legal aspect of his arguments. That is the work of the lawyers. What surprises me is his assertion that if we passed the Resolution now, we will finish our work without achieving what we desire. That puts me in mind of the days prior to 1920; when our Moderates were at a loss to know what to do and saw everywhere nothing but frustration and disappointment. We have not met here simply to sit together, talk a lot and then disperse without achieving any result. It will be our duty to see that we achieve results. Just at present it is not necessary to say what we are going to do and how far we are going to proceed. Suffice it to say that we shall achieve speedy and substantial results. Dr. Jayakar has spoken of war. The Congress people and the people who believe in the principle of Satyagraha always desire peace and no war. They, however, want true peace and not the peace of the graveyard.

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

* [English translation of Hindustani speech begins.]

[Seth Govind Das]

ment. If, however, the British Government wishes to fight with us making Muslims their *Shikhandi*; we will not do what Bhisham Patama did. We will not lay down our arms because *Shikhandi* is made to stand against us. We do desire our brethren of the Muslim League to come and co-operate with us. If, however, with all our solicitations, with all our patience and with all our desire for peace, they do not come, we are not going to stop our work for them. Dr. Jayakar has not told us whether our Muslim brethren would join us if we postponed the consideration of the Resolution till the 20th January. If we were assured that they would join us, Pandit Jawahar Lal Nehru, I think, would perhaps, be the first person to say that if his Muslim brethren were coming in, he would postpone Resolution.

Panditji told us in so many words that the Resolution was an undertaking—a pledge. When one signs a pledge, he signs it with full sense of responsibility of what he was doing. As this Resolution is a pledge when we pass it, we will pass it with a full sense of our responsibility.

The Resolution speaks of a Republic. There may be a difference of opinion whether the Republic should be a democratic republic or a socialist republic. But, to discuss it at this juncture, would be meaningless. Whenever the world is in need of a thing it creates it. Keeping in view the condition of the world and the plight of India, we can say that our republic will be both democratic and socialist. I desire to tell the people, who feel chary of socialism and tremble at hearing of its tenets, that not only the people who have nothing are miserable but the people who possess everything, are also in sorrow. The former are miserable because they labour under the desire to possess everything and the latter are unhappy because they have to resort to hundreds and thousands of knaveries and evasions. They perform acts that are not in the least considered fair in the eyes of justice. If these people, while ignoring justice, pretend to protect and champion it, I tell you, they never get true happiness. I am myself of the people who possess everything; but I feel that if true peace is to be realized, it can only be realized through socialism. No other system can give us true peace. There can be no doubt that our republic will be both democratic and socialist.

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

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

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

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

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

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

The Assembly then adjourned till Eleven of the Clock, on Wednesday, the 18th December, 1946.

*English translation of Hindustani speech ends.
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CONSTITUENT ASSEMBLY OF INDIA

Wednesday, the 18th December, 1946

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

PROGRAMME OF BUSINESS

Mr. Chairman: I have received a note from Mr. Mohan Lal Saksena asking me to make a statement with regard to the progress that has been made in the Rules Committee. I think it would be helpful to the Members in making their future programme if I made that statement today. We have been discussing drafts which had been prepared before and we have gone through a great part of the work, but some work still remains to be done and the final draft will have to be considered by the Rules Committee before being placed before this House. I hope we shall be able to complete this work by Friday and I propose to hand over to Members the rules in their final form as passed by the Rules Committee on Saturday, so that we may take them up for consideration by this House on Monday next. Monday happens to be the 23rd and after that we have the Christmas holidays. I do not think we shall be able to complete the rules in one day. They will take at least two days or it may be three days. If the Members agree I propose that we observe Christmas holidays for two days 24th and 25th and then the Assembly continues sitting thereafter. So on the 26th and 27th we may discuss the rules and finish them by the 27th and anything else arising out of the rules we may do thereafter. I do not think we should finish this preliminary session before passing the rules and before appointing certain committees which it is the intention of the preliminary session to appoint. This is the programme as I envisage at present. It all depends upon the House. Hard pressed as we are for time, I do not think we could afford to go without any work during the whole of the Christmas week. I think we should take holidays on the 24th and 25th of this year.

Sri M. Ananthasayanam Ayyangar (Madras: General): We would like to have the whole week of Christmas as holiday and we would like to go back during this period and meet again after the beginning of next year.

Mr. Chairman: It is not expected that the Members should go home if we have only a holiday of two days.

The Hon'ble Pandit Hriday Nath Kunzru (United Provinces: General): Mr. Chairman it was expected by most of us when the session commenced that it would end before Christmas and on that footing we have made engagements which will keep us busy during Christmas week. I am not asking for any holidays at all. I should be quite prepared to do without them altogether, but having accepted engagements which are of a somewhat important character, it would not be possible for many of us to attend the session if it is continued after the 23rd of December. I hope, therefore, that you will be good enough to take this into consideration before deciding when the Constituent Assembly should meet again in order to pass the rules and appoint those committees to which you have referred.

Mr. Dharendra Nath Datta (Bengal: General): Mr. Chairman, Sir, you have just told us that the rules should be placed before us on the 23rd of December and considered on the 26th, but some time is necessary for putting in amendments. I do not know what is the practice here but in the legislatures elsewhere, at least 4 or 5 days' time is given. So it is impossible

[Mr. Dharendra Nath Datta]

to begin the consideration of the rules on the 26th and I think under the circumstances, it is desirable that we should meet on the 2nd of January.

The Hon'ble Rev. J. J. M. Nichols-Roy (Assam: General): Mr. Chairman, Christmas holidays are very important for Christians and we usually get holidays on the 24th, 25th, 26th and 27th and we shall be glad if this Constituent Assembly will meet again on the 2nd or 3rd of January. Then we can carry on as long as we want, but if we meet during this year after the 25th i.e., during the Christmas holidays, it will be very inconvenient for the work of this Assembly and will also disturb many of our engagements which we have already made during the Christmas holidays. That is all I have to place before this House, Sir.

Mr. D. P. Khaitan (Bengal: General): Sir, I am rather surprised at the way in which the Members of the Constituent Assembly have not agreed with your programme as announced by you. The work before the Constituent Assembly must gain precedence over every other work and we should proceed with as much speed as we possibly can. We should not disperse before we have passed the Rules of Procedure which are so essentially necessary. Therefore, through you, Sir, I appeal to all the Members of the Constituent Assembly to lay aside all other work and give precedence to the important work that lies ahead of us.

Shri Mohan Lal Saksena (United Provinces: General): Mr. Chairman, I would like to make the suggestion that in order to facilitate the work of the Procedure Committee this House may not meet tomorrow and it may meet the day after tomorrow in the afternoon, so that we may have the report of the Committee in full and consider the rules from Saturday and if possible we might finish it on Monday.

Mr. R. K. Sidhwa (C. P. and Berar: General): I think the House is entitled to have a number of days for studying the report and also presenting amendments. In our party meetings also we shall have to consider them. It may take two or three days. It may not be possible to finish the work in two or three days as Mr. Mohan Lal Saksena says. I would therefore support the motion that we meet on the 2nd or 3rd January after presenting the report of the Committee on 21st or 23rd.

Mr. Chairman: There are certain other public functions, which have been announced very long before, which take place in the first week of January. It was for this reason that I was anxious to complete the work of this Assembly before the year is out. For example, the Science Congress is going to begin on the 2nd January next. Eminent scientists from all over the world are coming and Pandit Jawahar Lal Nehru is going to have a very important function there, and there may be other members also who may be interested in it. Similarly, there are other functions which have been fixed. I was therefore anxious not to disturb those public functions which have been announced already and to complete our work as much as possible within this year. Of course it rests with the members of the Assembly. If they do not wish to sit beyond the 23rd, we shall have to take that also into consideration and go into the next year. The difficulties that confront us. I have placed before you. In January, there will be a further difficulty; some Provincial Assemblies will meet.

The Hon'ble Shri Purushottam Das Tandon (United Provinces: General): The business of the Provincial Assemblies can be adjusted suitably.

The Hon'ble Sardar Vallabhbhai J. Patel (Bombay: General): Sir, in a House consisting of about 300 important members, it is difficult to suit the convenience of all. We have the Budget Session of all the Provinces also.

There is the Budget Session of the Central Assembly. It is not possible to meet the convenience of all. As has been rightly suggested, precedence should be given to the work of the Constituent Assembly. We will not be able to make any progress with the work of the Constituent Assembly till we have passed the Rules. The Rules we must finish before we disperse and then we can adjourn. The preliminary session may not be finished during this month or even in the first week of January. Therefore to suggest that we should meet on the 3rd or 4th January is not practicable. With all the inconvenience that we may have to put up with, we must finish the Rules. Therefore, if as the Chairman has suggested, the Rules are ready on the 23rd, either we give up the holidays on 24th and 25th or we come on the 26th and 27th and finish the Rules. Then we can fix the date for adjournment. Without the programme being fixed, we will not be able to dispose of our work. Therefore, let us provisionally fix the programme and then consider other matters.

Sri K. Santhanam (Madras: General): I wish to suggest that the Rules may be placed before the Assembly as they are ready. Why should we wait till all the Rules have been completed. We can take them up from tomorrow or this evening. I am really surprised that the Committee should not have been able to draft even a portion. We can take up portions and go on passing them. When they are completed, we shall have also completed.

Mr. Chairman: I do not think it is possible to take up the Rules piecemeal. We have to take them as a whole.

The Hon'ble Shri Purushottam Das Tandon: I suggest, Sir, that we should keep in view that a large number of members have already entered into engagements for the Christmas week. It is no good telling us now that we had no business to enter into such engagements. Ordinarily, it is supposed that during the Christmas week, we will not be working here actively. Of course, members will give some part of their time to the Rules if presented to them before we disperse. They should be given some time to think over them. As has been pointed out, possibly the Parties also may have to consider them in their party meetings. I think, Sir, we should not take up the question of rules during the Christmas week; sufficient time should be given to the members to think over them, to digest them and to send in amendments. We can meet some time in the first week of January.

Mr. Chairman: Now we have heard different speakers and their opinions. We shall take some decision tomorrow after consideration of these points. In the meantime, we will proceed with our business. We take up the discussion of the Resolution and the amendments.

RESOLUTION RE: AIMS AND OBJECTS—contd.

The Hon'ble Rev. J. J. M. Nichols-Roy (Assam: General): Mr. President Sir, thank you for giving me this opportunity to speak on this Resolution. I stand here to support the Resolution moved by Pandit Nehru, with all the force that I can command. This Resolution contains all the principles that need to be enunciated in such a kind of Resolution to be placed before this House. First of all, it has stated the objective that we all in India have in our minds, that is, to proclaim at a certain date the independence of India. Here we have only resolved that we shall proclaim the independence of India and we have that firm resolve in our minds to get the independence of India. That is the desire of every one in India. I cannot imagine that there will be anybody in India from one end of India to the other end, who will be against that kind of objective. Then it pro-

[The Hon'ble Rev. J. J. M. Nichols-Roy]

I now turn to another portion of this Resolution, namely, paragraph 5 and before I do that, I must point out another thing. I envisage that in the autonomous Provinces there will be units in a Province which will be self-governing and which will be connected with a Province. This will be necessary do doubt, in a Province like Assam.

Now, to turn to paragraph 5. In this paragraph we have provisions regarding justice and freedom,—social justice, justice in the economic and political field, ensured to all. Political justice, no doubt, will mean that every community will get representation in the legislatures as well as in the administration of the country. Therefore, there need be no fear in the mind of any community that this Constituent Assembly will not look after their interests.

Then there is mention, here, of the freedom of thought, expression, belief, faith and worship. There was a propaganda made in this country by some parties that when there will be self-government in India, some religious faiths will not be allowed to propagate their faith. This is really false propaganda. This Resolution has declared that this will not be the case. There will be provision in the Constitution of India for the freedom of all religious faiths and for the propagation of those faiths according to their own desire. I am particularly glad that this para. speaks of association and action, subject to law and public morality. Public morality needs to be protected by Government and righteousness needs to be exalted. "Righteousness exalteth a nation, but sin is a reproach to any people".

I would like to speak on other points of this Resolution but, I don't think I need dwell on them at all. There are difficulties and hindrances before us. India is not an exception to difficulties of this nature; such difficulties confronted Canada, Australia and even the United States when they were engaged in the work of framing their constitutions, and some parts of those countries did not come into the constitution at the beginning, although they came in afterwards. That very same thing may be repeated here in India. We shall have to go on framing the constitution and then when that is placed before the world and before this country, it will then and then only be the proper time for the people of England or the British Government to say that it is not a constitution according to their Declaration. Before that happens, they should not try to prejudice what this Constituent Assembly will do and thus cause obstruction to its work.

Mr. Chairman: The Hon'ble Member has exceeded his time.

The Hon'ble Rev. J. J. M. Nichols-Roy: I want to speak on only one more point, which has impressed me from the speech of Viscount Simon in the House of Lords. Viscount Simon has said that this Constituent Assembly, if it carries on the work of framing a constitution for India, will "threaten" India "with a Hindu Raj". I was very much surprised when I saw these words in a newspaper this morning. When I was in Western countries—in England and also America, I was impressed by the fact that some people in those countries had an idea that a Hindu is a man who is steeped in his caste system and who worships a cow. If this is the idea which Viscount Simon has when he refers to a Hindu Raj, i.e.; that the people of India will be forced to perpetuate the caste system and to worship a cow, then he is entirely wrong. If the people who are assembled here,—whether they be Hindus, Muslims, or Christians, or whatever other religion they may profess—if they frame a constitution which will be a democratic constitution, which will do justice to everybody, why should that constitution be called a Hindu Raj? And if by 'Hindu' is meant people who live in India, surely we should have a constitution for the people of India. That is exactly what we want: we want a constitution to be made by the people of India, but if some people in India do

not want to come into the constitution just now, they will come afterwards and I envisage a time when they will all enter into this constitution and make India one country,—one united country,—with a democratic form of government. I have faith that all these hindrances will be removed by prayer to God. Let us follow the example of Mahatma Gandhiji—our Bapuji and pray to God. Let us pray to God that all these hindrances may be removed from our way and that we may be able to carry on the work of framing a constitution which will be a blessing to our whole country.

Mr. R. K. Sidhwa (C. P. and Berar : General) : Mr. Chairman, Sir, the demand made by the Indian National Congress for framing a constitution for free India has now become an accomplished fact. We are here to frame a constitution for India and we are sure—whether our friends the Muslim Leaguers whom we welcome—speaker after speaker has stated that they miss their presence here—whether they come in or not, let me state, that with all the threats that have been now thrown at us by the Britishers during the last four or five days in the House of Commons and the House of Lords we shall proceed with our business and shall frame a constitution which they dare not refuse to implement. If they choose not to implement it when the occasion arises for them to do so, then we know how to implement it. Sir, if poverty as to be eradicated from India, to bring human happiness to this country and our constitution should be based on the socialist principle and such a constitution, I am confident when it is completed will be welcomed by all in this country and also outside this country. Much fetish has been made many a time about the minority question. Sir, all reasonable safeguards and all interests will be reasonably considered while framing this constitution but I do not understand why the question is brought to the forefront. In this very resolution, in paragraph 3, you will see how we have safeguarded, without anybody else's telling us, the interests of the minorities. Paragraph 4 relates to residuary powers, which we have accepted, not because the British Delegation want us to do so. This matter had been receiving the serious consideration of the Congress as you know, Sir, for a number of years, and to allay the fears of the Muslim Leaguers, we came to a decision in August 1942 that there should be residuary powers in the provinces. Many of us even to-day do not like the residuary powers to be vested in the provinces; we want a strong Central Government. If a free vote is taken in this House or in the country, they will oppose residuary powers being vested in the provinces. But simply because we want to allay the fears of the Muslim League, imaginary or real, we respect their feeling and accepted that residuary powers shall vest in the provinces. May I ask who came forward to safeguard the interests of the minorities? It is the Congress and the majority community that have said that the provinces shall have residuary powers. Whether leaguers are here or not, as Hon'ble Congressmen we will stick to that resolve. We do not want to go back, even if the Muslim League choose to remain absent upon that pledge; even though we do not like it we shall implement it. That is one instance that I want to point out to the Britishers when they tell us how we are ourselves alert in safeguarding the interests of the minorities. But if you make unreasonable demands, it is certainly not possible for the majority community to be converted into a minority community. In this very paragraph there is a reference regarding redistribution of provinces. I am a firm believer in the redistribution of the present provinces. (Hear, hear). The present heterogeneous way in which, without any thought, or without any sense these provinces have been formed, requires immediate revision. Coming from the Province of Sind, as I do, I know ten years ago when we were separated from Bombay there was 22 crores of rupees of debt to the Government of India. We have wiped off that debt in 7 years—I do not want to enter into the details of the advantages that we have achieved by separation.

[Mr. R. K. Sidhwa]

But what I would state is that this paragraph is so guardedly framed as to respect the feelings of the Mussalmans, so that the present provinces may be taken into consideration in going into Sections. If I were free I would suggest an amendment that the provinces should be redistributed straightaway and the boundary commission appointed immediately and then the constitution should be framed. But here also we want to keep to our promise to go into Sections within the framework of the Declaration of May 16. I point out these things in order to show to the world that without any interference or dictation or advice that has been given to us day in and day out in the House of Commons and in the House of Lords—the mischievous statements and mischievous speeches that are being heard from the British to-day,—we do our legitimate duty. We cannot tolerate this kind of propaganda, which have falsely raised the question of minorities and raised the usual bogey of communal disturbances. When the Delegation came they were in a different mood because there were political riots. The army, the navy and the air force were in revolt before they came. It was a political riot. Now, Sir, the Services in India feel that their days are numbered. They have started making capital of communal disturbances. Now that there is communal tension the British Cabinet want to go back upon what they stated when they came over here. The British Government have told us that, if we do not frame the constitution according to their interpreting clause 15, it shall not be forced upon the minority community. I come from the minority communities, it is a very small minority comparatively an insignificant number, but still that community, as the world knows, although we are a lakh of Parsis only—the Parsi community is known all over the whole world. As Babu Purushottam Das Tandon pointed out in seconding the Resolution, in the earlier days of this country's history, whosoever came in this country were welcome. 1300 years ago when we were driven away from Iran so the history say, and were wandering in the sea for three months, nobody gave us a shelter excepting the Jadhwa Rana of Sanjan in Gujarat. We are grateful to him. We have had no grievance against the Hindu community, so long as we have been here. The Parsis have taken prominent part in politics, social and industrial enterprises; amongst the founders of the Indian Congress that great man Dadabhoi Naoraji was one. (Cheers). In 1909 from the presidential address in Calcutta he coined the word "Swaraj". Parsis were the pioneers in the industry of shipbuilding and textiles. They were the first to introduce female education, so in charitable organisation like hospitals irrespective of caste and creed. As recently as 30 years ago the Iron and Steel industry of India which is the second largest in the whole world was started by the Tata family. I do not say all this to glorify my community. All I want to show is that the majority community have never forgotten us; and on our part we have not lagged behind in taking part. We were forced by the British people to ask for separate electorates. We have refused. In the general electorate our community's interests are absolutely safe. I know of an instance where 30 years ago the mischief of separate representation was forced for the purpose of upholding British rule in this country. In Sind we had in the local bodies general representation without any communal representation. The then Commissioner of Sind called some of the Mussalmans to the Government House and told them secretly. "You give us a representation demanding separate electorates and I shall recommend to the Government of Bombay". Such representation was given and ever since there are separate electorates in our Sind Municipality. Thus, we have seen with our own eyes how mischief is played by the British by dividing one community against another. Parsis have been asked many a time to demand separate electorates. We have refused and replied, "We are quite safe with our majority community." See the goodness of the majority community in this very Assem-

bly. We have all been all elected by their votes. May I say that those who opposed our cherished goal of achieving freedom were opposed to our goal for they have also been elected by the majority community. We do not consider anybody a foe although they may have opposed our cherished views or cherished demand, I mean the Anglo Indians, yet we have elected them. This is a magnanimity which one ought to appreciate. What kind of safeguard do the Britishers want unless it is to create the usual old mischief? But let me tell the British Government, the time has come when this mischievous propaganda that is being carried on intentionally to-day to disturb the Constituent Assembly work cannot help them. We shall proceed with our work. We shall proceed in spite of the difficulties and hurdles and machinations that have been carried on in season and out of season, particularly at this juncture. Instead of Sir Stafford Cripps or the Secretary of State telling Mr. Jinnah "You got the interpretation of particular clause, as you want and you must stop the propaganda of Pakistan." The Cabinet Mission discussed, investigated and have come to the conclusion that Pakistan is neither feasible practicable nor advisable and therefore that question is buried once and for all. Yet now in the Parliament during the recent debate have you said a single word to Mr. Jinnah, to stop making speeches of pernicious, poisonous propaganda on Pakistan? Mr. Jinnah, day in and day out, whenever he goes either to a press conference or in his statements, goes on reiterating the story of Pakistan. We do not know therefore what he wants notwithstanding the decision that the British Delegation has given in their Statement of May 16.

Unless the British Government want to go back upon it, they should tell Mr. Jinnah to stop this propaganda, poisoning the minds of the people which causes communal disturbances in this country. Instead of telling him so, they have the effrontery to give advice to the minority community. We cannot understand what is it that they really want and what is it that is working in their mind. Was it to frustrate our object of meeting here on 9th December that they invited the Muslim League to London? But, all honour to our leaders; they stuck to their decision to hold the first meeting of the Constituent Assembly on 9th December despite the fact that the Hon'ble Pandit Nehru had to go to England the previous week, assuring us that he would return on 9th December and participate in the opening ceremony of the Constituent Assembly. We have been thwarted in many ways. They want to stop our work. That is clear from the speeches delivered in the Parliament. A day ago we were told "You can go to the Federal Court, and take decision soon". Next day the Secretary of State says: "You may go to the Federal Court; but we were not bound by any decision that the Court takes". Have we not met here in very large numbers in this Assembly? We will go on with our work. We will face any difficulty that arises and try to solve it as we have done in the past. We have already prevented great harm being done to the major community. We have done that in the past and we shall do that again in order to bring about solidarity and drive away the British people from this country. We can do that.

But let me ask why is the Muslim League remaining out? They want the British people to tell us that even if we assemble here and frame a constitution, they would not implement it. Let them say so. We will draw up a constitution and place it before the bar of public opinion. We have in this world unbiassed countries of unbiassed mind who will judge our actions rightly, justly and truly. Only a jaundiced eye will see everything yellow and wrong. In the South African dispute the United Nations Organisation Delegates supported our just cause although Britishers opposed us. Our cause is just, we shall proceed with our work and prepare a Constitution which will be one to be proud of. (Applause).

Sri B'swanath Das (Orissa) : Sir, I support the Resolution on behalf of the delegates from Orissa. The Resolution moved by the Hon'ble Pandit Jawahar Lal Nehru is divided into four parts. The first part contains the main objective for which we have been fighting. The second part refers to the territorial jurisdiction of a free, independent republic of India, including land, air and sea. The third is a declaration that we derive power and authority from the people, while the fourth is a very necessary and essential one, beginning with individual freedom in safeguards for tribal areas and the rest.

Sir, these are the necessary preliminaries to any constitution. It would be therefore unfair and undesirable if we do not face the problem at the start. There is no opposition to this Resolution, as the amendment moved by the Right Hon'ble Dr. M. R. Jayakar only seeks to adjourn its consideration for a month. The Hon'ble Member admits that he fully agrees with the subject matter of the Resolution. I fail to understand how a month's adjournment would make any difference.

Sir, a substantial contribution to the discussion was made by my friend, Dr. Ambedkar. He said he has no objection to the other paragraphs of the Resolution except paragraph 3 which has left out the word 'grouping'. Sir, in this connection I have to make an appeal to him. The objection to the omission of the word 'grouping' need not be taken seriously, because we have stated nothing in the Resolution against grouping. That very fact keeps the matter of grouping open, absolutely wide open. I would at this stage refer my friend, Dr. Ambedkar, to paragraph 19 (5) of the Cabinet Mission's Scheme wherein it has been specially stated that the Sections are to decide whether any group constitution shall be set up. Sir, we all know that the Working Committee of the Indian National Congress gave an alternative proposal regarding this. The Cabinet Mission criticised this proposal of the Working Committee and their comments are in para 14(2). Under this scheme, if the Provinces wish to take part in any economic and administrative planning on a large scale, they would cede to the Centre optional subjects in addition to the compulsory ones mentioned by them. Having stated the position taken up by the Working Committee of the Indian National Congress, the Cabinet Mission offers its comments. The Mission say it would be very difficult to work a central executive and legislature in which some ministers who deal with compulsory subjects are responsible to the whole of India, while other ministers who deal with optional subjects would be responsible only to those provinces. Sir, with this objection the Cabinet Mission has ruled out the suggestion offered by the Working Committee. It will be very difficult, if not impossible, for small provinces to rise to their full stature if they do not have the guidance of the Centre. In this connection, I am not referring to Sections 'B' and 'C'. I am referring to Section 'A' where provinces like Orissa, Bihar, C.P., Madras and the rest are concerned. Sir, the Congress acceptance of the division of India into linguistic provinces means the creation of a number of small provinces. A number of small provinces like Orissa, Kerala, Karnataka and the like will be put to the greatest handicap if they have to make their own plans, administrative and economic. Under these circumstances, it may be that these provinces will cede all the connected powers to the Centre. There is thereafter no reason why there should be any objection. These and many other such considerations may come up later on in Sections. If the door is open without being shut it is for such proposals which may be made later on. Under these circumstances, I believe my hon'ble friend, Dr. Ambedkar, will see that it was not with any ulterior purpose that the word "Group" was omitted. It is done to afford opportunity to those provinces who come under Group 'A' I believe this explanation will satisfy Dr. Ambedkar and he will have no objection to the omission of the word "Group".

In the Resolution that has been moved, the Hon'ble the Mover has very frankly placed all his cards on the table. There is no hide and seek. All the points are placed so that the States and the Provinces will find it convenient to see at a glance. Sir, I see that the Secretary of the States' Negotiating Committee has made a statement objecting to this Resolution. Their objections, are based on two points. The first is that they object to the term "independent sovereign republic". Secondly, their objection is centred round the fact that power derives from the people. They would not admit that power is derived from the people in the Indian States. Sir, paragraph 14 of the Cabinet Mission's Statement lays down that after the withdrawal of Britain, paramountcy disappears. In Great Britain, it has been recognised by Statutes that power emanates from the people. Parliament derives its power from the people of Britain and the same Parliament is exercising the power of paramountcy. That being the position, I do not see any reason why the State Rulers and their representatives should object to these expressions. Sir, after the withdrawal of Britain, there is no reason for anyone to think that India would think any other form of State than a republic. A republic does not necessarily mean the wiping off of the States. That apprehension is unfounded. The Cabinet Mission's Statement lays down that these are left to negotiations. Frankly, there is no reason for any apprehensions. They have appointed their Negotiating Committee and we have to appoint our Committee. The whole thing is thus left to negotiation.

Having said so much about the Resolution, I come to the question of certain statements made in the House of Commons. Sir, you know that a discussion on India has been thrust on the British Parliament by the Conservative Party. The leader of that party and a number of other important members of the party have contributed to the discussion, although both Labour and the Liberals stated that a discussion at this stage was unfortunate. Sir, important members of the Conservative Party have stated that this is a Caste Hindu Constituent Assembly. I am very glad that the representatives of the minority communities in India have already given their reply to this unwarranted suggestion, and I hope that other representatives of minorities will by their speeches give a decent burial to this suggestion which has been manufactured for consumption at Home and for foreign consumption and propaganda. Sir, we have in this great Assembly not only the representatives of the Hindu population of the Hindu majority provinces but also the representatives of Hindu minorities in Muslim majority provinces. We have also the representatives of the Scheduled Castes, Christians, Sikhs, Parsis, Anglo-Indians, and of Tribal and partially-excluded areas. We have amongst us also the representatives of the great Muslim community barring the leaders of the Muslim League. Under these circumstances, it is most unfair and unfortunate to call—and more so to utilise the forum of the British Parliament for foreign propaganda—that this great Assembly, the representatives of the Great Indian nation, is a Caste Hindu institution. Much has been made in the speeches in Parliament on the score of minorities. I should like to know a country which has no minorities. Even England has got her own minorities. Are not the Welsh a minority. So also are the Scots. The Welsh people are of a different race and language and are distinctly separate from Britain. In the U.S.A. we have got linguistic and racial minorities. So also in the U.S.S.R. Under these circumstances, it is unfair for the Conservative leaders in England to carry on propaganda against this country and the Constituent Assembly. It has been clearly seen that Mr. Jinnah and Mr. Churchill have become strange friends. My own surprise is that a statesman like Mr. Jinnah should have fallen into the trap of Conservatives and particularly that of Mr. Churchill. Everyone knows and the history reveals how the Conservative Party have made use of persons and institutions in every dependent country. That being the position,

[Sri Biswanath Das]

it is easy for Mr. Jinnah to realise how he and the League have been made use of by the British Conservatives. It remains therefore for us to see who utilises whom and to what extent. Let us hope that the Conservatives pay in the long run to find to their surprise that they and they alone pay in the long run and Mr. Jinnah comes out sane and sober.

The Hon'ble Pandit Hirday Nath Kunzru (United Provinces : General) : Mr. Chairman, judging from some of the speeches delivered in this House, it seems that the amendment before the House has been treated by some speakers as having been inspired by a spirit of hostility. As I view it, however, its object is not to obstruct but to facilitate the work of this Assembly. Its purpose is to create an atmosphere which will enable us to realise rapidly and smoothly the great aim that we have set before ourselves. I think I shall not be far wrong in saying that there are men in every part of the House who sympathise with the amendment moved by Dr. Jayakar. This very fact should suffice to convince every unprejudiced man that the object of the amendment is not to place unnecessary obstacles in our way but to pave the way to certain success. I go further and say that if the newspaper reports are correct that the next session of the Assembly will take place towards the end of January, it shows that the House feels that it ought to postpone the decision of important questions for a while on psychological grounds. The object of such a move can only be to assure all those whose interests are affected by any decisions that we may take that they will have an opportunity of expressing their views before those decisions are taken. I congratulate all those who are responsible for this decision. It is wise on our part to make every section of the people in India realise that we do not want to impose our will on any party or community, but that such decisions as we may arrive at will be the result of joint discussion carried on with the sole object of enabling India to achieve her independence and protecting the just rights of the minorities and the backward classes. This amendment seeks to do nothing more than those who are responsible for the decision that I have already referred to. It only pleads for that comprehension for which Sir Radhakrishnan pleaded so eloquently in his stirring address and which he said was one of the dominant characteristics of the ancient civilization of India.

Sir, Dr. Syama Prasad Mookerjee asked us yesterday whether, if the view embodied in the amendment is accepted by the House, it will be able to do anything for a long while. Would it, for instance, be able to do anything till the representatives of the States were able to take part in the drafting of the Union Constitution? I do not personally think that this objection has any force. If the object on which stress is laid in the Resolution before the House is to be realised, it is obvious that it can be realised in a large measure only by the Union Constituent Assembly which will draw up the constitution of the union.

The resolution may, in some measure, give a lead to the Section Committees; but even Section Committees are hardly likely to meet before April or May next. In any case the principal body whose work will be guided by the directive embodied in this resolution will be the Union Constituent Assembly and it will meet only after the Section Committee have done their work. It is obvious, therefore, that a postponement of the discussion of Pandit Jawaharlal Nehru's resolution will not retard the work of the Assembly in the slightest measure. Since its main purpose is to guide the deliberations of the Union Constituent Assembly, no harm will be done if its discussion is postponed for a while so that we may enable all those sections whose interests are affected by the resolution to have an opportunity of expressing their views. Some of the States representatives

have already protested against the immediate acceptance of the resolution by this Assembly. Their views may be right or wrong. We are not in the slightest degree concerned with this. What ought to concern us is that if the resolution is passed immediately, it will be a unilateral decision. The House will have ample opportunity later of affirming the objectives outlined in the resolution. There need be no fear that postponement of the resolution would mean the torpedoing of the purposes embodied in it. Indeed, I feel that a slight delay will strengthen our hands in dealing with this important Subject.

Sir, there is another question of considerable importance which Dr. Syama Prasad Mookerjee put to us yesterday. He asked us whether we accepted the position that unless the Muslims agreed to participate in the work of the Assembly, nothing should be done. I feel that the real reason for the opposition to the amendment is this feeling voiced by Dr. Syama Prasad Mookerjee that any postponement of the resolution would bring the work of the Assembly to a standstill. Dr. Mookerjee rhetorically asked Dr. Jayakar why, holding the views that he does, he agreed at all to join the Constituent Assembly at this time. I think Sir, that it would have been most unwise to lend any Countenance to those who desired that the convocation of the Assembly should be indefinitely postponed. We have, I think, achieved a great deal by compelling the Viceroy to adhere to the date originally fixed for convening the Assembly. Had the Assembly not been convened, its future would have depended on the discretion of the executive. That discretion has, however, now passed out of the hands of the Viceroy or even the British Government. It now rests with this House and with you, Sir, as to when its next session should take place, or how and by what stages its work should be brought to a completion. As regards, Sir, the question whether this Assembly can do anything in the absence of Muslims, my reply to it will be very brief. It has been supposed by a good many speakers that if we admit the right of the Muslim League and the Indian States to participate in the discussion of the resolution before us, we shall be giving them absolute power to block the work of the Assembly. I think this shows a misapprehension of the existing position. Judging from the speeches delivered in the House of Commons and the House of Lords by the spokesmen of the British Government all that the British Government desire is that there should be agreement with regard to the procedure to be followed regarding the formation of Provincial Constitution and groups. The interpretation of para. 19 of the Statement of May 16 is the only point at issue. I understand that the matter will soon be referred to the Federal Court. I hope therefore that the way will soon be open for the participation of the Muslim League, in the Constituent Assembly. If, however, this is not the only ground on which the League is abstaining from joining the Assembly, and if even after agreement has been arrived at with regard to the procedure to be followed by Section Committees, the League representatives refuse to come here, I do not think that they will be entitled to ask that the proceedings of this Assembly should be adjourned *sine die*.

The last para. of the Statement issued by the Cabinet on 6th December has created a good deal of apprehension. In the present political situation it is obvious that it might be taken advantage of by those in whose interest it might be to prevent this Assembly from functioning properly. But on the whole it seems to me that the speeches delivered in the House of Commons and House of Lords disclose no such sinister intention on the part of the Labour Government. If the Muslims insisted on any condition not contained in the Statement of May 16th. I agree with Sardar Vallabhbhai Patel that we should refuse to agree to it. We cannot allow ourselves to be frustrated by the intransigence of any party. We are prepared to take into account all its reasonable demands but we cannot agree

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in any circumstances, to allow it to decide the fate of this Assembly. Should such a situation unfortunately present itself, we shall be entitled to remind the British Government of Mr. Attlee's promise that the minorities will not be allowed to veto the progress of the country. The Secretary of State for India has himself reiterated this pledge. We need therefore have no fear that if the Muslim League representatives referred to attend the Assembly even after agreement had been arrived at with regard to the interpretation of paragraph 19 of the Statement of May 16th, that their intransigence will be allowed to hold up the work of the Assembly. Sir, for these reasons, I give my hearty support to the amendment that is before us. My support, however, should not be misunderstood as implying that I am in favour of the clause in the Statement of May 16th which relates to grouping. I personally see no reason why any Province should be compelled to enter a group. I see in particular no justification whatsoever for compelling Assam to form a common Government with Bengal for any purpose. What has happened in Noakhali and which has led to the deplorable events that recently occurred in Bihar has justifiably increased the apprehensions of the people of Assam. But grouping as the Cabinet Mission have here been pointing out almost since the very day on which their statement was issued, is an essential feature of their plan. Without agreement on this point, they assert, the Assembly will not enjoy that moral authority which a gathering of this kind ought to. This is not satisfactory from our point of view but we shall be able to deal with the position of the Provinces that are compelled against their wish to become members of a group later on when the reports of the Section Committees are before us. I repeat, Sir, with all the strength that I can command that the insistence of the British Government on driving unwilling Provinces into groups is morally speaking completely unjustified. But as I have already said before, we shall have time to consider the Constitution as it emerges from the Section Committees and the Union Constituent Assembly later on.

For the time being Sir, we are only concerned with the question whether the discussion of this Resolution should be proceeded with immediately and whether any harm would be done if it were postponed. I have shown that no harm whatsoever will be done if we waited till the representatives of the Muslim League and the States are able to participate in the discussion of this important question. Even if we pass this Resolution now, shall we morally be able to say 'no' to the representatives of these interests, should they ask us later on that the fundamental questions to which the Assembly might assent by passing this Resolution should be re-considered. I am sure, Sir, that should such a position arise we shall not find it in our hearts to refuse the request, of the Muslim League representatives and the Indian States.

One word more, Sir, and I have done. There are plenty of difficulties in our way, both in India and in England. There are still men like Lord Linlithgow who think that British authority can be re-asserted in India. They are suffering from a dangerous delusion. If England allows itself to be guided by such men, it will be confronted with a far more serious position than any that she has been faced with during the last 25 years. It may for a while and only for a while, be able to keep India down by force but it will not be able to govern it even for a day. I am sure that the Labour Government realizes this and has no intention of accepting the advice given to it by men like Mr. Churchill and Lord Linlithgow or even by men like Lord Simon who are Conservatives in the guise of Liberals. Nevertheless, Sir, in view of the difficulties, both internal and external, which we

have to overcome it will be wise on our part to act in such a way as to add to the moral authority of this Assembly. We have plenty of friends not merely in this country but also in England. Let us proceed in such a way as to strengthen their hands. Let us not think of what we are entitled to do under the terms of the Statement of May 16th. Rather let us think of what it is in our interest to do on this important occasion. We may consider ourselves completely justified in passing Pandit Jawahar Lal Nehru's Resolution but of what use will be for us to exercise our rights if they only add to that discontent and unrest which it is our desire to allay? I hope, therefore, Sir, that we shall act in such a way that India may, with the assent of all sections of the people—and if that unfortunately is not forthcoming—with the assent of all those who accept the right of the country to move forward, be able to march rapidly towards the aim that we have set before ourselves, viz., that of freedom and unity (*Cheers*).

The Hon'ble Diwan Bahadur Sir N. Gopalaswami Ayyangar (Madras : General): Mr. President, Sir, I have come forward to support the Resolution and I would add that I have come forward to urge with all the strength in my power that this Resolution be pushed to its conclusion at these sittings (*Cheers*). Sir, my respect for Dr. Jayakar and Pandit Kunzru is very great I have considered with very great care all that they have said in support of this amendment proposing an adjournment of this discussion until the representatives of the Muslim League and the representatives of the Indian states have joined us. There is only one complaint I have to make against this motion for adjournment. I consider, Sir, that it lacks imagination. I say so without disrespect to my friends. I say it lacks imagination because it forgets that we have just launched ourselves on a very big task and it is necessary that we should impress our country and the world that we mean business.

Now, Sir, look at this Resolution. It is a Resolution which sets out the objectives that we have to place before ourselves in framing our constitution. Is such Resolution to be postponed till we reach the last stage of our work in this Assembly? Is it not a Resolution which must preface everything that we propose to do in this Assembly? That, I think, Sir, is a complete answer to this motion for adjournment. The Mover and supporters of the amendment have urged reasons for postponing the consideration of this Resolution, but in doing so they have themselves admitted that there is nothing in this Resolution to which either of them is prepared to take exception. I appeal to them, Sir, that if they believe in this Resolution they must pass it at this series of sittings and before we commence real business and not postpone it till we have practically completed all our business. I know that Dr. Jayakar, towards the close of this speech, suggested that the consideration of this Resolution might be postponed only for about a month or so by the end of which he hoped that the representatives of the Muslim League would have joined us. But what about the representatives of the Indian States? For no fault of this Constituent Assembly, the representatives of the Indian States have not come into this Assembly at the start, as I consider it is their right to do. But the procedure has been so regulated that they come in only at the final sitting of this Constituent Assembly. Are we to wait for them, and after all, the most vocal objection to this Resolution that has come from outside this House has come from people who represent the Indian States.

Now, taking the representatives of the Muslim League themselves, are we doing any injustice to them in proceeding with this Resolution? Their main objection to what we are doing today is the different interpretation they have put upon the clause relating to grouping. We are not discussing grouping. We are discussing this Resolution which lays down the objectives of our work—a matter in respect of which they have a perfect right

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to come and participate in this debate. What prevents them from coming and taking their seats here and debating with us here the other questions that we are taking up as a preliminary to the more important work that will follow? Their main objection will arise only when this Assembly, towards the end of the first session, proposes to split into Sections, and as I shall show in a minute, Sir, it is quite possible for them to arise all the issues that they want to raise at that stage. (*Hear, hear.*)

Now, Sir, the question as regards grouping has entered a new phase with the Statement made by His Majesty's Government on the 6th of this month, but I would not go into the merits of what they have said in that Statement. The only thing I would say is that it is a most astonishing Statement to be made by so august a body as His Majesty's Government at this stage of the controversy. Be that as it may, I do not intend to go into its merits. Now, let us see what flows from that Statement. His Majesty's Government, have said that their interpretation of the Cabinet Mission Plan and the interpretation of the Muslim League agree, but they say: "Since you have agreed to refer the matter to the Federal Court, or since you say that the Constituent Assembly will do so, you may do so." And then, we have the statement of Lord Pethick-Lawrence made only yesterday, clinching the matter by saying: "His Majesty's Government would not budge an inch from their position even if you appeal to the Federal Court." Now, Sir, what is the position? If we go to the Federal Court and the Federal Court gives a decision in favour of the view taken by the Congress, the Muslim League has categorically stated that it would not accept it. His Majesty's Government say they would not budge an inch from their own view of the matter. Of course it is not within the jurisdiction of His Majesty's Government, in my opinion, to say whether they would accept the Federal Court's view or whether they would not, because it is entirely out of their hands. The Constituent Assembly makes the reference to the Federal Court and it is for the Constituent Assembly to say before it makes the reference that it will abide by the decision of the Federal Court. What will happen then? Assuming that the Federal Court's decision is in favour of the view taken by His Majesty's Government, what will be the position of those who have taken a contrary view? The only thing they can do in view of all the commitments they have made to individual Provinces and communities, is to move this Assembly for a modification of paragraph 19, which would more clearly express their view. The main difficulty is the method of voting in the Sections as the Secretary of States said in the House of Lords. If you leave paragraph 19 (v) as it is, it is certainly an arguable point that in the absence of any modification of the wording of that clause the voting must be by individuals and a simple majority would decide the question. It is certainly an arguable point. If we want that voting should be by provinces, it is necessary that we should propose a modification of that clause, and that modification can, I think, be done by this Assembly on a motion properly made. Now, are we going to do that? I suggest that, in view of what has come from His Majesty's Government both in the Statement of December the 6th and in the speeches made in the two Houses of Parliament—I suggest that, in the new circumstances that have been created, the wiser thing to do is not to send a reference to the Federal Court but to take the other course which I have indicated, namely, that you bring up a resolution in this Constituent Assembly proposing a modification of clause 19 (v) which will provide that the method of voting should be by provinces in the Sections so far as the grouping matter is concerned.

Mr. Dharendra Nath Datta: Please save us from such prayerful resolutions!

The Hon'ble Diwan Bahadur Sir N. Gopalaswami Ayyangar: The Resolution I am suggesting is to be moved in this Assembly; we are to take a decision on it. It is quite possible—and I think it would be an arguable position—for the Muslim League representatives to come here and raise the question that such a modification involves a major communal issue. If you decide, Sir, it is a major communal issue, or, if after obtaining the advice of the Federal Court, you decide that it involves a major communal issue, it will be open to the Muslim League to contend that you cannot carry out that modification without a majority of each of the major communities. Why, I ask should we not take that step? We shall take that resolution into consideration at an adjourned sitting of this Assembly, even those who have not presented their credentials and signed the Register—the members of the Muslim League—that we shall consider and move a resolution of that sort. That must be a sufficient indication to them to come and occupy their places in this Assembly and defeat what they consider to be an unconscionable suggestion from the other side. That is one point I wish to suggest to those who may have to take a decision in this matter. Going to the Federal Court is absolutely useless, and so far as I can see, it will solve none of our troubles.

Then, on this main issue of adjournment, I do not propose to deal with the point of law that my Hon'ble Friend, Dr. Jayakar, took. I should like only to refer to some of the other criticisms that have been received. Before proceeding to that I should only like to suggest that, in considering points of interpretation of the document, namely, the Statement of May 16, let us not forget that we are not working under a provincial enactment or as members of a provincial legislature, of the Central Legislature working under a Statute of Parliament. We are in a Constituent Assembly, and whatever is not said in the document under which we have gathered here, is not prohibited to us. We have the residuary powers in full for accomplishing the task which we have undertaken. (*Hear, hear.*) That being so, what I would suggest is that we should not rivet our eyes to particular clauses in this document and say, "this is not said in this particular clause, that is not said in the other clause, and therefore we cannot do anything which is not said in those clauses." I think whatever is not said but is necessary for the accomplishment of our task, is within our powers to regulate.

I will leave the rest of the objections to the consideration of this Resolution on the point of law to people who can deal with legal matters more efficiently than I can. I desire in the few minutes that still remain to me to deal only with the objections that have been raised on behalf of the States. There are mainly three objections that, on behalf of the Chamber of Princes, have been made public. The first is that the Resolution is objectionable because it is proposed to be considered and passed in the absence of the States representatives. Well, Sir, that I have dealt with already. The second is to the use of the words "Independent Sovereign Republic". I do not propose to occupy your time in dealing with that matter as it has been dealt with already by other speakers. I should like to deal a little more fully with the third objection to clause (4) of this Resolution. This clause says:

"wherein all power and authority of the Sovereign Independent India, its constituent parts and organs of Government, are derived from the people."

Exception has been taken to this in a statement issued by a distinguished Indian who has a right, I think, to speak on behalf of the Rulers of Indian States, in any case, of some of them. He says:

"Such a doctrine may or may not be incontestable, but there is no point in taking it for granted in Indian India, especially when we remember that in legal theory this doctrine is only imperfectly applicable even in England."

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I do not propose to undertake an examination of this doctrine in relation to legal theory. I would rather confine myself to its constitutional aspects. It is definitely incontestable that in spite of a hereditary monarch as head of the State from whom, in the forms of law, all authority is supposed to flow, the substance of real power and authority in England is derived from the people.

Now (what is the case in Indian States? I would only quote from two documents which have the authority of committees established in the two most important Indian States. The first is from Mysore and is from a document which was published nearly a quarter of a century ago. This is what is said in that Reforms Report:

"In such a polity, the head of the State, whether a hereditary ruler or an elected President, exercises, as representing the people's sovereignty, a double prerogative, namely, one, in the sphere of legislation, the prerogative of ratification including the veto, and secondly, in the sphere of executive government, the prerogative of creating and uncreating the organ of Government, namely, the Ministry. And both these prerogatives are exercised much more fully, really and substantially than by the constitutional head of a limited Monarchy under responsible government."

Then, here is an extract from a Report of a Committee on Reforms in Hyderabad:

"The British Constitution has grown out of England's long history and is the result of centuries of strenuous struggle between its King and its Parliament. There, the two-party system, sustained by the spirit of compromise and the conception of the sovereignty of the people, has struck deep roots into the soil. The peculiarity, on the other hand, of the Indian States is this: The Head of the State represents the people directly in his own person and, his connection with them, therefore, is more natural and binding than that of any passing elected representatives. He is both the supreme head of the State and the embodiment of the people's sovereignty. Hence it is that, in such a polity, the head of the State not merely retains the power to confirm or veto any piece of legislation, but also enjoys a special prerogative to make and unmake his executive or change the machinery of Government through which he meets the growing needs of his people."

Those two views of where the sovereignty rests in Indian States tally. The hereditary ruler is supposed to embody in his person the sovereignty of the people, but, in actual fact, he has exercised the sovereign powers in disregard of the people's interest in several cases.

The Cabinet Mission stated that, on the conclusion of the labours of the Constituent Assembly and on the framing of a constitution for India. His Majesty's Government will recommend to Parliament, such action as may be necessary for the cession of sovereignty to the Indian people. Even under existing conditions, the Provinces of British India and Indian States have a common Centre which administers such subjects as, under any unitary or federal constitution for India as a whole, must stand ceded to the Centre. Broadly speaking, sovereign powers over India as a whole now vest in His Majesty, subject to the provisions of the Government of India Act, 1935. Those powers are exercisable both over British India and over Indian States, though the quantum of those powers and the manner of their exercise differ in the two cases. The act of ceding sovereignty, that is transfer of the power which Britain now wields in this country will, therefore, relate to the whole of India. When the Cabinet Mission therefore spoke of cession to the people of India, they must be held to have included the people of Indian States also. (Hear, hear.) The Mission's

statement, therefore, that when British power is withdrawn, the States become independent, should be construed to mean that such sovereignty as His Majesty in fact exercises over Indian States will stand ceded back to the people of those States.

In this connection it is significant that paragraph 5 of the Memorandum on States, Treaties and Paramountcy Rights issued on 20th May, 1946, which deals with the extinction of paramountcy, speaks throughout only of the Indian States and not merely of their rulers. The rulers of States have, however, up to date, both claimed and exercised full internal sovereignty in their States subject only to the politically inescapable limits set by the paramountcy of the British Crown. The paramountcy of the British Crown really means suzerainty, in other words, the ultimate sovereignty of the British Crown in certain matters. In the assertion of this claim, the rulers have throughout ignored the idea of any sovereign powers vested in the people of the States. They have claimed to exercise both the ordinary legislative power and the constituent power within the sphere in which they claim sovereignty, and any constitutional powers which the people of certain States exercise through their representatives have been a matter of gift from the rulers to them.

Now, this feature of the relations between the ruler and the people in the States is absolutely inconsistent with the idea underlying the framing of a constitution by a Constituent Assembly consisting of representatives of the people in whom the constituent power is deemed to vest. When the cession of sovereignty from His Majesty to the Indian people takes place, the people of the States will, together with the people of what is now British India, be entitled to exercise sovereign powers in respect of the subjects assigned to an All-India Union Government. The exercise of the sovereign powers as regards the subjects vested in Provinces will be in the hands of the representatives of the Provinces in the case of the subjects retained by them and, by the people in the groups, if any, to whom any provincial subjects might have been assigned by the Provinces. This is fairly clear.

The Resolution that is now under consideration puts the Indian States on the same level in regard to the subjects not ceded by them to the Union Centre as the Provinces are in respect of provincial subjects; that is to say, it asserts that all the power and authority of Indian States as constituent parts of the sovereign independent India are derived as such from the people of the States as similar power and authority are in provinces derived from the people of the provinces. It would be extremely anomalous if the constituent power in Indian States is vested in respect of Union subjects in the people of the States, and, in respect to Unit subjects, in the rulers of the States. In the process of building up a new federal structure for India through this Constituent Assembly, it will be found necessary that written constitutions of such States as already have them deserve to be overhauled as in the case of Provinces, and that written constitutions should be newly framed for States which do not have them now. It is possible to defer this work and leave it over for subsequent accomplishment provision being made in the Union Constitution prescribing the steps to be taken and the procedure to be followed in this connection.

If the representatives of the States in the Constituent Assembly so desire, the Union Constitution should guarantee the territorial integrity of the States as they exist today, subject to any modifications of boundaries which might be effected later on according to prescribed procedure and with the consent of the people of the States and other areas affected. The

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constitution of a State settled by the people of the State in association with the ruler; might make provision for hereditary succession to the headship of the State in the dynasty which is in possession now of the State, and the Union Constitution might contain a provision that, if the State's Constitution does say so, it will not be interfered with, though a stipulation would be necessary that, in the overhaul of an existing written constitution or in the framing of a new one in any particular State, the hereditary head of it should be, or in the quickest possible time in the future, should become, a constitutional monarch presiding over at executive responsible to a legislature, the members of which are democratically elected.

Now, Sir, I wish to refer to only one point in order to stress the need for the provision in clause 4 of the Resolution. The existing written constitutions of individual States almost invariably contain a section that all rights, authority and jurisdiction that appertain or are incidental to the government of the territories included in the States are vested in and exercisable by the ruler, subject to the provisions of the constitution which is granted by the fiat of the Ruler himself. With a view to emphasising the unlimited nature of the sovereign powers claimed by the rulers, such constitutions contain also another provision which enacts that, notwithstanding anything contained in the Constitution Act or in any other Act, all powers, legislative, executive and judicial, are, and have always been, inherent and possessed and retained by the Ruler and that nothing contained in any such Act shall affect or be deemed to affect the right and prerogative of the ruler to make laws and issue proclamations, orders and ordinances by virtue of his inherent authority. Such provisions in States constitutions are remnants of an all-pervasive autocracy and deserve to be swept away and replaced by a provision which declares that all powers of Government, legislative, executive and judicial, should be deemed to be derived from the people and exercised by such organs of State including the hereditary ruler as may be designated in the written constitution and to the extent authorised by that constitution.

I am afraid, Sir, my time is over. I do not wish to take up any more time, but I hope I have tried to show how necessary it is that this inclusion of the States in clause 4 should remain in this Resolution. As a matter of fact, unless we get into this Assembly the representatives of the people of the States, they cannot really participate in the work of the Assembly and help in the making of a constitution for their own States as well as in the making of a Union Constitution.

Mr. Chairman: It is already quarter past one. The House is adjourned till Eleven of the Clock tomorrow morning.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 19th December, 1946.

CONSTITUENT ASSEMBLY OF INDIA

Thursday, the 19th December 1946

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

PROGRAMME OF BUSINESS

Mr. Chairman: Yesterday I told the Members that I would be able to give some decision with regard to the programme of the work of the Assembly this morning. I have been considering that matter and some Members have seen me also in that connection. The work we have to get through is this. We have this Resolution which we are considering. Then we have got the rules to pass. Then there is another question with regard to the reference of the disputed point of interpretation to the Federal Court, with regard to which the Assembly may have to express some opinion and lastly, we must have to elect at any rate some of the Committees which will be provided for in the rules. So, these are the four items that we have to finish before we go home after this session.

The Rules have now been practically considered and the final shape is being given to them. I propose to place them before the Rules Committee tomorrow morning and if the rules are finally passed by the Rules Committee, they will be presented to this House day after tomorrow, i.e., Saturday. If the Members so desire, we can take up the question of referring the point of interpretation to the Federal Court on Saturday and thereafter we may take up the rules. That will take, I think, about two days or so. I think it all depends on the number of amendments which the Rules may evoke. Thereafter we may give a day for the appointment of the Committees. Now in this way if we work on Saturday, also on Sunday and on Monday, we might possibly finish all this work if Members have some sort of self-denying ordinance and all who speak little and take as little time as possible. If we cannot complete by Monday, then in that case we shall have to go on after Christmas, that is to say, we shall have to take some days in this month after the 25th. I find that 24th, 25th and 26th are public holidays and we cannot sit on those three days. So we can take up the discussion again on the 27th and 28th. 29th is a Sunday and 30th again is a public holiday for Sikhs in connection with the birthday Anniversary of Guru Govind Singh. So unless the Members are prepared to sit on a Sunday and to work harder on Saturday and on Monday, there is no chance of finishing the work before Christmas and I do not like to go over to the next month, i.e., the next year. I want to complete the work within this month. I would therefore suggest that we take up this programme. We start discussing the rules say in the afternoon of Saturday and if Christian Members, particularly have no objection, we should even sit on Sunday and then on Monday we may complete the whole thing. That would be rushing the business to some extent, if you want to avoid sitting after the 25th otherwise we shall have to sit after the 25th and go on until we finish it, in this matter this is the difficulty which I have placed before the Members and I should like to know which they would prefer. Personally, I would like to finish it by Monday, if possible.

Many Hon'ble Members: This is much better.

Mr. Chairman : Let us hope we finish on Monday. First of all, to work during the Christmas week would be very hard on Christians. I hope we will be able to sit on Saturday, Sunday and Monday and finish it. Otherwise we shall have to sit during Christmas week.

Mr. F. R. Anthony (Bengal: General): It is quite impossible. I am personally prepared to sit as long as the Members are ready to sit but not after the 26th.

The Hon'ble Pandit Jawahar Lal Nehru (United Provinces: General): I want to bring to your notice a fact that may interest the House, that the United Nations General Assembly did sit even on Sundays, both the Committees and the General Assembly, in order to expedite its work.

Mr. Chairman : Today we shall sit only up to 1 O'clock, so as to give us time to complete the work in the Rules Committee and tomorrow we do not sit at all. We sit again on Saturday morning. I hope I shall be able to place the Rules in the hands of Members by Friday evening, but in any case they will be available on Saturday morning and in the morning session we might take up the question of reference to the Federal Court and in the afternoon you might commence discussing the Rules. That is the programme now fixed.

Mr. F. R. Anthony : Mr. Chairman, I am afraid the Christian members feel very strongly on this matter. We are prepared to work the whole of Sunday and we will work on Monday. I would only ask that we should not meet on the 27th and 28th, between Christmas and the New Year. It will be quite impossible for the Christian members to attend then. That is the only time in the year when they insist on being with their families. This is very important. We are prepared to work all night and the whole of Sunday. I would ask you not to reconvene the Assembly between the 27th and the 1st.

Mr. Chairman : I hope we shall be able to finish by Monday evening.

Mr. F. R. Anthony : Let us have night sessions.

Mr. Chairman : We shall have it if necessary.

Mr. Kiran Shankar Roy (Bengal: General): Mr. Chairman, I think that the Members should have copies of the Rules at least two or three days before general discussion so that they may consider the Rules. If the Committee has taken so much time to draft the Rules, surely, it would be unfair to rush through the rules in this house in this fashion. It will be very optimistic to think that we would be able to pass the Rules in two or three days when we have not been able to pass this Resolution in three or four days. I think the passing of the Rules would take at least a week. I therefore suggest that you should give us sufficient time to consider the Rules. It is no use thinking that we shall be able to finish the Rules in two days.

Mr. Chairman : That upsets the whole programme.

The Hon'ble Mr. B. G. Kher (Bombay: General): May I be permitted to say that the drafting of the Rules is more or less a technical matter for lawyers and 15 men with long experience of drafting rules, with a competent secretariat, have framed the Rules. Are we going to quarrel and debate about a word here and a word there? I would submit that you should fix a time and say that by 5 o'clock on Monday all those who have important amendments will be allowed to move their amendments and vote on them, and by 5 o'clock, the guillotine should be applied, and by 7 o'clock all the Rules may be passed, and we should get on with the other business. Another alternative, Sir, is to sit throughout the night. I would suggest that we should sit up to 11 P.M. every day and finish the rules. I do make a strong plea not only on behalf of the Christians, but there are so many other people who have come long distances to attend this session,

having made engagements on the assumption that the work will be finished by the 23rd and that they will not be required to sit during Christmas. I do not want to mention names. We are all having engagements of equal importance. But there are some people who find it extremely hard, having come to India after a long time, to sit here during Christmas when they would like to be with their families. We can sit long hours by night and by day and finish it before Monday afternoon.

Mr. Chairman : This seems to be general sense of the House.

Dr. Syama Prasad Mookherjee (Bengal: General): I think we should not meet during the Christmas week. We have very important engagements during the Christmas week which were fixed weeks, months ago and it is not fair that we should be compelled to upset our programme. If we can finish the work, well and good. Otherwise, we must find some day in January. The passing of the Rules will not be quite so easy a matter. They must be circulated to the members who would like to have a reasonable time to study and also propose amendments. It will be left to your discretion whether the time so given is sufficient to enable members to propose amendments and discuss them. If we cannot finish by Monday or Tuesday, we should meet some time in January.

Mr. Chairman : We shall make an attempt to finish the consideration of the Rules and other business also by Monday. If we fail, we shall then think at what other time we will sit.

In the Rules Committee, we have 15 Members representing various groups and shades of opinion and we have been taking time because we have been trying to arrive at conclusions which will be acceptable to all, and that is why the Rules Committee has been taking so much time. As regards drafting, that is left in the hands of persons who are experts in that work and I suppose there will not be as much difficulty as Mr. Kiran Shankar Roy anticipates. If any discussion arises on a question of principle, I shall give time for discussion; but for mere words, I will except members to leave that matter to the Committee which has spent a lot of time over it.

Now, we shall proceed with the Resolution. Mr. Somnath Lahiri.

RESOLUTION RE. AIMS AND OBJECTS—contd.

Mr. Somnath Lahiri (Bengal: General): Mr. Chairman, The Right Hon'ble Dr. Jayakar, grown grey in the service of interpreting British Imperialist laws, has probably interpreted the limitations of the Cabinet Mission Plan correctly. The limitations, as he says, are probably correct. But we need not be frightened by them. Dr. Jayakar wants to wait for their Highnesses, the Princes, to come in and have a hand in distorting our future freedom. We need not have that. We do not want the Princes, the autocratic Princes, to come in and have a hand in distorting our future. Of course, so far as the Muslim League is concerned, that is on a different footing altogether. But I am not sorry that the Muslim League is not here; I am only sorry that the Congress also has not gone out of the British Plan and left the British Plan to itself, to stew in its own juice. Agreement with the Muslim League for gaining independence of our country and for drafting a really free constitution of our country, is essential. But if you think that by waiting for the Muslim League, or by the Congress remaining here and the Muslim League remaining outside, you will be able to have a properly framed constitution, I am afraid you are sadly mistaken and you are counting without your host, the British imperialist, who have made this Plan. You have seen the example of the Interim Government.

[Mr. Somnath Lahiri.]

Both the League and the Congress are there, but that has not solved the problem of our quarrels and internecine warfare in this country. It has happened there just as the British wanted it to happen, that is, they wanted the parties to fight against each other with the prospect of the British giving support in one party's favour against the other with the result that in between these quarrels the British become more firmly entrenched.

Well, the Interim Government has not brought peace nor freedom to our country. Similarly, whether the Congress is inside this British-made Constituent Assembly and the Muslim League is out or whether the Congress and the Muslim League are both inside this British-made Constituent Assembly and working the British plans as the British should like it to be worked out, then also the same thing will follow, viz., the quarrelling that is there to-day in the country, will only get more intensified inside this Assembly also. That is all and nothing else. Therefore, Sir, I am not sorry that the League is not here but I am only sorry that the Congress also has not gone out leaving the plan to stew in its own juice.

Well, Sir, I must congratulate Pandit Nehru for the fine expression he gave to the spirit of the Indian people when he said that no imposition from the British will be accepted by the Indian people. Imposition would be resented and objected to, he said and he added that if need be we will walk the valley of struggle. That is very good, Sir—bold words, noble words. But the point is to see when and how are you going to apply that challenge. Well, Sir, the point is that the imposition is here right now. Not only has the British Plan made any future Constitution—provided you are able to evolve out something which I very much doubt—even if you were able to evolve out something, not only is it dependent on a treaty satisfactory to the Britisher but it suggests that for every little difference you will have to run to the Federal Court or dance attendance there in England or to call on Attlee or someone else. Not only is it a fact that this Constituent Assembly, whatever plans we may be hatching, we, are under the shadow of British guns, British Army, their economic and financial stranglehold which means that the final power is still in the British hands and the question of power has not yet been finally decided, which means the future is not yet completely in our hands. Not only that, but the statements made by Attlee and others recently, have made it clear that if need be, they will even threaten you with division entirely. This means, Sir, there is no freedom in this country. As Sardar Vallabhbhai Patel put it some days ago, we have freedom only to fight among ourselves. That is the only freedom we have got and the only other freedom that I noticed is on the order paper of the day where Pandit Nehru is the Hon'ble Pandit Nehru and I suppose Pandit Nehru has not even the freedom to drop that honour. Therefore I say it is no use your thinking that from within the limitations of this British Plan, one part of which is the Interim Government and the other part of which is the Constitution-making procedure, I don't think you will be able to get any independence out of it. The insolence of the Britishers, as you have recently seen, and to which expression has been given by various Members of the House, why is this insolence so growing, it is for the patriots to see. The insolence is growing because they find that the great parties of our country, the Congress and the Muslim League, go on thinking that in getting our parties, may party's claim as against the other party, I will be able to get the help of the British. They want you to go on quarrelling with the only result, that fratricidal fights follow, as it has happened to-day throughout the country, as it is happening everyday before your very eyes. Our strength against the British gets decimated and nothing of freedom comes our way. Only we kill each other as if we are enemies instead of being brothers and Mr. Alexander gets the cheek to say in this month of 1946 in the House

of Commons that the use of the Special powers of the Viceroy has not been changed and whatever power is available there, it is there to back it. Therefore, our humble suggestion is that it is not a question of getting something by working out this Plan but to declare independence here and now and call upon the Interim Government, call upon the people of India to stop fratricidal warfare and look out against its enemy, which still has the whip hand, the British Imperialism—and go together to fight it and then resolve our claims afterwards when we will be free. As a matter of fact, Sir, we have found in the long history of our struggle for the freedom of the country that when we are faced to the British, even though we might disagree very much among ourselves, quarrels are generally resolved, no obstacles are put to the man who is fighting the British. It is a way out of the present fratricidal impasse. Mr. Chairman, Sir, and the Mover of this Resolution, I would address him also, that Doctor Jayakar, the fine logician and a cruel logician that he is, has placed before you the only alternatives when he has told you that either we have to work through the limitations of the British Plan or you have to go forward to the seizure of power, revolutionary seizure of power. These are the alternatives and good old constitutional liberal that he is, he has rightly grasped it and playing upon the fear of revolution that some of you might have got, he has asked you to follow his constitutional path and told you 'I know Congress also is not going to revolutionary seize power'. Yes, Sir, these are the only alternatives before Indian people to-day and before this Constituent Assembly to-day, that either you try to follow the British Plan, put one party's claim against the other and get sunk into the morass of fratricidal warfare everyday with the result that finally the British may be as strong over you as before, or you go forward to the revolutionary seizure of power. I say, you go forward first of all to drive out the British, to drive out the British Viceroy, to drive out their troops, etc., which are holding their guns even now over our heads.

Sri Rai Krushna Bose (Orissa : General) : We have a right to know whether the speaker is supporting the Resolution or opposing it. I am afraid all that he is saying at this time is not relevant.

Mr. Somnath Lahiri : That is for the Chairman to decide. I hope I represent a political party which is the third largest in the country. (Laughter from Back Benches). Mr. Chairman, I hope you will let me continue without interruption. Our party got 7 lakhs of votes. . . (Interruption) . . . in the last General Election. It is true that it is not a big party but it is the third largest party surely (Renewed laughter).

Mr. Chairman : I hope the House will allow the Speaker to proceed. (To Mr. Lahiri) But I would remind you of the time-limit and also of the fact that you should confine yourself to the subject in question.

Mr. Somnath Lahiri : Yes, Sir. I am coming to the point. I hope you will allow me, Sir, the same facilities as you allowed to Dr. Ambedkar or other party leaders. (Laughter from Back Benches).

Mr. Chairman : It is true that I did show some leniency to them, but the House was in a mood to listen to them, but it does not seem to be in that mood now. I have to be guided by the mood of the House.

Mr. Somnath Lahiri : Whether the House likes what I say or not, it is for you to let me, as the representative of an independent view-point, to express my views in full.

Mr. Chairman : You may go ahead.

Shri Vishwambhar Dayal Tripathi (United Provinces : General): Sir, we must know whether he is supporting the Resolution or he is supporting the amendment.

Mr. Somnath Lahiri: The more interruptions there are....

Mr. Chairman: Members will draw their own inferences as to whether he is supporting the Resolution or opposing it or doing neither.

Mr. Somnath Lahiri: I will make it quite clear. You will know it when you listen to my speech. Sir, coming to the third para of the original Resolution, I understand that you desire the unity of India. It is out of that desire you have given this right of autonomy and residuary power in paragraph three but refused right of session to linguistic, etc., units. I am also as much eager for the unity of India as you are, but the point is: can you get that unity by means of force or by compulsion? I come from Bengal. Look at Bengal. In Bengal the overwhelming majority of the population who are peasants and amongst whom the overwhelming majority is Muslim, are ground down under the double slavery of British Imperialism and the Hindu Upper Class. Now, Sir, in the image of freedom that the Bengal peasants and the Bengali Muslim has before his mind's eye, if he wants that neither British Imperialists nor Hindu Upper Class can exploit him, if he wants that his land—the Bengali speaking territory—should be free and sovereign, free from the control of any other part of India—can you deny that right of freedom to him? You cannot. And if the Muslim League—the reactionary section of the leadership of the Muslim League—are able to distort this freedom urge of the Bengali Muslim into religious separatism, or into demanding the Assamese speaking territory, I should say the responsibility for this is on the Congress leadership. Why? Because the Congress has never unequivocally recognised this right of separation of the nationalities on national-linguistic basis and whatever recognition there was in the ruling of the Congress President that no territorial unit of India will be compelled against its wish to come into the Indian Union, you have given the final good-bye to that in this Resolution. You have said here that no unit, however strong its wish might be to go out of India, can go out. The utmost it can hope for is residuary powers and autonomy. Well, Sir, this is not the way by which you would hope to win over the Muslim population of Bengal. This is not the way you would hope to win over the other nationalities which will come into the forefront as time goes by. So you cannot achieve the unity of India by forcing a unitary constitution on them and if you look at the constitutions of recent days in the world you will find as in Yugoslavia, in Czechoslovakia, etc., that they recognise the rights of self-determination including that of separation. For instance, in Yugoslavia the very first article of their new Constitution gives the right of self-determination and separation to the Serbs, Croats, Slovenes, Montenegrins, etc., to the full. That is why today in Europe you find that though Yugoslavia is a small country, yet it is the most united and advancing most rapidly.

Now, Sir, I have heard some Congressmen say that "Well, this right of separation and self-determination we will give, but only later, if the Muslim League presses for it". Now, Sir, would it not be worst political opportunism to higgie with the rights of peoples across the bargaining counter if the bargain was pressed? Is it not better that you put it clearly and in unequivocal terms not for the leaders but for the people—the Muslim people—to see for themselves and have some faith, some guarantee that they may safely come into the Indian Union?

The next point that I would deal with is paragraphs 4, 5 and 6 of this Original Resolution. Well, Sir, here you have formulated certain fundamental principles on which the equality and the rights of the people of

India would be based. Good, Good intention. Nobody denies the good intention. But the path to hell is often paved with good intentions and the intentions here may mean everything or may mean nothing. It all depends on how you interpret those principles, in the light of the past and the future. You have said everybody will be equal before law. You have said that full legal rights will be given to everybody. At the same time history tells you there are popular Ministries in this country, the Congress has got Ministers, and even then you find in Bombay people being externed, even women being externed as goondas without bringing them into court. At the same time, you find in U.P. a law being framed whereby detentions can take place without trial. At the same time, you find in Bengal a law being framed under the name of communalism which takes out the liberty of every newspaper and everybody. Now, Sir, people will look at your formulations here in the light of their past experience and if you want these things to be really what you wanted them to be, you ought to have been more explicit and stated clearly what you want. Similarly about the Depressed Classes. You have said that adequate safeguards will be provided. Good. But who is going to determine and when are they going to determine whether the safeguards are adequate or not? Everybody deplores the religious separatism that obtains today in our country. Everybody deplores that, but what is the political provision that you have been in your Resolution to them and to their aspirations?

An Hon'ble Member: What do you suggest?

Mr. Somnath Lahiri: Well, I would suggest proportional representation with adult suffrage and joint electorates in any election that might take place in the future and thereby each party, whether it be a communal party or a political party, on the basis of the total votes gained by it, will get its representation assured and then the parties, the communal parties like Muslim League and the Scheduled Castes Federation, who would have been assured of their proper representation, could not have any complaint. At the same time, it would give a fillip to the political parties also to get their proper representation, so that we can gradually cut across the religious separatism that has grown in our country, and healthy politics on the basis of political division and political struggle would develop. But you have not made the point clear. I hope you will make it clear when you draw up the fundamentals of the Constitution. You must remember that the people will judge you by your past,—by your immediate past which I am sorry to say, in spite of the good programme of the Congress, in spite of the hard struggle of the Congress, has not been up to its professions. I hope that they will be remedied when you are drawing up the future Constitution.

Mr. H. V. Kamath (C. P. and Berar : General): I submit, Sir, that Mr. Lahiri when speaking on his own amendment was ruled out of order by you, and is he in order now in doing the same?

Mr. Somnath Lahiri: I have every right to develop my argument. However, I have almost finished and I will take only a minute or two. This Resolution, apart from the generality and the good thing that is in it—I should have liked that you had made the proclamation here and now of our independence. Every Indian would agree with the first paragraph that India should be a sovereign independent power. Apart from these things, your Resolution, to sum up politically, is a resolution of pressure. Part of the pressure is against the British. It tells the British, "Look here! If you think we are going to listen to you, to whatever you dictate, you are very much mistaken. We are going to evolve a constitution of our own for India." Good. Put that more strongly if you like, but the other part of the Resolution is against the Muslim League, "Look here, if you think that there is separation waiting for you, you are mistaken.

[Mr. Somnath Lahiri.]

We are going to evolve out a unitary constitution for India and there is no scope in it for separation." That is pressure against the Muslim League. I do not think the second pressure helps you to increase the first pressure. The more we press against our brothers, the more we fight against the Mussalmans, the more the British are able to deny us what we want. You increase the pressure as much as you can against the British, but do not increase this pressure against your own brothers. Well, Sir, Pandit Jawahar Lal Nehru has spoken of the magic of the moment. Yes, magic. But it is the magic of the British witch which lulls patriots to sleep, the magic of the British witch from whose bloody talons the blood of countless martyrs is dripping and yet she is able to make the patriot think that he will get his claim against the other party by working her magic Plan. I hope that the Congress patriot will remember that and go forward in his struggle against the witch's plan, against British imperialism and not against the Mussalmans.

Mrs. Hansa Mehta (Bombay : General): Sir, I consider it a proud privilege to speak in support of this historic Resolution so ably moved by Pandit Jawahar Lal Nehru. I do not wish to refer to the issue raised by Dr. Jayakar or speak on the speeches made six thousand miles away by people who either mean mischief or are totally ignorant of the real situation. I wish to offer a few remarks on that of this Resolution,— the fundamental rights which affect a section of the people, namely, women.

It will warm the heart of many a woman to know that free India will mean not only equality of status but equality of opportunity. It is true that a few women in the past and even to-day enjoy high status and have received the highest honour that any man can receive, like our friend, Mrs. Sarojini Naidu. But these women are few and far between. One swallow does not make a summer. These women do not give us a real picture of the position of Indian women in this country.

The average woman in this country has suffered now for centuries from inequalities heaped upon her by laws, customs and practices of people who have fallen from the heights of that civilisation of which we are all so proud, and in praise of which Dr. Sir S. Radhakrishnan has always spoken. There are thousands of women to-day who are denied the ordinary human rights. They are put behind the purdah, secluded within the four walls of their homes, unable to move freely. The Indian woman has been reduced to such a state of helplessness that she has become an easy prey of those who wish to exploit the situation. In degrading women, man has degraded himself. In raising her man will not only raise himself but rise the whole nation. Mahatma Gandhi's name has been invoked on the floor of this House. It would be ingratitude on my part if I do not acknowledge the great debt of gratitude that Indian women owe to Mahatma Gandhi for all that he has done for them. In spite of all these, we have never asked for privileges. The women's organisation to which I have the honour to belong has never asked for reserved seats, for quotas, or for separate electorates. What we have asked for is social justice, economic justice, and political justice. We have asked for that equality which can alone be the basis of mutual respect and understanding and without which real co-operation is not possible between man and woman. Women form one half of the population of this country and, therefore, men cannot go very far without the co-operation of women. This ancient land cannot attain its rightful place, its honoured place in this world without the co-operation of women. I therefore welcome this Resolution for the great promise which it holds, and I hope that the objectives embodied in the Resolution will not remain on paper but will be translated into reality. (Cheers).

Mr. P. R. Thakur (Bengal: General): Mr. Chairman, Sir, Dr. Ambedkar did not say anything last time about the Depressed Classes. So, I consider it a great honour to speak to the Members of the Constituent Assembly on behalf of the Scheduled Castes in general of India. I stand here to support the Resolution moved by Pandit Jawahar Lal Nehru. After analysing the whole of the Resolution and examining it in detail, I find that it is the best document that has ever extended hopes to the minds of the people of India for freedom. Some of my friends who have spoken before have pointed out some defects in it. Nevertheless, the Resolution as it stands before us will serve to solve many of the problems that have got to be solved before drawing up a constitution. I do feel there are many obstacles in our way, but we know we shall have to surmount them. If we look back into the history of the democratic nations of the world, we would see that every constitution-making body had to face very many difficulties and sometimes deadlocks. But still, they were successful at the end.

It is a pity that our Muslim League friends have kept themselves out and are not taking part in the deliberations of this Assembly. But when we know that we, Hindus and Muslims will have to live in this country of ours, we shall have to solve our differences amicably by some way or other. It is hoped that the Muslim League members will, sooner or later, take up their rightful places in this Assembly, join in the deliberations and help in framing a Constitution that will be acceptable to all.

Sir, in this big august House of the Constituent Assembly, we belonging to the Depressed Classes, are very few in number, but in the country as a whole our population is 60 millions. We are no doubt a part and parcel of the great Hindu community. But our social status in the country is so very low that we do feel that we require adequate safeguards to be provided for us. Firstly, we should be considered as a minority—a minority, not in the sense in which a community is a minority on religious or racial grounds, but a minority which is a separate political entity. It is needless however to point out that we are a separate political entity. I think those who have got themselves interested in the uplift of the Depressed Classes will admit, as Mahatma Gandhi himself has admitted by his words and deeds, that adequate safeguards are necessary for these classes for their political salvation. The Poona Pact is Mahatma Gandhi's creation, and his writings in the 'Harijan' amply prove that the interests of the Depressed Classes must be carefully looked after.

The Cabinet Mission's Statement of May 16 does not say anything about the Depressed Classes; but the Press Conference that the British Cabinet Ministers had, after the publication of the Statement in Delhi, clearly shows that the Depressed Classes should be regarded as a minority. The subsequent debates on India in the House of Commons as well as in the House of Lords have also laid stress on the importance of providing safeguards for the Depressed Classes as a minority.

Sir, the minority problem is one of the most intricate problems, specially in a country like India, where so many elements live together with so many different kinds of interests. I believe this Constituent Assembly will have to face very important problems in regard to the minorities and find satisfactory solution for them. If this is done the House will have no difficulty in framing a constitution ultimately. We the members of the Depressed Classes do hope that this Constituent Assembly will do justice to us. There are Depressed Classes in all the Provinces and in the States of India. They want representation on a population basis in the Legislatures in the Centre, Provinces and the States. They do not

[Mr. P. R. Thakur.]

claim any weightage, but if any weightage is given to any community, they demand proportional weightage for them.

Para. 4 of the Resolution says that—

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

I think this is the best part of the Resolution: It would infuse real strength into the minds of the common people of India. The people of India might not be as much politically conscious as the people of other democratic countries; but the very idea that all the power of the State will come from the people will make the Depressed Classes of India politically conscious quickly. Para. 7 of the Resolution says—

—“Whereby shall be maintained the integrity of the territory of the Republic....”

This is also very important. We the Depressed Classes are the original inhabitants of this country. We do not claim to have come to India from outside as conquerors, as do the Caste Hindus and the Muslims. As a matter of fact, India belongs to us and we cannot tolerate the idea that this ancient mother country of ours, will be divided between the Muslims and the Caste Hindus only.

I come from Bengal. Many of you might have heard of the civil disturbances over there. The Depressed Classes were the worst sufferers. We strongly repudiate any claim of the Muslim League to take away our beloved Bengal and constitute her into Pakistan. We also oppose the idea of grouping. We shall fight tooth and nail to maintain the integrity of India intact. I hope better sense will prevail on Muslim League soon.

In this connection I cannot but say that the leaders of the Muslim League in Bengal are trying to get the support of a section of the Depressed Classes by jostling leaders of their choice over them. I think they are doing it just to pave the way for their fantastic Pakistan. But, fortunately, this section of the Depressed Classes is very small. I do hope that this Constituent Assembly will see that nothing is done in regard to Bengal without the consent of the Depressed Classes. They are of overwhelming number.

Lastly, I cannot but express my joy that very soon India will be free. The time has come for it. There is no power on earth which could stop it. Some of my friends, especially Dr. Ambedkar, said that there would be civil war in the country before India gets freedom. The Depressed Classes will be very glad to meet it. As a matter of fact they are ready to face it.

With these few words I support the Resolution moved by the Hon'ble Pandit Jawahar Lal Nehru.

Mr. Chairman: I propose to call upon Sir Alladi Krishnaswami Ayyar to speak next; but as he is not in a position to stand up and speak, I permit him to sit and speak. I hope the House has no objection to that.

Honourable Members: No objection.

Diwan Bahadur Sir Alladi Krishnaswami Ayyar (Madras: General): Sir, after the eloquent speech of our leader, The Hon'ble Pandit Nehru, on the main Resolution and the eloquent speeches of other speakers on the amendment of the Right Hon'ble Dr. Jayakar, I shall try to be as brief as possible.

In support of his amendment, my Right Hon'ble Friend Dr. Jayakar has raised various points, not all of which, I am afraid, are consistent with one another. His first point was that at this session, it was only

competent for the Constituent Assembly to determine the order of business and that it should immediately resolve itself into 'A', 'B' and 'C' sections, as the Statement of the Cabinet Mission did not contemplate the transaction of any other business than merely determining the order of business. Secondly, he raised a doubt as to whether it is at all competent for this Assembly and in any event advisable to pass a resolution before the representatives of the Muslim League decided to come in. Lastly, he raised a point that before the State representatives come in, it may not be right for this Assembly to pass such a Resolution.

None of these points, I venture to say, has any validity. In regard to the first, the Statement of the Cabinet Mission is not in the nature of a Statute which purports to lay down every detail as to the steps to be taken by the Constituent Assembly in the matter of framing a constitution for India. In the language of the Cabinet Mission themselves, their object was merely to settle a machinery whereby a constitution can be settled by Indians for Indians. It is inconceivable that any constitution can be framed or steps taken in that regard without a directing objective which the Assembly has to set before itself. The formulating of such a directing objective does not of course in any way involve this Assembly deviating or departing from the main principles of the Cabinet Statement. You may search in vain for the proceedings of any Constituent Assembly or Convention which has not formulated such a purpose at the commencement of its proceedings. I do not therefore propose to further elaborate the point as to what exactly is the connotation of the expression 'order of business' in the Cabinet Statement.

Now as to the merits of the Resolution itself: There is nothing in the terms of the Resolution to which either the Muslims or the States can take exception if they decide to come in. In fact, neither of these two parties would have a place in this Assembly unless they subscribe to the objective of an independent India. The Statement of the Cabinet Mission in several paragraphs declares that the Constituent Assembly "is committed to the task of framing a constitution for an independent India". They make an appeal in paragraph 24 of the Statement that "the leaders of the people of India have now the opportunity of complete independence" and they say that "they trust that the proposals will enable the people of India to attain their independence in the shortest time". The Statement of the Cabinet Mission, in so many terms, declares that the new independent India may choose to be a member of the British "Commonwealth or not" and in any event they express the hope that "India will remain in close and friendly association with the British people". There is nothing to prevent republican India from being a member of the British Commonwealth as is the case with Ireland. In fact, it is common knowledge that the conception of British Commonwealth is undergoing change year by year and day by day owing to the force of international events. The Muslim League has, on several occasions, expressed itself that it is as strongly for independence as the Congress. We have no right in this House to read between the lines and presume that Muslim India does not mean what it says for this purpose. The only issue that was raised by the Muslim League was in regard to Pakistan. On that, the Cabinet Mission's Statement is definitely committed to a single Indian Union. It is only if the Muslim League subscribes to the article of a single Indian Union that the Members of the Muslim League have or could have any place in the Constituent Assembly. There is no guarantee nor any indication that the postponement of the Resolution to some day next month will be a factor in the Muslim League making up their mind in joining the deliberations of this Assembly. The argument, therefore, derived from the Muslim League staying away from the present Constituent Assembly and the possibility of their coming in at a later stage has no validity on the propriety of the Resolution before the House.

[Sir Alladi Krishnaswami Ayyar.]

Then as to the State: Here again, the States or the States Representatives have a place in this Assembly only if they subscribe to the creed and article of an independent India and if they are committed to the task of framing a constitution for an independent India. Otherwise, they have no place. They must choose to be constituent parts of an independent India or not. If they come in, it can only be on the footing that they are as much committed to the ideal and purpose of framing a constitution for an independent India as we in what is now British India. While I realise that there may be a certain incongruity in the States coming in only at a later stage in the proceedings of this Assembly—that is not our making—it cannot stand in the way of this Assembly formulating its objective in the form of a resolution at this stage, a resolution which does not commit this Assembly to anything beyond what is contained in the Statement of the Cabinet Mission. Has this Assembly begun to function or not? Or is it in a state of suspended animation until the State representatives choose to come in? We have elected our Chairman; we are proceeding to frame rules of business and we have begun the work of framing a constitution for an independent India? How can it be said that this Assembly has not begun to function? Is there any logic in the argument that the Assembly must not formulate its objective until some other party comes in or can come in? An independent India cannot, as was forcibly pointed out by Pandit Nehru, be a monarchy. The executive head of the Union cannot be a hereditary monarch, Hindu, Muslim or Sikh. He can only be an integral part of a Republic constitution.

There is no substance either in the objection raised on behalf of the States in certain quarters outside the House to paragraph 4 of the Resolution that—

“all power and authority of the sovereign independent India, its constituent parts and organs of Government are derived from the people.”

Is it suggested that in respect of the sovereign independent India, the authority of the provincial parts is derived from the people, and, so far as States are concerned, from the hereditary rules of the States? The constitution of a sovereign independent India is the concrete expression of the will of the people of India as a whole conceived of as an organic entity, and even in regard to the units themselves, the authority of the rulers can rest ultimately only on the will of the people concerned. The State machinery, be it monarchy or democracy, ultimately derives its sanction from the will of the people concerned. The Divine Right of Kings is not a legal or political creed in any part of the world at the present day. I do not believe that it will be possible for hereditary monarchs to maintain their authority on such a mediaeval or archaic creed. The Cabinet Mission was quite alive to this and in their Statement, reference is made throughout to Indians, meaning thereby Indians both of the Indian States and British India, deciding the future constitution of India, no distinction being drawn between Indians in what is now British tract and what is now native State territory. I need only refer to paragraph 1, 3, 16 and 24 of the Statement of the Cabinet Mission.

There was one other minor point which formed the subject of criticism, viz., non-reference to groups in the Resolution, by Dr. Ambedkar, who I am glad to say has made a most useful contribution to the debate by giving his unqualified support to a United India. A close examination of the Cabinet Mission's Statement will point to the conclusion that the formation of groups is not an essential part of the constitutional structure. In the most material parts, the main recommendations are that there should be a Union of India dealing with certain subjects, that all subjects other than the Union subjects and residuary powers should vest

in the Provinces and in the States, the States being assimilated to the position of provinces under the Cabinet Mission Scheme. There is nothing in the terms of the Resolution to prevent Provinces from forming themselves into Groups as contemplated by the Cabinet Mission. There was a further comment as to the reference to ‘justice, social, economic and political’, being too thin. The expression ‘justice, social, economic and political’, while not committing this country and the Assembly to any particular form of polity coming under any specific designation, is intended to emphasise the fundamental aim of every democratic State in the present day. The Constitution framed will, I have no doubt, contain the necessary elements of growth and adjustment needed for a progressive society. After all, we have to remember that what we are dealing with is a Resolution setting out the main object of this Assembly and not a Preamble to a Statute.

Without embarking upon a meticulous examination of the different parts of the Resolution, what is important is that at this session we must be in a position to proclaim to our people and to the civilised world what we are after. It has to be remembered that the main object of this Assembly is not the fashioning of a constitution of a Local Board, a District Board or making changes in the present constitution of this or that part of the country but to give concrete expression to the surging aspirations of a people yearning for freedom by framing a constitution for a free and independent India for the good of the people, one and all, of this great and historic land, irrespective of caste, class, community or creed, with a hoary civilisation going back to several centuries. More than any argument, as the resolution before the House has received the blessings and support of Mahatma Gandhi, the architect of India's political destiny, from the distant village in Eastern Bengal, I trust that it will be carried with acclamation by the whole House without dissent and my respected friend, the Rt. Hon'ble Dr. Jayakar, will see his way to withdraw his amendment unless he has very strong conscientious objection to the course suggested. (Applause).

Mr. Jaipal Singh (Bihar : General): Mr. Chairman, Sir, I rise to speak on behalf of millions of unknown hordes—yet very important—of unrecognised warriors of freedom, the original people of India who have variously been known as backward tribes, primitive tribes, criminal tribes and everything else, Sir, I am proud to be a *Jungli*, that is the name by which we are known in my part of the country. Living as we do in the jungles, we know what it means to support this Resolution. On behalf of more than 30 millions of the Adibasis (*cheers*), I support it not merely because it may have been sponsored by a leader of the Indian National Congress. I support it because it is a resolution which gives expression to sentiments that throb in every heart in this country. I have no quarrel with the wording of this Resolution at all. As a *jungli*, as an Adibasi, I am not expected to understand the legal intricacies of the Resolution. But my common sense tells me, the common sense of my people tells me that every one of us should march in that road of freedom and fight together. Sir, if there is any group of Indian people that has been shabbily treated it is my people. They have been disgracefully treated, neglected for the last 6,000 years. The history of the Indus Valley civilization, a child of which I am, shows quite clearly that it is the new comers—most of you here are intruders as far as I am concerned—it is the new comers who have driven away my people from the Indus Valley to the jungle fastnesses. This Resolution is not going to teach Adibasis democracy. You cannot teach democracy to the tribal people; you have to learn democratic ways from them. They are the most democratic people on earth. What my people require, Sir, is not adequate safeguards as Pandit Jawahar Lal Nehru has put it. They require protection from Ministers, that is position today. We do not ask for any special protection. We want to be treated like every other Indian.

[Mr. Jaipal Singh].

There is the problem of Hindusthan. There is position of Pakistan. There is the problem of Adibasis. If we all shout in different militant directions, feel in different ways, we shall end up in *Kabarasthan*. The whole history of my people is one of continuous exploitation and dispossession by the non-aboriginals of India punctuated by rebellions and disorder, and yet I take Pandit Jawahar Lal Nehru at his word. I take you all at your word that now we are going to start a new chapter, a new chapter of Independent India where there is equality of opportunity, where no one would be neglected. There is no question of caste in my society. We are all equal. Have we not been casually treated by the Cabinet Mission, more than 30 million people completely ignored? It is only a matter of political widow-dressing that today we find six tribal members in this Constituent Assembly. How is it? What has the Indian National Congress done for our fair representation? Is there going to be any provision in the rules whereby it may be possible to bring in more Adibasis and by Adibasis I mean, Sir, not only men but women also? There are too many men in the Constituent Assembly. We want more women, more women of the type of Mrs. Vijayalakshmi Pandit who has already won a victory in America by destroying this racialism. My people have been suffering for 6,000 years because of your racialism, racialism of the Hindus and everybody else. Sir, there is the Advisory Committee. My people, the Adibasis—they are also Indians—are deeply concerned about what is going to happen about the selection to the Advisory Committee. When I was first given a copy of the Memorandum, as first submitted by the Cabinet Mission, in section 20 the language read as follows:—

"The Advisory Committee on the rights of citizens, minorities and tribal and excluded areas should contain full representation (mark you 'should contain full representation') of the interests affected....."

Now, when I read a reprint of that in Command Paper 6821, the same paragraph 20 seems to read differently. Here it reads:

"The Advisory Committee on the rights of citizens, minorities and tribal and excluded areas will contain due representation."

Sardar Harnam Singh (Punjab : Sikh): Just a misprint. The original text contained the words "should contain full representation of the interests affected."

The Hon'ble Pandit Jawahar Lal Nehru: Is it so?

Sardar Harnam Singh: I am definite.

Mr. Jaipal Singh: I want to be quite clear on that point. I think there has been juggling of words going on to deceive us. I have heard of resolutions and speeches galore assuring Adibasis of a fair deal. If history had to teach me anything at all, I should distrust this Resolution, but I do not. Now we are on a new road. Now we have simply got to learn to trust each other. And I ask friends who are not present with us today, that they should come in, they should trust us and we, in turn must learn to trust them. We must create a new atmosphere of confidence among ourselves. I regret there has been too much talk in this House in terms of parties and minorities. Sir, I do not consider my people a minority. We have already heard on the floor of the House this morning that the Depressed Classes also consider themselves as Adibasis, the original inhabitants of this country. If you go on adding people like the exterior castes and others who are socially in no man's land, we are not a minority. In any case we have prescriptive rights that no one dare deny. I need say no more. I am convinced that not only the Mover of this Resolution, Pandit Jawahar Lal Nehru, but every one here will deal with us justly.

It is only by dealing justly, and not by a proclamation of empty words, that we will be able to shape a constitution which will mean real freedom. I have heard pronouncements made by Pandit Jawahar Lal Nehru in different parts of the country. More particularly was I impressed by what he said during his visit to Assam during the elections. When he was in Ramgarh, I invited him to come and address the sixty thousand Adibasis who were assembled at Ranchi, only 30 miles away. Unfortunately, work kept him busy and he was unable to come. Very fine things have been said. Now, Sir, I would like, for example, to quote, if I may, what Maulana Abul Kalam Azad said at Ramgarh:

"The Congress does not want to dictate its own terms. It admits the fullest right of the minorities to formulate their own safeguards. So far as the settlement of their problem is concerned, it would not depend on the word of the majority."

Sir, the solutions to the various problems of the Adibasis are obvious to my mind and these solutions will have to be thrashed out at some later date. Here I can only adumbrate what is my faith in what seems to be the just solution and it is by a re-alignment by a daring redistribution of provinces. The case of my own area has been very well put, Sir, by yourself when you were the Chairman of the Reception Committee of the Ramgarh session of the Congress. May I just read out the words of cheer that you gave them?

"That portion of Bihar where this great assemblage is meeting today has its own peculiarities. In beauty it is matchless. Its history too is wonderful. These parts are inhabited very largely by those who are regarded as the original inhabitants of India. Their civilisation differs in many respects from the civilisation of other people. The discovery of old articles shows that this civilisation is very old. The Adibasis belong to a different stock from the Aryas and people of the same stock are spread towards the south-east of India in the many islands to a great distance. Their ancient culture is preserved in these parts to a considerable extent, perhaps more than elsewhere."

Sir, I say you cannot teach my people democracy. May I repeat that it is the advent of Indo-Aryan hordes that has been destroying the vestiges of democracy. Pandit Jawahar Lal Nehru in his latest book puts the case very nicely and I think I may quote it. In his 'Discovery of India' he says, talking of the Indus Valley Civilisation, and later centuries—

"There were many tribal republics, some of them covering large areas."

Sir, there will again be many tribal republics, republics which will be in the vanguard of the battle for Indian freedom. I heartily support the Resolution and hope that the members who are now outside will have the same faith in their fellow countrymen. Let us fight for freedom together, sitting together and working together. Then alone, we shall have real freedom. (Applause).

Mr. Chairman: I want to say just one word. The reprint of the Statement of May 16th, 1946, was taken exactly as it was presented to the houses of Parliament.

Mr. Jaipal Singh: The one that was given to me bears the signature of the Governor of Bihar.

Mr. Chairman: I do not know who has made the alteration. This book contains the Statement as was presented to the Parliament in the Command Papers.

Dr. Suresh Chandra Banerjee (Bengal : General): May I know what is the correct word Sir? 'Due' or 'Full'.

Mr. Chairman: "Due" is the word I find printed.

Dr. Suresh Chandra Banerjee: The word "Full" has been used in the book given to us.

Mr. Chairman: There seems to be some confusion. I have to find out if it has arisen. This is exactly what was presented to the Parliament.

Dr. Suresh Chandra Banerjee: The book we have got, Sir,.....

Mr. Chairman: I shall make enquiries about it. The Statement as it is noted in this book is, I understand, exactly as it was presented to the Parliament.

Mr. Jaipal Singh: Before presenting to the Parliament, the word was "all".

Mr. Debi Prosad Khaitan (Bengal: General): Mr. Chairman, Sir, representing the mercantile community, I want to look at this proposal from the businessman's point of view. From that standpoint, I heartily support the proposal that has been put forward by Pandit Jawahar Lal Nehru, and oppose the proposal that has been put forward by the Right Hon'ble Dr. Jayakar. Dr. Jayakar, after reminding us that he has been a Judge of the Federal Court and is a sitting Member of the Privy Council, has given us some *obiter dicta* which are perhaps not supported either by the Statement or the circumstances of the case. In my humble opinion, what the Cabinet Mission did was to recognise the aspirations of the people to attain independence, put some fetters on the deliberations of the Constituent Assembly and leave the rest to the talent and genius of the representatives of this country. There are many lacunae in the Cabinet Mission's Statement which we are entitled to fill and shape our constitution in such a manner as we think will give to the people their aspiration and give us a good constitution. Dr. Jayakar seems to think that at this stage we can do nothing but elect the Chairman, and lay down the general order of business. But I am afraid, Sir, that he interprets the words "general order of business" in a very narrow manner. Unless we are prepared to lay down the general objective which we have got to achieve, unless we are prepared to appoint certain Committees which are necessary for the purpose of shaping the constitution of this country, unless we are prepared to appoint a committee and define the central subjects, I do not see how it is possible for us to go ahead with the shaping of the constitution of India. According to Dr. Jayakar's argument, at this preliminary session, we would not even be able to appoint a Committee to deal with the Central subjects; I fail to understand how we can go ahead without doing so. If we do not define the central subjects at this period of time, it will not be possible for the Provinces or the Groups to frame their own constitution. They may assume to themselves powers which may ultimately have to be taken over by the Central Government. It is therefore absolutely necessary that apart from laying down the objective, we should find out what is meant by the central subjects and what finances are necessary to administer them. Similarly we shall have to lay down other principles, appoint an Advisory Committee to deal with the rights of minorities, how to safeguard their interests and do any other things that are desirable and endeavour, in my opinion, to lay down for the purpose of framing the constitution. He fears that if we put forward the objective now, Mr. Jinnah and his party may not come into the Constituent Assembly. I very humbly differ from his opinion. We have so often approached Mr. Jinnah. Have we ever succeeded in melting his heart for the purpose of joining us sincerely and honestly for the purpose of attaining independence? Even when the Interim Government was formed, he would not accept the invitation of Pandit Jawahar Lal Nehru to join the Interim Government but stated to the contrary that he was accepting the invitation of the Viceroy. When the Congress time and again approached him to reach a settlement, he asked Mr. Churchill—his friend—to get himself invited to London for the purpose of clearing up certain misunderstandings—I call them misunderstandings—between the Congress and himself. Even now as we are proceeding with the work of the Constituent Assembly for the purpose of shaping the destiny of our country, he is

spending his time at Cairo for the purpose of spreading a disease which I may call Hindu-phobia, that Hindu Raj will extend to the Mid-East. I am not sorry or surprised that he is engaged in the propaganda at Cairo. If he thinks that the Hindus are strong enough to extend their dominions to the Mid-East, it is all the more reason for him to come back to his own country and join us in framing a constitution for attaining independence with due regard to the interests of all minorities consistently with peace and progress. I hope, Sir, we shall not suffer from a disease that I may call Jinnah-phobia and always out of fear of Mr. Jinnah and his Muslim League, make ourselves absolutely helpless and delay the framing of our much needed constitution. We should muster up courage. We should see to it that the Constitution that is framed is reasonable to safeguard all interests so that the economic and political freedom of our country may be achieved as early as possible. If we simply go on delaying, I do not know what further troubles may arise. For the purpose of avoiding trouble in the future, I would submit to this House to take courage and go ahead with the framing of the Constitution in order that we may attain independence as quickly as we possibly can. I hope, Sir, that we shall not lose time but go ahead with our work and I therefore support the Resolution as moved by Pandit Jawahar Lal Nehru. (Cheers).

Mr. Dambar Singh Gurung (Bengal: General): Mr. Chairman, Sir, I understand here today as the only representative of 30 lakhs of Gurkhas permanently domiciled in India. It is 30 lakhs, near about the population of the Sikhs, still I am the solitary representative here in this House. I need not give any introduction as to who these Gurkhas are. They have made themselves sufficiently known to the world by their excellent fighting qualities. It has been proved to the hilt during the last World War No. I and No. II that they are the greatest fighting race in the World.

It is on behalf of these valiant Gurkhas that I, as the President of the All-India Gurkha League, whole-heartedly support the Resolution moved by Pandit Jawahar Lal Nehru. It is high time that we should take such a strong step. If we adopt the policy of wait and see as has been advocated by Dr. Jayakar and supported by Ambedkar, we will never reach our goal. The Interim Government which is functioning to-day would not have come into existence if we had adopted that policy. Fortunately these two Doctors are not Doctors in Medicine, otherwise they would have killed the patient by delaying the operation. (Laughter). We have waited too long and we should not wait any longer. It will be simply showing our weakness.

Sir, it has been very often said that the Gurkhas have been the stumbling block on the path to freedom. It may be true if it is viewed from that angle of vision but it must always be remembered that, especially in the Military Department, duty first and duty last, and the discipline is the most essential thing without which no nation can rule. Now in Free India you will ask us to do the same thing as we were asked to do under the British Government, if there be any disrupter of the constitutionally established Government, and you will praise them for maintaining that discipline.

Sir, the problem of the Gurkhas is quite different. They are scattered throughout India. It is only in the district of Darjeeling and the Province of Assam that they are concentrated to a certain extent. Their number in these two areas is about 14 lakhs and the rest are scattered throughout India. They are very very backward educationally and economically. Though we were made to do the dirtiest work in India for which we have been even called butchers by Indians, though hundreds and thousands of

[Mr. Dambar Singh Gurung]

Gurkha lives were sacrificed to keep the British rule in India and elsewhere, nothing has been done by the British Government so far for the uplift of the Gurkhas. We have been very sadly neglected. Only at the time of War they remember the Gurkhas. It has always been the policy of the British Government to keep us backward and ignorant so that we may be sacrificed any time, anywhere they liked.

The Gurkhas are apprehending whether the same policy will be followed by the Congress too. There is strong ground for this apprehension. Before the election of Members to the Constituent Assembly, the All-India Gurkha League approached the Congress High Command to give adequate representation to the Gurkhas too in the Constitution Assembly but our claim was totally ignored and not a single seat was given for 30 lakhs of Gurkhas, whereas as many as 3 seats were given to the Anglo-Indians whose population is only 1 lakh 42 thousand in India. I do not think that Gurkhas will, any more, tolerate this kind of injustice. I have, very recently been to Nepal, leading a delegation of the All-India Gurkha League to His Highness the Maharaja of Nepal and I hope Nepal will not allow any such exploitation of the Gurkhas. Sir, the demand of the Gurkhas is that they must be recognised as a minority community and that they must have adequate representation in the Advisory Committee that is going to be formed. When the Anglo-Indians with only 1 lakh 42 thousand population have been recognised as a minority community, and Scheduled Castes among the Hindus have been recognised as a separate community, I do not see any reason why Gurkhas with 30 lakhs population should not be recognised as such. The Gurkhas whose total population including Nepal is 15 millions shall have to play a very very important part in Free India. I request the leaders to consider this very seriously.

Lastly, I would like to say a word, Sir. If Mr. Jinnah thinks himself to be an Indian, I would request him to come to India and settle the differences here, as this is our domestic quarrel. Why should he seek the help of those who kept us in slavery for centuries? I would think that a kick from a brother is more palatable than a hypocritic pat from an outsider. If the major party does not do any justice to the cause of the minorities, we will combine together and revolt and make India a hot bed and I am afraid, the ancient history of India may be repeated. But I must make one point clear, that no minority will support the fantastic claim for Pakistan of Mr. Jinnah. We stand for a United India.

In spite of all this, if Mr. Jinnah goes on throwing the challenge of civil war, I ask the country-men to accept that challenge and let us fight it out. As for the Gurkhas, we will fight along with those who want one India and oppose those who want to divide it.

Dr. Sir Hari Singh Gour (C. P. and Berar : General) : Sir, as I listened to the speeches of the Hon'ble Members, my mind has been rankling with three different propositions. The first is the Hon'ble Pandit Jawahar Lal Nehru's well-considered and well-phrased Resolution. The second is my friend Dr. Jayakar's blocking motion in the form of an amendment. And the third is the frequent cry against Mr. Jinnah's Pakistan. And the fourth—incidentally—is a mention of the Indian States.

May I, Sir, at the outset refer to the Resolution itself? It has been said that this is only a preliminary session of the Constituent Assembly and we are not entitled to go into the question of this Resolution. With due respect to those who take this view. I wish to point out that the Constituent Assembly has been described—and rightly described—as a Sovereign Body. If it is the Sovereign Body of India, it is entitled to pass this Resolution, which sets out the basic principle of the whole constitution of

future India. Hon'ble Members seem to think that the Constituent Assembly is the creature of the British Cabinet Mission to India and that it is conditioned by the terms of the document known as the Cabinet Mission's Statement of May, the 16th. I wish respectfully to point out, that the Constituent Assembly is the voice of the people of India (*Hear, hear*) and is not the creature of the British Cabinet Mission in this country, and as the voice of India, it owes its duty to the people of India and when that voice became strong and inflexible the British Cabinet yielded to the pressure of India to give to India, what India had been demanding for several years—the right to frame its own constitution for this Assembly. Let us not, therefore, dismiss from our minds that while we pay due respect to the wishes of the Cabinet Mission we are not bound by the conditions that they may have laid down, and that our primary duty—and our sole duty—is to discharge our responsibility to our masters—the people of India. If this fact is kept in view, the other questions will recede into the background.

One of them is the terms of reference and Mr. Jayakar's consequential amendment. I beg to submit that the Constituent Assembly would lose its prestige and dignity if it was going about hankering for the support of our friends of the Muslim League. If we have a duty to the public of India that duty must and shall be performed, regardless of whether Mr. Jinnah or Pandit Jawahar Lal Nehru or anybody else comes in or goes out. These are personal accidents and incidents, but our Constituent Assembly must carry on its work regardless of people who come in and people who go out of it. (*Hear, hear.*) Supposing Messrs. Jinnah & Co. had come in on the first stage and for reasons of their own—and for very good reasons, I assure you—they walked out of the Assembly, would that be any ground for adjourning this Assembly to run after them and catching them by their coat tails and saying to them "Please don't run out; come in and if you run out, we also will run out with you" (*Laughter*). I submit no Constituent Body—much less the Constituent Body of Aryavarth—shall demean itself into this position of humiliation and self-negation.

Mr. Jinnah, according to the newspapers, is now at Cairo—influencing the Muslim opinion in favour of Pakistan. I have written to Mr. Jinnah before, and I wish once more to remind this House that we might send him a message that he may perhaps prolong his visit to the ten Pakistans which have been and are enforced for a thousand years in Iraq, Iran, Libya and the rest—let him see and visualise for himself the dreams of these Pakistans and having done that, he will come back to this country, a sadder but a wiser man, thoroughly humiliated and convinced that Pakistan is not suited to the best interests of our fellow-countrymen, the Muslims of India. If India were to be divided into Pakistan and Hindustan, how many hours will this Pakistan be free, and will not be a morsel to the surrounding powers as have been the Pakistans throughout the Muslim world.

Sir, as a student of history, I was reading the history of Turkey and saw how Kemal Pasha Ata-Turk saw the futility and unwisdom of combining politics with religion. The first thing he did was to put an end to Pakistan and establish the Republic of Turkey. And Turkey, of all Muslim countries, is probably the only independent country in the configuration of nations from Iran right up to Palestine. Let our friends the Muslims realise this fact and remember it and they will have no difficulty whatever in renouncing Pakistan as a dangerous and suicidal move on the part of Mr. Jinnah.

Then, Sir, up to now the majority community has been denouncing Pakistan on the ground that we are for the unity of India. But we are for the unity of India, not from any sentimental grounds; we are for the unity

[Dr. Sir Hari Singh Gour.]

of India because we have often offered—and I wish on behalf of my friends to offer once more from the floor of this House—a constructive suggestion specially designed to benefit the Mussalmans of India. Let there be joint electorates and let the Muslims keep their quota of seats, but let there be a provision in the electorates that no member of one community shall be deemed to have been duly elected unless he polls a certain percentage of votes of the other community. In this way we shall have introduced democratic and territorial elections instead of communal elections, and the severity of caste and communal differences will begin to disappear in course of time. If this proposal is acceptable to the Muslim League, I have no doubt that the majority community and the Congress will probably consider the proposal favourably, as being both democratic and non-communal, and our re-introducing the principle of territorial elections in this country. My friends on the Muslim side ought to have a constructive policy, not for dividing and disuniting India but for the purpose of creating a homogeneous solidarity between the various castes, communities and classes in India so as to bring about a united free India.

Sir, in America we have really fifty different nationalities of all kinds and all grades, but the moment the American war of independence was fought and won, they never thought of thinking their freedom with religion, and this is why America has become now the master race of the world. And India, let me tell you, will equally be not the master but the chief servant of all Asiatic countries, if it remains united and strong for her self-defence.

Another section of the Indian people, the Indian States, are still lingering on the fence. They say, you should postpone the Constituent Assembly till we come in. I beg to submit, as a student of law, that the position of Indian States is extremely simple and it is this. They say they have their treaties with the Crown. I will assume that they or everyone, one and all of them have their treaty with the Crown and that these treaties go far back to hundred or a hundred and fifty years. But what was the Crown of England 150 years ago? It was the voice of the ruling Government, of the British Cabinet, and, consequently, when they speak of their having had treaties with the Crown, what they do mean is that they have had their treaties with the Government of England for the time being in power. It is an ordinary platitude if I say—if the Crown of England accepted the advice of the British Cabinet 100 or 150 years ago, is it wrong for the Crown of England to-day to act on the advice of the Indian Cabinet? Can the Indian Princes complain that the Crown has got no right to choose its own advisers now? Therefore, their position is a futile one when they speak of their treaties with the Crown. Then, they say that the Crown has got the right of paramountcy. But they forget that the British Government in India has got the right of protecting all the Indian States, from the big State of His Exalted Highness the Nizam of Hyderabad to the smallest State in Kathiawar. And he who has the right of protection enjoys *de facto* the right of paramountcy. The defence of British India, having been transferred to the Interim Government, the Interim Government became responsible for the security of the Indian Princes, and, consequently, *pro tanto* that right of paramountcy has passed from the King of England or the Parliament of England to the Interim Government.

The third point that I wish to draw the attention of the Indian Princes to is, even assuming that there was a figurative continuance of paramountcy in the King, it was pointed out in the course of debates in the House of Lords that when the transfer of power to India takes place, that paramountcy will lapse, and, consequently, the Indian States must either join hands with the Interim Government in India or remain isolated and

aloof as a subordinate creature of that free India. I therefore advise my friends of the Indian States that they are waiting in vain for an invitation from the Constituent Assembly to come in. If they wish to come in, they are welcome to do so. As regards treaties with the Indian Princes in the later stages, that again is a matter on which the Constituent Assembly will have a final say. I therefore think that the question of Pakistan and that of Indian States need not worry us. Let us go ahead with our duty, but remember it that this Constituent Assembly has been misunderstood even by the High Command of the Congress, as if we were a creature of the British Government or of the British Mission. It is not the creature of the British Government or of the British Crown. (*Hear, Hear.*) It has come into existence by reason of the fact that the political consciousness of the country has grown to an extent that the British Government will either face the constitutional freedom of India or the coercive freedom. Either force or persuasion is left to the British Government. The late Viceroy, Lord Linlithgow in the House of Lords, only the other day, pointed out that the British Government cannot hold on to India unless it has behind it the moral claim of the British support. It has no support in Great Britain and it certainly has ceased to have support in India. Consequently, it has become a question of political necessity; and the British Mission and the British Labour Party are now pledged to grant freedom to this country. Freedom will come. It shall come. But when we are sitting here to frame the future Constitution of India, let us not look askance and cast our eyes as to what the Muslim League would think or what the British Government will think and refer our doubts to the Federal Court.

I do not wish to anticipate the decision of this House on the subject of reference to the Federal Court, but I do wish to repeat once more that this House should be sufficiently self-respecting to carry out its duties regardless of the opposition it may meet and the criticisms it might arouse from whatever source they might come. (*Loud applause.*)

Shrimati Dakshayani Velayudan (Madras: General): Mr. Chairman, before I express my views on the Resolution, let me pay my humble homage to our Revolutionary Father, Mahatma Gandhi (*applause*). It is his mystic vision, his political idealism and his social passion that gave us the instruments to achieve our goal. I submit that a Constituent Assembly not only frames a constitution, but also gives the people a new framework of life. To frame a constitution is an easy job, because there are many models for us to imitate. But to renew a people on a new foundation requires the synthetic vision of a planner. The Independent Sovereign Republic of India plans a free society. In our ancient polity, there were conflicts between absolutism and republicanism. The slender flame of republicanism was snuffed out by the power political States. The Lichavi Republic was the finest expression of the democratic genius of our ancients. There, every citizen was called a Raja. In the Indian Republic of tomorrow, the power will come from the people.....

We could understand the attitude of the Princes in this matter from the statement made by the members of the Negotiating Committee who represent the Chamber of Princes. But here comes a Maharaja with a historic message to his people. I mean the Maharaja of the Cochin State, which is one of the most advanced States in India and I am proud to say that I belong to it. Here is a part of the message:

"I believe in pure constitutional rule and, throughout my life, I have sedulously cultivated an attitude towards life and institutions which are antipathetic to autocracy and personal rule."

From this message it is obvious that the power comes from the people. In the Indian Republic there will be no barriers based on caste or community. The Harijans will be safe in a Republican State of the Indian

[Shrimati Dakshayani Velayudan.]

Union. I visualise that the underdogs will be the rulers of the Indian Republic. I therefore appeal to the Harijan Delegates of this Constituent Assembly that they should not harp on separatism. We should not make ourselves the laughing stock of our future generations by harping on separatism. Comunalism, whether Harijan, Christian, Muslim or Sikh, is opposed to nationalism. (Hear, hear.) What we want is not all kinds of safeguards. It is the moral safeguard that gives real protection to the underdogs of this country. I am not at all afraid of the future of the Harijans. It is not safeguards that go to improve the status of the Harijans.

The other day we heard Mr. Churchill waxing eloquent over the question of the Harijans. He said that the British Government is responsible for the life and welfare of the so-called Scheduled Castes of India. I would like to ask him one question. What has the British Government done to improve the social status of the Harijans? Did they ever pass any legislation to remove the social disabilities of the Harijans except producing some chaprassis and butlers? And Mr. Churchill also complained that the Harijans were thrown at the mercy of the Caste Hindus, their oppressors. Mr. Churchill cannot take the 70 million Harijans of this land to Great Britain to give them protection. He may give protection to a few communalists who might fly to England. Mr. Churchill should understand that we are Indians. The Harijans are Indians and they have to live in India as Indians and they will live in India as Indians. We also heard recently that the Scheduled Castes are considered as a minority. Nothing of the sort is mentioned in the State Paper of May 16. I refuse to believe that the 70 million Harijans are to be considered as a minority. Neither Lord Pethick-Lawrence, the Secretary of State for India, nor even the Prime Minister, Mr. Attlee, nor even the Leader of the Opposition, Mr. Churchill, is going to improve the condition of the Harijans. What we want is the removal, immediate removal, of our social disabilities. Only an Independent Socialist Indian Republic can give freedom and equality of status to the Harijans. Our freedom can be obtained only from Indians and not from the British Government.

Let me make a personal appeal to Dr. Ambedkar to join the nationalist forces of this country. He is the only leader of the Harijan community and his non-co-operation with the nationalist forces is a great tragedy to the Harijans; his co-operation with the nationalist forces will enhance the emancipation of the Harijans. Here is a unique occasion for you, Sir, (addressing Dr. Ambedkar) to place your services before the country.

The Harijans will be free only in a Socialist Republic India, and let us all support the Resolution and work for its implementation even if it demands the utmost sacrifices from us.

Regarding the amendment brought forward by the Right Hon'ble Dr. Jayakar, I think those who support the amendment get their inspiration from Whitehall and not from the people of this land. Recently we heard much about the postponement of the Constituent Assembly from different quarters. Lord Wavell pleaded for it, Mr. Jinnah insisted on it. I feel that Dr. Jayakar by moving this amendment, is questioning the very validity of the Constituent Assembly and is strengthening the argument put forward by Mr. Churchill the other day in the House of Commons.

Dr. Jayakar also expressed a pious sympathy for the people of the States. If by the term 'States' the Hon'ble Member means the real representatives of the States, I can assure the Hon'ble Member that the people of the States are behind the Congress and the Constituent Assembly, (applause) and any decision made by the Constituent Assembly will be acceptable to the people of the States.

I think I should make some reference to the views expressed by the Communist leader. In the historic Resolution moved by Pandit Jawahar Lal Nehru, I think every provision is made for the development of every individual in this land. And now the Party which called the war as the People's war, has come here to advise the Constituent Assembly to postpone the consideration of this Resolution for some time. If I am wrong there, I may be excused. The so-called Communists, instead of emancipating the Harijans, are only exploiting them. They promise pieces of land to the Harijans and in that way they try to take them away from the nationalist forces. I think the Communist Party is getting its inspiration from some outside quarter and so it is not for us to accept the views of the Communists. We cannot depend on such a party for our emancipation and our emancipation lies in the national forces which are represented in this Assembly. I therefore hope that in the future independent India the Harijans will have an honourable place as every other citizen of this land.

Mr. Chairman: It is already quarter past one. The House will now adjourn till day after tomorrow, 11 o'clock.

The Assembly then adjourned till Eleven of the Clock, on Saturday, the 21st December 1946.

CONSTITUENT ASSEMBLY OF INDIA

Saturday, the 21st December, 1946

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

PRESENTATION OF CREDENTIALS AND SIGNING OF THE REGISTER

Mr. Chairman: The House would join me in welcoming another Lady Member who has appeared for the first time this morning, having been away attending an International Conference. I request Rajkumari Amrit Kaur to sign the register.

The following members then presented their credentials and signed the Register.

Rajkumari Amrit Kaur (C.P. and Berar: General;

Sir Padampat Singhanian (United Provinces: General).

RESOLUTION RE: ELECTION OF CONSTITUENT ASSEMBLY NEGOTIATING COMMITTEE

Mr. K. M. Munshi (Bombay: General): Mr. Chairman, Sir, I beg to move the following Resolution:—

This Assembly resolves that the following members, namely,—

- (1) Maulana Abul Kalam Azad,
- (2) The Hon'ble Pandit Jawaharlal Nehru,
- (3) The Hon'ble Sardar Vallabhbhai Patel,
- (4) Dr. B. Pattabhi Sitaramayya,
- (5) Mr. Shankarrao Deo, and
- (6) The Hon'ble Sir N. Gopalaswami Ayyangar,

do constitute a committee to confer with the Negotiating Committee set up by the Chamber of Princes and with other representatives of Indian States for the purpose of—

- (a) determining the distribution of the seats in the Assembly not exceed in number which, in the Cabinet Mission's Statement of 16th May, 1946, are reserved for Indian States, and
- (b) deciding the method by which the representatives of the States should be returned to this Assembly.

The Assembly further resolves that not more than three other Members may be added to the Committee later and that they be elected by the Assembly at such time and in such manner as the President may direct".

Mr. Somnath Lahiri (Bengal: General): I should like to know what is the procedure for submitting amendment to this Motion. I presume that we should be given some hours at least to move amendments.

Mr. Chairman : Is it an amendment with regard to the substance of the Motion or with regard to the names?

Mr. Somnath Lahiri : With regard to the substance of the Motion.

Mr. Chairman : We shall see.

Shri Sri Prakasa (United Provinces : General) : It would be best to fix 1-15 P.M. as the hour by which the amendments may be moved and in the meantime we may go on with the Resolution.

Mr. Chairman : I suppose the mover and the seconder will take a little more than an hour and in that time you will be able to move the amendment.

Mr. K. M. Munshi : This is more or less a formal motion for the simple reason that the Cabinet Mission's Statement as well as Lord Pethick-Lawrence's speech both contemplate that there should be a committee appointed by this Assembly in order to negotiate with the States for the purposes mentioned in this Resolution. I may refer in this connection, Sir, to the recent remarks of Lord Pethick-Lawrence. Lord Pethick-Lawrence said that—

"The manner in which the seats representing the States should be filled in the Constituent Assembly was to be negotiated between the Committee appointed by the Indian States and a committee appointed by the British India side of the Constituent Assembly. The States had appointed the Committee and when the Committee has been appointed by the British India part of the Assembly, Negotiations could begin."

It is necessary, as the House will easily see, to begin these negotiations at the earliest possible date. It is for that reason that this Resolution has been placed before the House today. The number has been restricted at present to 6 because this Committee, having to deal with delicate negotiations, has to be as small as it possibly could be. Further the purposes, for which the Committee is being appointed, are fully set out in the Statement. I therefore commend this Resolution for the acceptance of the House.

Dr. Sachchidananda Sinha (Bihar : General) : I second it.

An Honourable Member : Will the result of the negotiations be placed before the Assembly?

Mr. K. M. Munshi : I mention for the information of the Hon'ble Members that so far as the Cabinet Mission's Statement is concerned, it provides for Negotiating Committee on behalf of the States. The Negotiating Committee on behalf of the Constituent Assembly will meet it and will decide the nature of the State representation to the Assembly. That so far as I understand is the meaning of the Cabinet Mission's Statement. But certainly the matter will be brought before this House and I have no doubt the House will have an opportunity to express itself upon it.

Mr. P. R. Thakur (Bengal : General) : Sir, I want to move an amendment that after the name of the Hon'ble Sir N. Gopalaswami Ayyangar, the name of one of the Depressed Class Members of this House be added.

I press this point merely because it is important that in this Committee which is going to determine the distribution of the seats in the Assembly reserved for the States, and decide the methods by which the representatives of the States should be selected, a member from the Depressed Classes should be added. There are Depressed Classes in the

States and their condition, both social and political, is worse than that of the Depressed Classes in the Provinces. I request the House therefore to add one member of the Depressed Classes from this House.

Mr. Chairman : Have you got any name?

Mr. P. R. Thakur : The House will decide who will be there.

Mr. Somnath Lahiri : I have two amendments, Sir. My first amendment is to make the point clear which was not made clear by the mover of the Resolution whether decisions of the Committee will be subject to ratification by this Assembly.

The amendments are:

- (1) Add the following to the Resolution immediately before the last para:

"After the necessary negotiations and consultations, the Committee shall place before this Assembly for ratification their final recommendations regarding the distribution of seats to the different States and the method by which the representatives of the States may be returned."

- (2) At the end of item (b) of the functions of the Committee add the following:

"The Committee, however, should negotiate under the clear understanding that this Assembly recognises only the subjects of the States as being eligible to send States representatives to this Assembly and on the basis of direct election."

These are my two amendments. The objects of these amendments, especially the first is to fix the question of States representatives which, as you know, is something which is not yet fixed. I know that most of the members of the Committee whom you have proposed and most of the members of this House also realise that it is the States People who should have representation rather than the autocratic Rulers of the States. Unfortunately the State paper does not make this clear. There have been different interpretations on it, as was pointed out the other day by, I think, Sir N. Gopalaswami Ayyangar. We should make it quite clear that we do not want the Princes and the Rulers of the States to determine what should be the representation of the States in this Assembly, because we fear that they, being autocratic Princes on the one hand and tools of British imperialism on the other, they would like to whittle down whatever little freedom constitutionally we may try to evolve. It is neither fair to the people of the States as a whole.

You know, Sir, at present throughout most of the States, a terrible regime of repression is being conducted by the Rulers of the States. You have seen how in Kashmir even Mrs. Aruna Asaf Ali's meeting was disturbed by the authorities and how the whole National Conference is being thwarted by repression, even though election is supposed to be going on there under democratic rules or whatever it may be. We have also heard how at Hyderabad, during the last few months, 7,000 people, men, women and children have been butchered by the Military and Police of the Hyderabad State. We certainly do not want that these Rulers should come here and negotiate with us and have a hand in framing our constitution. It is for this reason, Sir, that I move the second amendment that the Committee however should negotiate on the clear understanding that this House recognises only the subjects of the States as being eligible to send States representatives to this Assembly and on the basis of direct election.

[Mr. Somnath Lahiri]

I do not doubt that the representatives whom you have chosen will have the needs of the States people in their mind. But it is something which is finally for the people of the States themselves to decide. Therefore, keeping my good faith in the members chosen, but keeping the final ratification to this Assembly, in the light of future developments, in the light of what attitude the Rulers of the States might take up and in the light of what demands the people of the States might make, I have moved that it should be subject to ratification by this Assembly.

Mr. K. M. Munshi: May I say one word, Sir?

Mr. Chairman: The resolution has been moved and the amendments have been moved. The whole thing will be for the discussion of the House.

The Resolution and the amendments are now open for discussion. Any member, who wishes to speak may come.

Sri K. Santhanam (Madras: General): I wish to move another amendment. I wish to move that after the words "for the purpose of" the following words be added: "formulating recommendations regarding". And then in (a) and (b), the words "determining" and "deciding" be deleted.

The purpose of my amendment is that this House should not delegate to any Committee whatsoever, the final determination of any matter. It is a matter of principle, not that I have distrust in the Committee Members. I have full confidence in the members proposed. But still this is a vital matter and I strongly object to any final delegation to any Committee whatsoever.

Mr. Chairman: I think your amendment is covered by Mr. Lahiri's amendment.

Mr. K. Santhanam: I have made it simpler.

Mr. Chairman: It is covered by Mr. Lahiri's amendment.

Mr. K. Santhanam: My amendment would read better. The principle that this House should be the final determining authority should be admitted and should be followed in every Committee we appoint and in every other proceeding. Of course, my amendment covers practically the ground of the amendment moved by Mr. Lahiri. But the reading of the Rule will be much better if my amendment is accepted.

Mr. Dharendra Nath Datta (Bengal: General): Mr. Chairman, Sir, I rise to oppose the amendment that has been moved by my friend Mr. Somnath Lahiri. I have full sympathy with the sentiments expressed in the amendment but Mr. Lahiri has forgotten one thing. This is a Consultative Committee. If you refer to paragraph 19, Clause (ii) it has been stated in the Statement of 16th May, that—

"It is the intention that the States would be given in the final Constituent Assembly appropriate representation which would not, on the basis of the calculation of population adopted for British India, exceed 93; but the method of selection will have to be determined by consultation. The States would, in the preliminary stage be represented by a Negotiating Committee."

So the method of selection is to be determined by consultation, and Mr. Chairman, Sir, it is clear that there should be a Consultative Committee. The States have appointed a Negotiating Committee and we are bound to appoint another Consultative Committee to consult with the

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States Negotiating Committee. It is impossible to believe that the whole House will be consulted with the Negotiating Committee for the purpose of determining the number and for the purpose of determining the method. So it is necessary that a Consultative Committee should be appointed and the Consultative Committee should be very few in number. The object of the Resolution will be frustrated if the amendment be accepted by us because the consultation should be made between the two small Committees, one appointed by us and another appointed by the States. Therefore, Sir, I oppose the amendments that have been moved by my friend, Mr. Lahiri, though I am in full sympathy with the sentiments expressed therein. With these words, I support the Resolution moved by my friend Mr. K. M. Munshi and oppose the amendments that have been moved by Mr. Lahiri.

Mr. Jaipal Singh (Bihar: General): Mr. Chairman, Sir, I would make a request to my friend Mr. Lahiri to withdraw his amendments. I think he must have got a copy of the work that has been done by the Procedure and Rules Committee. Therein already is indicated that everything that the Committees may do, will be submitted at one stage or another to this House and it would be for the House to accept the recommendations or otherwise. That being the case, Mr. Lahiri's point is met.

A member of the Depressed Classes—I do not know what the difference is between Depressed Classes and Scheduled Castes—has pleaded that one Depressed Member should be in this Committee. As far as I am concerned, I have no quarrel with the names that have been suggested by the authors of this Resolution at all. They are eminent men, they are men who have worked in the States and they know the States. But, Sir, I humbly submit that I do not think they know much of the Eastern States. The Indian States People's Conference has dealt generally with States in Northern India, Southern India and a part of Western and Central India. They have had hardly anything whatever to do with the Orissa States Agency or the Agencies of Bengal and the North East Frontier. The House must forgive me if I blow my trumpet a bit. Ever since my return from British West Africa, I have been traversing a lot amongst the Adibasis in the Adibasi Tracts and, in the last 9 years, I have traversed 1,14,000 miles and it has given me an idea of what the Adibasis need and what this House is expected to do for them. There are, in Indian India, in Rajasthan, the Princely India, where you have a population of a little of 90 million people, you have 17 million Adibasis, 17 million tribes. Sir, I suggest that with such a large population, there should be an Adibasi in this Negotiating Committee. I think he will be able to help the Committee. I am not obstructing the work of the Committee but I want that an Adibasi should be there to fight for the Adibasis. You need an Adibasi when you fight for Adibasis and he will fight along with the Negotiating Committee. Sir, I would suggest to the Mover and the authors of this Resolution that they do include an Adibasi and make it 'We Are Seven'.

The Hon'ble Mr. B. G. Kher (Bombay: General): Mr. Chairman, Sir, I yield to none in my concern for the Depressed Classes or for the Adibasis but to press for a representative either of the Adibasis or the Depressed Classes or the Christians or for the matter of that of any other community in this Committee is to misunderstand the whole purpose and object of this Resolution. The Princes are going to set up a Negotiating Committee and if you refer to the letter that the Chancellor of the Chamber of Princes wrote to the Viceroy on the 19th June, 1946, in para. 4 it says—

"The Standing Committee have decided, in response to Your Excellency's invitation, to set up a Negotiating Committee

[The Hon'ble Mr. B. G. Kher]

whose personnel is given in the enclosed list. The Committee did their utmost to keep the number small, as desired by Your Excellency but they felt that it would not be possible for them to reduce the number, I shall be grateful if I am informed as early as possible of the time and place when this Committee is expected to meet, and the personnel of the Corresponding Committee which may be set up by the representatives of British India on the Constituent Assembly. The result of these negotiations are proposed to be considered by the Standing Committee of Princes, the Committee of Ministers and the Constitutional Advisory Committee, whose recommendations will be placed before a General Conference of Rulers and Representatives of States."

Now if we refer to the terms of this Resolution what it says is—

"This Committee is to be constituted to confer with the Negotiating Committee set up by the Chamber of Princes and with other representatives of Indian States with the limited purpose, viz., to determine the distribution of the seats in the Assembly not exceeding 93 in number and secondly to decide the method by which the representatives of the States should be returned to this Assembly."

So that, Sir, we have now to elect on behalf of British India those who have upto now shown their interest not only in the best interests of the people of British India but also of Indian India. There is Pandit Jawahar Lal Nehru who is the President of the States People's Conference; there is Dr. Pattabhi Sitaramayya, Shankarrao Deo and others. Now, a mover of an amendment said that there are Depressed Classes residing in the States and therefore they should be represented on this Committee. If that is so, then there are also sikhs, Indian Christians and Anglo-Indians residing in the States. This Committee is only a body for determining the method by which the representatives of the States should be given representation in this House. For this limited purpose, it is not necessary to bring in the principle of communal representation. The wording of the Resolution makes it clear that our Committee will confer with the Negotiating Committee and the Mover of the Resolution has made it clear that the result of their negotiations will come up before this House for final assent. I therefore do submit to the movers of the amendments, including Mr. Santhanam, to withdraw their amendments. The scope of the Committee is so limited. The other considerations of communal representations, etc., do not, in my opinion, affect the main purpose. There may be some States, the population of which is so small, that to represent a group of them, there may be only one representative. We know there are about 650 States and we cannot expect that there should be 650 representatives. It is for the purpose of giving proper representation to all these States that this Committee has been formed; it is not right to fetter their discretion and I would once again appeal to the movers of the amendments to withdraw them. I support the proposition moved before the House and hope that it will be passed unanimously.

Mr. K. Santhanam : If it is the ruling of the Chairman that the proposals of this Committee will come before this House for ratification, then I would gladly withdraw my amendment.

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Mr. Chairman : Pandit Jawahar Lal Nehru.

Mr. Somnath Lahiri : If you can give a ruling, Sir, that the proposals of this Committee will be subject to ratification, then I also withdraw my amendments.

Mr. Chairman : I will give my ruling in time. Pandit Jawahar Lal Nehru.

The Hon'ble Pandit Jawahar Lal Nehru (United Provinces : General) : Mr. Chairman, Sir, the Resolution that has been placed by Mr. Munshi before the House is a very limited Resolution. It is meant only to fix the method of representation in this Assembly for the representatives of the States, and not to deal with the innumerable problems which the States have in common with the rest of India. Mr. Lahiri mentioned the case of one or two States where political struggles are going on. Obviously, this Committee will have nothing to do with the internal structure of the States. That matter will have to be considered, I hope, by us when the States representatives come. We can confer with them and discuss and settle these matters; so we have for the present only to consider the method of their representation.

Now, Sir, the amendments that have been moved in regard to members of the Depressed Classes or the Adibasis coming in, seem to ignore the fact that we are only considering this limited problem. Obviously, the Depressed Classes have their particular interests to be protected, but that question does not come in before this Committee. This Committee representing, if I may say so, that part of India which is not the States, will meet representatives of the Rulers—I might say frankly that we have to meet the Rulers Negotiating Committee. I think there should have been on the Negotiating Committee representatives of the peoples of the States and I think even now that Negotiating Committee. If it wants to do the right thing, should include some such representatives but I feel that we cannot insist upon this at this stage. Unless we appoint a Committee to negotiate this matter the proper representation of the States representatives may not be secured. Therefore, in this Resolution we have said not only that we shall meet the Negotiating Committee set up by the Chamber of Princes but also the representatives of other States who are probably not included therein, and as I have already explained, the object of our meeting them is to ensure a proper method of representation for the States people. If that is so, and if you try and think of the States, as they are, you will see that apart from some States which are big, there will be many small States whom we may have to get represented by doing some kind of grouping or some other way of representing them, because for each State we may not be able to give one representative. Just see how many States there are and how many will be required. States like Hyderabad and Kashmir will get adequate representation on the population basis. Some of the big States may get two, three or four, but most of them just barely one. Many of them may not even get that one. We may have to group them or devise some method. These are our problems. Apart from these, no other problem affecting any particular class or even affecting the internal structure of the States will come up before this Committee. Those problems will have to come up before this Assembly at a later stage, when the State representatives are also here.

I submit that the question of any particular group—communal, provincial or State—coming into this Committee will not arise. We should, take of course, competent men who are here, but in this particular

[The Hon'ble Pandit Jawahar Lal Nehru]

matter you cannot enter into group representation, because if we do there is no particular reason why we should deny that representation to the many separate interests that exist here. If you take the Travancore State, thinking only of religious lines, you will find a very great part of the population of the State consists of Christians—Roman Catholics. Now, Travancore is a very important State, the people of which have often come into conflict with the Government authorities. Kashmir, of course, is another important State. In this way, you will get into enormous difficulty if you are going to think of people being represented on a communal basis in this small Committee. (Obviously, this committee ought to be a small Committee because it will be very difficult to deal with the representatives of the Rulers if it is a large committee.) This Committee should not, therefore, be formed on the basis of separate interests, as suggested by some people.

Now, Mr. Jaipal Singh made a statement, from which I beg to differ, and that is that the States People's Conference is not taking sufficient interest in the Orissa States. The States People's Conference has not done all that it should do because the problem is a vast one, but as a matter of fact the Orissa States have been frequently before the States Peoples' Conference and one of our members of the Standing Committee of the States Peoples' Conference comes from there.

Now, some of the amendments moved by Mr. Santhanam and others say that this final authority should remain with this House. They agree, however, to withdraw them if the Chair could give a ruling in this matter. I have no doubt in my mind that the final decision on such matters should vest in this House, and that this Committee should only be a Negotiating Committee, that it should negotiate and report to this House. If this House does not agree with anything that they have done, they have got to go back and negotiate still further. Of course, in all such matters, a certain discretion is given. For instance, you do give a large measure of authority to your plenipotentiaries to go and negotiate with other countries. The countries have got a right to accept or reject, but normally speaking, when the representatives of two parties come together and discuss a matter and come to an agreement, unless a vital principle is involved, the agreement is accepted because third parties are concerned in it. That will apply to our case also. But I suggest, if possible,—I have not the wording before me,—that it is might be possible to have some such words as that the Committee should report to the House.

Shri Ajit Prasad Jain (United Provinces : General) : May I ask a question? This Resolution contemplates three bodies, a Negotiating Committee set up by this House, another Negotiating Committee set up by the Princes, whose names have been announced, and a third, other representatives of the States. How are these bodies going to function and to reconcile differences? Supposing the Princes take up one attitude and other representatives of the States take up a different attitude and so on, how are they going to work?

Mr. Chairman : I suppose it is the function of the Negotiating Committees to reconcile differences, and this Committee and the other Committee, that you refer to will work in that way, I think.

Dr. P. S. Deshmukh (C. P. and Berar : General) : If I may reply to my Hon'ble friend that is exactly the purpose of this Resolution. If there are differences of opinion between various representatives of the States, we know, Sir, that differences of opinion exist in this Assembly as between various sections of the people of India, as well as States and the people of British India. This Resolution proposes to set up a body, in

whom we have confidence, and it will deal with the representatives of the States who have been elected or selected to a Negotiating Committee. It is precisely because this House cannot be expected to enter into negotiations with the Rulers and representatives of the people of States that this small committee has been proposed. Mr. Chairman, Sir, I am here to support the Resolution as it stands and oppose all the amendments that have been moved. Most of the points made have been met by speakers who preceded me and I am not going to repeat them. I want to draw the attention of the House to one particular factor, and that is, the limit within which this Committee is expected to work. In doing so, I would like to draw attention of the Hon'ble Members to the exact wording in paragraph 19(ii) of the Cabinet Plan. You will be pleased to observe that this Committee is to enter into negotiation with the Negotiating Committee which has already been selected by the States or is likely to be selected. The wording is, "the method of selection will have to be determined by consultation". It is very likely that the word "selection" will have to be interpreted in several different ways. The States representatives may probably place a different interpretation from the one we may put on it and so on. So, it is no good tying the hands of this Committee one way or the other or insisting on a particular method of representation. We must leave it to the negotiators. So, I also submit, Sir, that Mr. Somnath Lahiri's amendment directing what the Committee should do is out of order, because actually it negatives the Resolution as a whole. When we want a committee to act in a particular way it will cease to be a negotiating committee because it will have really to carry out a pre-determined dictate of our own. We cannot afford to antagonise many sections of the people of India, and in spite of the feeling in this House that the representatives of the people of the States alone are entitled to speak to us, we will have to approach the subject cautiously and this Committee will have to work very cautiously. We should not pre-judge or prejudice the issue at this stage, and the Committee should be left to itself to determine what is the best method of attaining the object in view and serving the interests of the people of India as a whole and those of the States people. If we want to comment on their decisions there will be ample opportunity as Panditji has assured us, for this House to place our opinion before this House. So, I submit that the House should pass the Resolution and that the amendments moved should be withdrawn.

Shri V. I. Muniswami Pillai (Madras : General) : I come here to support the resolution moved by Mr. Munshi. When an amendment is moved for the inclusion of a representative of Depressed Classes. I find a hue and cry being raised that communal representation is being pressed in time and out of time. I may inform the House that the condition of Depressed Classes in the States is worse than what is obtaining in other parts. The other day when my sister from Cochin was speaking about social conditions of Harijans, she did not take into account the appalling economic and political condition of the people in the States. I may instance the case of Nayadis in Cochin State, a community which is not only untouchable and unapproachable, but unseeable. This community cannot pass through the King's highways. So I would like to urge on the Committee that has been chosen to negotiate with the representatives of the States that they should take care to have at least a few Depressed Class representatives or somebody who will represent the real needs of the Scheduled Castes.

Sri Dayal Das Bhagat (United Provinces : General) : * [Mr. Chairman, I wish to draw your attention to the fact that I do not know English. I

* [] English translation of Hindustani speech ends.

[Shri Dayal Das Bhagat.]

know Hindi and many of my worthy friends here know that language only. This we understand nothing useful from the proceedings of the House. I pray you to request those of the friends, who know Hindi, to speak in that language so that we may understand easily.]*

Sri V. I. Muniswami Pillai: This Resolution seeks to determine the number and distribution of seats and I would respectfully request my friends to see that the interests of these untouchable communities are properly safeguarded.

Diwan Chaman Lall (Punjab : General) : Though the point has been made perfectly clear by the Hon'ble Mover, Mr. K. M. Munshi, to set at rest any doubts that there may still be, I should like to move an amendment to sub-para. (b), viz., for the word 'deciding', substitute—and word 'fixing' and, after the word 'Assembly', add the following—'and thereafter to report to the Constituent Assembly the result of such negotiation'.

As some doubt has been expressed as to whether the result of the Negotiating Committee's efforts would be brought before the House or not, to make the position clear, I have moved the amendment.

Then, Sir, the word 'determining' in sub-para. (a) of the Resolution, may also be changed to 'fixing'.

I need not say anything in regard to this matter except to emphasise the fact that it is necessary to make sure that whatever negotiation the Committee may enter into, would naturally be brought before this House and a report made to this House in order that this House may be fully seized of all the negotiations that have taken place without the knowledge of this House, between the Negotiating Committee set up by this House and the Committee set up by the Princes Chamber. I think it is necessary that this authority, which vests in the Constituent Assembly, should be stated specifically in the body of the Resolution.

Mr. K. M. Munshi : Mr. Chairman, I made it abundantly clear when I moved the Resolution that whatever the result of the negotiations, it will be placed before the House and there is no reason to fear that this Committee will decide something which this House may not approve. Now that the Hon'ble Member, Diwan Chaman Lall, has moved an amendment making it quite clear that the report of this Committee will come before this House. I have no hesitation in accepting the amendment.

The second point made was that one Member of the Scheduled Classes should be added to the Committee. The Hon'ble Pandit Jawahar Lal Nehru has replied to that point. This is not a representative committee of all sections and minorities. This is a small committee with very limited functions and only intended to negotiate on a certain basis. And the Committee's report will be placed before the House.

There was another point made by one Hon'ble Member over there (in the rear seats). He asked why it was necessary to state "to confer with the Negotiating Committee set up by the Chamber of Princes and with other representatives of Indian States.....". There is a valid reason why the Resolution has been worded in this manner. The Cabinet Mission has stated thus:

"It is the intention that the States would be given in the final Constituent Assembly appropriate representation which would not, on the basis of the calculation of population adopted for British India, exceed 93; but the method of selecting will have to be determined by consultation. The States would, in the preliminary stage, be represented by a Negotiating Committee."

Therefore it is the function if the Negotiating Committee representing the States to determine the representation. The House has been informed that a Negotiating Committee has been appointed by the Chamber of Princes. Neither the House nor I have any information as to whether the Committee that has been appointed by the Chamber of Princes represents all the States and whether all the States have agreed to treat the Negotiating Committee as their representative. Therefore, inconceivable circumstances it may become necessary for our Negotiating Committee not only to negotiate with the Negotiating Committee appointed by the Chamber of Princes, but also with individual States. That is the reason why the words have been used in the manner as in the Resolution. I therefore submit, Sir, that the amendment moved by the Hon'ble Member, Diwan Chaman Lall, may be accepted by the House.

An Hon'ble Member : I look at the question from a different point of view. A Negotiating Committee has been set up by the Chamber of Princes. If there are other representatives of the States, will they be in addition to those on the Negotiating Committee? I expected a reply from the Mover.

Mr. K. M. Munshi : I have made the position amply clear. We want to give our Negotiating Committee complete freedom to deal with the Negotiating Committee on the other side or with any individual States as they think proper. We do not want to fetter their right to come to any decision which they might think fit. The Resolution as it stands is very clear on this point.

(Mr. P. R. Thakur rose to speak)

Mr. Chairman : The Mover has already replied.

(Mr. P. R. Thakur came to the rostrum)

An Hon'ble Member : Sir, is it competent for any Member to make a speech after the Mover has replied?

Mr. Chairman : Mr. Thakur is withdrawing his amendment.

Mr. P. R. Thakur : In view of the statement made by the Hon'ble Pandit Jawahar Lal Nehru, I want to withdraw the amendment that I have moved. But I want to mention..... (Voices: 'No, no') one thing only. (Several Members: 'No, no'). I want this assurance that at least five out of the 93 seats will be given to the Depressed Classes.

Mr. Somnath Lahiri : Sir, I withdraw my amendment in view of the amendment already accepted.

I want Diwan Chaman Lall's amendment to be read out in full so that we can understand it properly.

Mr. Chairman: Sub-para. (b) of the Resolution as amended would read thus:

“fixing the method by which the representatives of the States should be returned to the Assembly and thereafter to report to the Constituent Assembly the result of the negotiation”.

The Resolution, with the amendment accepted by the Mover, Mr. K. M. Munshi, will read thus:

“This Assembly resolves that the following members, namely,—

- (1) Maulana Abul Kalam Azad,
- (2) The Hon'ble Pandit Jawahar Lal Nehru,
- (3) The Hon'ble Sardar Vallabhbhai Patel,
- (4) Dr. B. Pattabhi Sitarammaya,
- (5) Mr. Shankarrao Deo, and
- (6) The Hon'ble Sir N. Gopalaswami Ayyangar,

do constitute a committee to confer with the Negotiating Committee set up by the Chamber of Princes and with other representatives of Indian States for the purpose of—

(a) fixing the distribution of seats in the Assembly not exceeding 93 in number which, in the Cabinet Mission's Statement of 16th May, 1946, are reserved for Indian States, and

(b) fixing the method by which the representatives of the States should be returned to the Assembly, and thereafter to report to the Constituent Assembly the result of such negotiations.

The Assembly further resolves that not more than three other members may be added to the committee later and that they be elected by the Assembly at such time and in such manner as the President may direct”.

Now, what about the other amendment of Mr. Lahiri?

Mr. Somnath Lahiri: In view of the fact that we will be able to consider the report of the negotiations and at that time press the claims of the States people, if they had not been fully realised, I withdraw the other amendment of mine.

Mr. Chairman: All the amendments have therefore been disposed of.

The Resolution, as amended, was adopted.

STATEMENT BY PRESIDENT POSTPONING CONSIDERATION OF RESOLUTION ON AIMS AND OBJECTIVES

Mr. Chairman: The next item is the consideration of the report of the Committee on the Rules of Procedure. Before we go to that, I desire to make one statement which I think I should have made earlier in the day but I did not make it by oversight. We were discussing the Resolution moved by Pandit Jawahar Lal Nehru day-before-yesterday when we rose, and the discussion on that Resolution has not been completed. The list of names of the proposed speakers is very large. I have about 50 names still before me. It is obviously not possible to carry on that

discussion any further without holding up the other important work of this Assembly. I, therefore, interrupted the discussion on that Resolution, and now I propose to allow these other important items to be interposed. If we have time thereafter, we may take up further discussion on that Resolution. It may be that before we rise for Christmas, there will be no more time for discussing that Resolution. So, further discussion will be taken up when we meet again. In the meantime we may have the advantage of others, who are not present here today, coming in, and we may have the advantage of their views also on that Resolution. So, further discussion remains suspended till we meet again.

CONSIDERATION OF THE REPORT OF THE COMMITTEE ON RULES OF PROCEDURE

Mr. Chairman: Mr. Munshi will present the report of the Rules Committee.

Mr. Somnath Lahiri: I should like to know the time limit during which amendments to that Resolution may be accepted.

Mr. Chairman: By this evening.

Mr. Somnath Lahiri: Tomorrow morning, 11 o'clock.

Mr. Chairman: Yes, tomorrow morning 11 o'clock. But we shall not stop the discussion. We shall go on. If there is any amendment, we may reconsider that point, but I will not stop the discussion. We shall go on discussing the Resolution.

Mr. K. M. Munshi: Mr. Chairman; Sir, I have the honour to present to the House the Report of the Rules Committee. A copy of the Report is already before the Members of this House, and I only propose at this stage to draw the attention of the House to a few of the important features of the Rules. But before I do so, I invite the indulgence of the House towards the Rules Committee. The Rules Committee have been working under great pressure. As the House, Sir, knows very well, it is highly essential that before we disperse, we should have the Rules adopted and the organisation set functioning in order to complete the organisation of the Constituent Assembly. The Members of the Committee, I may mention, have devoted careful attention to every aspect of the Rules and we have had the assistance of the able and distinguished jurist, our Constitutional Adviser, Sir B. N. Rau. The Committee had done its best to give it as perfect a shape as is possible. But I dare say there may be many defects still left, and the House may find some discrepancies. I am sure, points of view may have been omitted; I seek therefore the indulgence of the House. These are the Rules of the Assembly. They can be altered or added to when we next meet. We can always add new points of view if some one are omitted. But it is highly essential that we should adopt the Rules and appoint one or two committees which would keep the organisation of the Constituent Assembly going.

With these remarks, I would now shortly deal with some of the important points in the Rules so that the structure of the organisation which it is proposed to set up may be clear to the members of this House.

Sir, I may refer the House to Rule 2, Clause (d). We have altered the nomenclature to this extent that our permanent Chairman will be styled the President. The reason is two-fold. First of all, there are going to be a number of Chairmen, Chairmen of Sections, Chairmen of Committees, Chairmen of the Advisory Committees, and so on. It is necessary that the permanent Chairman should have a name which is easily distinguishable from other Chairman. The second reason is that we are functioning as an independent body. For the moment, an organisation

[Shri K. M. Munshi]

has been lent to this Assembly by the Government of India, but immediately the Rules are passed, we will have an organisation of our own, and the President will naturally be the highest executive authority of the organisation. The word 'Chairman' therefore would be inappropriate in its application to our Chairman as the head of the organisation. In this connection I may perhaps refer to Rule 27, sub-para. (8)—

"The President shall be the Guardian of the privileges of the Assembly, its spokesman and representative and its highest executive authority."

It is for this reason that the Rules Committee proposed that the permanent Chairman should be styled 'President'.

Chapter II deals with admission of members and vacation of seats. It is more or less mechanical, if I may so put it.

Chapter III deals with the business of the Assembly. It largely deals with the procedure to be adopted in conducting the business of the Assembly and its several branches. The only important provision is the one on page 5, containing Rule 7.

"The Assembly shall not be dissolved except by a resolution assented to by at least two-thirds of the whole number of members of the Assembly".

As the Chairman was pleased to say in his inaugural speech, we are a sovereign body, and as such it must solely depend upon us whether to dissolve the Assembly or not. This has been made clear in this Rule.

The next important rule to which I would like to draw your attention is Rule 15. Rule 15 lays down the quorum not only for the the Assembly but for its branches. When a provincial constitution is being settled, it is required that the quorum should be at least two-fifths of the representatives of that province.

The next important point to which I would like to draw the attention of the House in Rule 18. It lays down that—

"In the Assembly, business shall be transacted in Hindustani (Hindi or Urdu) or English, provided that the Chairman may permit any member unacquainted with either language to address the Assembly in his mother tongue. The Chairman shall make arrangements for giving the Assembly, whether he thinks fit, a summary of the speech in a language other than that used by the member and such summary shall be included in the record of the proceedings of the Assembly."

Only a few minutes ago there was a complaint from a member who did not know English that he did not understand what was going on. This Rule is intended to obviate that difficulty. Sub-clause 2 of the Rule says this:

"The official records of the Assembly shall be kept in Hindustani (both Hindi, and Urdu) and English".

"The result is that our official record will be kept in 3 languages, Hindi, Urdu and English."

The next important point is dealt with in Rules 23 and 23-A on page 9. This follows the procedure laid down in the Cabinet Mission's Statement.

"In all matters relating to the procedure of the conduct of business, the decision of the Chairman shall be final:

Provided that when a motion raises an issue which is claimed to be a major communal issue, the Chairman shall, if so requested by a majority of the representatives of either of the major communities, consult the Federal Court before giving his decision."

That forms part of the Statement.

"Provided further that no Section shall, trespass upon the functions of the Union Assembly or vary any decision of the Union Assembly taken upon the report of the Advisory Committee referred to in paragraph 20 of the Statement."

The Advisory Committee's functions have been set out in detail in Rule 23-A.

"It shall be the exclusive function of the Advisory Committee referred to in paragraphs 19 and 20 of the Statement to initiate and consider proposals and to make a report to the Assembly upon fundamental rights, clauses for the protection of minorities and the administration of tribal and excluded areas; and it shall be the exclusive function of the Assembly to take decisions upon such report and further to decide the question of the incorporation of these rights in the appropriate part of the Constitution."

The function of the Advisory Committee is to deal with the specific matters in view of India as a whole, as also in view of the provincial difficulties. And therefore according to Rule 20 they have to be considered by the Union Assembly when it meets.

Chapter IV dealt with the President and the procedure for filling up vacancies if and when it arises. These are more or less formal as the House will see.

Chapter V deals with the Vice-Presidents, and it is proposed that there should be 5 Vice-Presidents. Two should be elected by the House, while the President of each Section, when a section elects its Chairman, will be an *ex-officio* Vice-President of the Assembly, with the result that the President and the 5 Vice-Presidents will meet together and co-ordinate all the activities of the Assembly and its different branches.

Chapter VI deals with the office of the Constituent Assembly. It is divided into two branches, the Advisory Branch and the Administrative Branch; the Constitutional Advisor will be the head of the Advisory Branch, while the full time Secretary shall be the head of the Administrative Branch.

[Mr. K. M. Munshi]

Chapter VII deals with the Committees and the first and perhaps the most important of the Committees is the Steering Committee, and as Hon'ble Members will see, in Rule 39, the functions of the Steering Committee have been defined. The business of the Steering Committee, as constituted therein, is to group similar motions and amendments and secure, if possible, assent of the parties concerned to composite motions and amendments; and to act as a general liaison body between the Assembly and its Office, between the Sections *inter se*, between Committees *inter se* and between the President and any part of the Assembly. Thus it becomes the central administrative organisation which will co-ordinate the different activities of the Assembly in all its branches.

Then follows the constitution of the Staff and Finance Committee. The Credentials Committee have also to be appointed for the purpose of deciding questions relating to the validity of the title of elected or other members. There is provision also made for other Committees.

Chapter VIII deals with the Budget.

Chapter IX deals with salaries and allowances which have to be approved by the Staff and Finance Committee.

Then Chapter X deals with doubts and disputes as to elections. Those provisions are more or less mechanical and follow the general lines of those legislation which deal with disputed elections in India. The only important point which is let out is dealt with in Rule 55. Rule 55 says:

"Where such a recommendation has been made, the President shall appoint an Election Tribunal consisting of one or more than one person to inquire into the petition."

Now so far as the matters to be dealt with by the Tribunal are concerned, they cannot form part of the Rules. What it will be doing is to adjudicate upon the Status of a Member of this House and it is felt that that could only be done by an Ordinance, so that it can become part of the law. Otherwise serious difficulties are likely to arise. It will be therefore for the President to move the appropriate authority for the purpose of issuing the necessary Ordinance.

Chapter XI deals with certain provisions about taking the opinion of the whole country and the provincial constitution. As the House can see, Rule 58 (1) deals with provisions to give an opportunity to the several Provinces and States through their legislatures to formulate their views upon the resolutions of the Assembly, outlining the main features of the Constitution, or, if the Assembly so decides upon the preliminary draft of the Constitution.

Then clause 2 provides a similar opportunity to the Provinces concerned to formulate their views on their respective Constitutions. It says—

"Before the constitution of any province is finally settled, an opportunity shall be given to it to formulate, within such time as may be fixed for the purpose, its views upon the resolutions and the decisions of the Sections, etc."

This naturally gives the whole country an opportunity to consider the various proposals that may be discussed by the Assembly, the Sections or any other Committee dealing with parts of the Constitution.

Rule 59 deals with the application of the principle of proportionate representation to all our elections. The amendment of the Rules is dealt with in Rule 61, and Rule 62 provides that the provisions of these Rules shall apply *mutatis mutandis* to the Sections and the Committees of the Assembly. The Sections may make standing orders not inconsistent with these rules.

Rule 63 gives the power to the President to deal with difficulty, if any, which may arise in carrying out these Rules. This is the general framework of the Rules and I hope it will meet with the acceptance by the House. I therefore now formally present the report of the Committee to the House and I further beg to move also that, in order to secure informality of discussion and despatch, the House do go into a Committee of the whole Assembly and that its proceedings may be held in camera.

Shrimati G. Durgabai (Madras : General) : I second it.

(The motion was adopted.)

Shri B. Shiva Rao (Madras : General) : Sir, I want to make a suggestion to the House, which I know, has a fair amount of support of several members.

The Report reached us late last night or early this morning and most of us have not had an adequate opportunity of looking through the Report. The suggestion I want to make is this. Let not the House meet this afternoon, so that those of us who are interested in the Rules may have an opportunity of meeting for ourselves, sorting out our amendments and picking out the major ones to be discussed in the House tomorrow morning. It is possible that if we adopt this procedure, a great many of the amendments which might be moved here today would be disposed of at the preliminary stage, and we might be able to get through the whole work tomorrow itself. Therefore I suggest that we may not meet this afternoon but meet only tomorrow morning.

Mr. Chairman : Personally, I have no objection. Then, we shall have tomorrow only for dealing with the Rules. The day after tomorrow we have to elect some Committees which are provided for in the Rules. If the House thinks that it will be able to go through the Rules and pass them tomorrow and the day after, I have personally no objection. But I do not know if any one will be able to give an undertaking on behalf of the House that we shall be able to complete the work.

An Hon'ble Member : We shall sit tomorrow.

Shri M. Ananthasayanam Ayyangar (Madras : General) : Sir, I got the Rules only this morning. I went through the Rules and I find, Sir, most of the Rules are non-contentious. There is nothing to which we can add except those contentious portions in Rules 20, 23 and 23-A, which are more in the nature of substantial amendments. Therefore, let us not waste time by asking for an adjournment. Tomorrow never comes, let us go on today.

Mr. Somnath Lahiri : Sir, Hon'ble Gentleman has said that there is nothing to add. At any rate, we have got to go through them to make the same discovery that the Hon'ble Member has made.

Mr. K. M. Munshi: Sir, I beg to oppose the proposal made by my Hon'ble friend, Mr. Shiva Rao. After all there is no point in adjourning tomorrow, we will be sitting and there will be a free and full discussion. As an Hon'ble Member said just now, most of the Rules have been drawn up with care. There may be some defects which may be corrected. Only questions of principle or controversy will take time. As to others we will take up rule by rule and if there is no controversy, we can easily adopt them. I submit this is the shortest way to deal with the Rules.

Sri M. Ananthasayanam Ayyangar: Sir, My Hon'ble friend, Mr. Munshi, will read rule by rule and stand for a while, and we will adopt it immediately if there is nothing to add. Then we will pass on to the next rule. Whichever rule is contentious may be passed over till tomorrow. By that time we may find out if any amendment is necessary.

Mr. Chairman: May I take it is the wish of the House that we will go on with the consideration of the Rules?

Many Hon'ble Members : Yes.

Mr. Chairman: Those who are opposed?

(None).

Mr. Chairman: We shall take up the Rules. As there is only half an hour more for 1 o'clock, we began at half past two or three o'clock.

Many Hon'ble Members : Three o'clock.

Mr. K. M. Munshi: We may be able to do a few Rules in half an hour.

Mr. Chairman: We shall begin at 3 o'clock and then in camera, the House will go into a committee and meet at 3 o'clock.

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

The Assembly re-assembled after Lunch, at Three of the Clock, Mr. Chairman (The Hon'ble Dr. Rajendra Prasad), in the Chair.

(The Proceedings were then conducted in camera.)

CONSTITUENT ASSEMBLY OF INDIA

Monday, the 23rd December 1946

The Assembly then met in Plenary Session at Thirty five minutes past ^{open} One of the Clock, on Monday, the 23rd December, 1946, Mr. Chairman ^{proceeding} (The Hon'ble Dr. Rajendra Prasad) in the Chair.

ADOPTION OF RULES OF PROCEDURE

Sri M. Ananthasayanam Ayyangar (Madras: General): Sir, I beg to move....

Mr. Chairman: The Committee stage is over. We are meeting in full House now. Mr. Munshi moves that the Rules as passed by the Committee be passed.

Sri M. Ananthasayanam Ayyangar: I would like to move that:

"Notwithstanding anything to the contrary in the Rules that we have passed, all the proceedings till now taken in this Assembly shall be valid and regular."

We have passed Rules and Regulations for the conduct of elections, etc., for the appointment of officers and so on. Whatever we have done till now, whatever may be these Rules all that we have done, will be valid.

Mr. Chairman: That will arise after the Rules have been passed.

Mr. K. M. Munshi (Bombay: General): I move that the Rules, as accepted by the Committee of the House, be now adopted by the Assembly in its plenary Session.

Dr. P. Subbarayan (Madras: General): I second it.

Mr. Chairman: I put the Rules to the House.

The Rules, as accepted by the Committee of the House, were adopted.

Sri M. Ananthasayanam Ayyangar: I beg to move, Sir, that—

"Notwithstanding anything to the contrary in the Rules as passed today, all proceedings taken by this Assembly till now, shall be deemed valid and proper and be binding."

Mr. K. M. Munshi: I submit all things that have been done by the House are by majority. The Rules have been adopted by a majority, and they come into force only on adoption. Therefore, whatever we have done before need not be validated.

Mr. President: I think it is unnecessary.

Now that we have passed the Rules, there are certain Committees which have to be elected under the Rules. Yesterday I announced that you may propose names for these Committees up to 1 o'clock today. We could not pass the Rules before 1 o'clock. It is already 1.35. I would give the Members time till 2 o'clock to make any nominations. They may be handed over to the Secretary.

We will meet at 4 o'clock for the purpose of holding elections and any other matter that may still have to be done.

Rai Bahadur Syamanandan Sahaya: Some members may like to know when the next sitting of the Assembly will be.

Mr. President: That will be announced later.

The Assembly then adjourned for Lunch till 4 P.M.

The Assembly re-assembled after Lunch, at 4 of the Clock, Mr. President (The Hon'ble Dr. Rajendra Prasad) in the Chair.

Mr. President: As the meeting is now in open session after 2 days, I want to know if there are any members who have not signed the Register. If there are, they may kindly sign the Register now. I think there is none.

ELECTION OF COMMITTEES

CREDENTIALS COMMITTEE

Mr. President: According to the Rules which we have now adopted, there are certain Committees which have to be elected and I had fixed 2 o'clock as the time by which nominations for those Committees were to be put in. I will take now each of the Committees and say if we should have election. If we have got only as many names as are required, election will not be necessary. First, I take the Credentials Committee. There are five members to be elected to that Committee and the names which have been proposed are these—

Mr. Sarat Chandra Bose—proposed by Mr. Satyanarayan Sinha.
Dr. P. K. Sen—proposed by Mr. Satyanarayan Sinha.
Bakshi Sir Tek Chand—proposed by Mr. Satyanarayan Sinha.
Sir Alladi Krishnaswami Ayyar—proposed by Mr. Satyanarayan Sinha.
Mr. F. R. Anthony—proposed by Mr. Satyanarayan Sinha.

These are the only 5 names which have been proposed. These nominations are valid. As there are only 5 names proposed, there is no need for election. These five are elected. (Cheers).

HOUSE COMMITTEE

Mr. President: Then the House Committee. Under the Rules, eleven members to be proposed, one for each of the eleven Provinces. These are the names proposed:—

Mr. Radhanath Das—proposed by Mr. Satyanarayan Sinha (from Bengal).
Mr. Akshay Kumar Das—proposed by Mr. Satyanarayan Sinha (from Assam).
Mr. Dip Narayan Sinha—proposed by Mr. Satyanarayan Sinha (from Bihar).
Khan Abdul Ghaffar Khan—proposed by Mr. Satyanarayan Sinha (from N. W. F. P.).
Mr. Jairam Das Daulatram—proposed by Mr. Satyanarayan Sinha (from Sind).
Mr. Nandakishore Das—proposed by Mr. Satyanarayan Sinha (from Orissa).
Mr. Mohan Lal Saksena—proposed by Mr. Satyanarayan Sinha (from U.P.).
Mr. H. V. Kamath—proposed by Mr. Satyanarayan Sinha (from C. P.).
Mr. R. R. Diwakar—proposed by Mr. Satyanarayan Sinha (from Bombay).
Srimati Ammu Swaminathan—proposed by Mr. Satyanarayan Sinha (from Madras).

Pandit Shri Ram Sharma—proposed by Mr. Satyanarayan Sinha (from Punjab).
These are the eleven names proposed for the Committee. As there is no contest, these are declared to be elected.

FINANCE AND STAFF COMMITTEE

Mr. President: Then we come to the Finance and Staff Committee. There are to be nine members but there are ten names proposed. I will read the names:

Mr. Satyanarayan Sinha—proposed by Mr. Kala Venkata Rao.
Mr. Jaipal Singh—proposed by Mr. Satyanarayan Sinha.
Mr. V. I. Muniswami Pillai—proposed by Mr. Satyanarayan Sinha.
Mr. C. E. Gibbon—proposed by Mr. Satyanarayan Sinha.

Mr. N. V. Gadgil—proposed by Mr. Satyanarayan Sinha.
Seth Govind Das—proposed by Mr. Satyanarayan Sinha.
Mr. Sri Prakasa—proposed by Mr. Satyanarayan Sinha.
Raj Kumari Amrit Kaur—proposed by Mr. Satyanarayan Sinha.
Sardar Harnam Singh—proposed by Mr. Satyanarayan Sinha.
Maharajadhiraja Bahadur Sir Uday Chand Mahtab of Burdwan—proposed by The Hon'ble Maharajadhiraja Sir Kameshwar Singh of Darbhanga.

These ten names are proposed and there are nine seats. There may have to be election in this case.

(At this stage certain speeches were made which were ordered by the President, with the consent of the House, to be expunged.)

(The Maharajadhiraja of Burdwan withdrew his candidature)

Mr. President: The number of nominations being now equal to the number of Members of the Committee, I now declare the nine Members elected. (Cheers).

PRESIDENT'S STATEMENT ABOUT REFERENCE TO FEDERAL COURT—THE STATEMENT OF MAY 16 FOR INTERPRETATION

Mr. President: There is one other matter that I must mention. I said on a previous occasion that we may have to consider the question of referring certain doubts and disputes with regard to the interpretation of the Statement of May 16, to the Federal Court. I have waited these days to get some motion or some suggestion from any member of the House to that effect. So far, no intimation of that kind to refer the matter to the Federal Court has been received. I take it that the wish of the House is that it is not necessary to refer that matter to the Federal Court. (Cheers.) So, the question does not arise now.

That brings us to the close of the business which we had to transact during this session of the Assembly. We shall now have to adjourn. Under the Rules which we have adopted, the President has no power to adjourn a session of the Assembly for more than three days. If he wants to adjourn the House for more than three days, the Assembly has the authority to do so. I suggest that the House do adjourn till the 20th January, 1947, at 11 A.M. If that is the wish of the House, you might indicate that.

Hon'ble Members: "Yes".

Mr. President: The House will now adjourn till 11 a.m. on the 20th January, 1947.

The Assembly then adjourned till Eleven of the Clock, on Monday, the 20th January, 1947.

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